

AMENDED IN ASSEMBLY APRIL 5, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 775

Introduced by Assembly Member Galgiani

(Principal coauthor: Senator Berryhill)

(Coauthors: Assembly Members Bill Berryhill, Cook, and Jeffries)

~~(Coauthors: Senators Calderon and Strickland)~~

(Coauthor: Senator Strickland)

February 17, 2011

An act to add Section 25503.34 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 775, as amended, Galgiani. Alcoholic beverages: advertising.

Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages.

This bill would expressly authorize a beer manufacturer, the holder of a winegrower's license, a California winegrower's agent, a distilled spirits rectifier, a distilled spirits manufacturer, and a distilled spirits manufacturer's agent to provide sponsorship funds, purchase advertising space or time, or furnish, give, lend, rent, or sell specified items to ~~a live entertainment company that is affiliated with an off-sale licensee for live entertainment events~~ *a holder of not less than 15 but not more than 65 off-sale licenses within this state in connection with live entertainment events at specified locations* in the Counties of San Joaquin, San Luis Obispo, and Stanislaus, *as provided*.

This bill would make legislative findings and declarations as to the necessity of a special statute for the counties described above.

The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill, by including provisions that would be subject to those existing criminal sanctions, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.34 is added to the Business and
2 Professions Code, to read:
3 25503.34. (a) Notwithstanding any other provision of this
4 chapter, a beer manufacturer, the holder of a winegrower’s license,
5 a California winegrower’s agent, a distilled spirits rectifier, a
6 distilled spirits manufacturer, and a distilled spirits manufacturer’s
7 ~~agent may do the following in connection with a live entertainment~~
8 ~~company that is affiliated with a holder of an off-sale license if~~
9 ~~the conditions of subdivisions (b), (c), and (d) are all met:~~
10 ~~(1) Provide sponsorship funds to, for, or on behalf of, a live~~
11 ~~entertainment company that is affiliated with a holder of an off-sale~~
12 ~~license.~~
13 ~~(2) Purchase advertising space and time from, or on behalf of,~~
14 ~~a live entertainment company that is affiliated with a holder of an~~
15 ~~off-sale license.~~
16 ~~(3) Furnish, lend, rent, or sell equipment, fixtures, supplies,~~
17 ~~decorations, paintings, or signs to, for, or on behalf of, a live~~
18 ~~entertainment company that is affiliated with a holder of an off-sale~~
19 ~~license.~~
20 ~~(b) The live entertainment company must have as its majority~~
21 ~~owner a private retail grocery chain of not less than 15 and not~~
22 ~~more than 65 California store units with an off-sale license and~~

1 must be managed independently from the grocery chain's alcohol
2 purchasing activities.

3 ~~(e) The activities described in paragraphs (1), (2), and (3) of~~
4 ~~subdivision (a) must be for, or on behalf of, live entertainment~~
5 ~~events at venues with a fixed seating capacity of under 27,000~~
6 ~~seats located in the Counties of San Joaquin, San Luis Obispo, and~~
7 ~~Stanislaus.~~

8 ~~(d) Any provision of sponsorship funds, purchase of advertising~~
9 ~~space or time, or the furnishing, giving, lending, renting, or selling~~
10 ~~of equipment, fixtures, supplies, decorations, or signs pursuant to~~
11 ~~this section shall be conducted pursuant to a written contract with~~
12 ~~the live entertainment company. agent may provide sponsorship~~
13 ~~funds, purchase advertising space or time, or furnish, lend, rent,~~
14 ~~or sell equipment, fixtures, supplies, decorations, paintings, or~~
15 ~~signs, directly or indirectly, to or from the holder of not less than~~
16 ~~15 but not more than 65 off-sale licenses within this state.~~

17 ~~(b) The activities described in subdivision (a) may only be in~~
18 ~~connection with live entertainment events at the following locations~~
19 ~~in the Counties of San Joaquin, San Luis Obispo, and Stanislaus:~~

20 ~~(1) An outdoor stadium with a fixed capacity of at least 25,000~~
21 ~~seats within the City of Stockton in San Joaquin County.~~

22 ~~(2) An indoor arena with a fixed seating capacity of at least~~
23 ~~4,000 seats within the City of Stockton in San Joaquin County.~~

24 ~~(3) An indoor theatre with a fixed seating capacity of at least~~
25 ~~900 seats located within the City of Stockton in San Joaquin~~
26 ~~County.~~

27 ~~(4) An outdoor stadium with a fixed capacity of at least 1,200~~
28 ~~seats within the City of Stockton in San Joaquin County.~~

29 ~~(5) A fully enclosed theater with a fixed seating capacity in~~
30 ~~excess of 250 seats located in San Joaquin County or Stanislaus~~
31 ~~County.~~

32 ~~(6) An outdoor football stadium with a fixed seating capacity~~
33 ~~of at least 2,000 seats located in San Joaquin County.~~

34 ~~(7) An outdoor stadium with a fixed seating capacity in excess~~
35 ~~of 10,000 seats located in San Luis Obispo County.~~

36 ~~(8) An outdoor stadium with a fixed seating capacity of at least~~
37 ~~5,000 seats located in San Luis Obispo County.~~

38 ~~(9) A fully enclosed arena with a fixed seating capacity in excess~~
39 ~~of 8,000 seats located in San Joaquin County.~~

1 (10) An outdoor baseball stadium with a fixed seating capacity
2 of at least 3,500 seats located in San Joaquin County.

3 (c) The events may only be conducted pursuant to a written
4 contract between the qualified supplier and the off-sale licensee
5 or its agent.

6 (d) Any benefit provided indirectly to on-sale licensees operating
7 at qualified venues as a result of authorized supplier activity
8 described in subdivision (a) shall not be deemed a thing of value,
9 as otherwise prohibited by Section 25500.

10 (e) The Legislature finds that it is necessary and proper to
11 require a separation between manufacturing interests, wholesale
12 interests, and retail interests in the production and distribution of
13 alcoholic beverages in order to prevent suppliers from dominating
14 local markets through vertical integration and to prevent excessive
15 sales of alcoholic beverages produced by overly aggressive
16 marketing techniques. The Legislature further finds that the
17 exception established by this section to the general prohibition
18 against tied interests must be limited to its express terms so as not
19 to undermine the general prohibition, and intends that this section
20 be construed accordingly.

21 SEC. 2. Due to the unique circumstances concerning the
22 Counties of San Joaquin, San Luis Obispo, and Stanislaus, the
23 Legislature finds and declares that a general statute cannot be made
24 applicable within the meaning of Section 16 of Article IV of the
25 California Constitution. Therefore, this act is necessarily applicable
26 only to the Counties of San Joaquin, San Luis Obispo, and
27 Stanislaus.

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

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