

AMENDED IN SENATE JUNE 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2349

Introduced by Assembly Member Nestande

February 24, 2012

An act to amend *and renumber* Section 25500.2 of, *and to repeal Section 25500.1 of*, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2349, as amended, Nestande. Alcoholic beverages: tied-house restrictions: advertising.

The Alcoholic Beverage Control Act contains limitations on sales commonly known as “tied-house” restrictions, which generally prohibit a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any off-sale licensed premises. For purposes of these provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or Internet Web site addresses, of 2 or more unaffiliated on-sale retailers selling beer, wine, ~~or~~ distilled spirits, *or brandy* and operating and licensed as bona fide public eating places selling the beer, wine, or distilled spirits produced, distributed, or imported by a nonretail industry member in response to a direct inquiry from a consumer, as specified, does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, if specified conditions are met.

This would *provide that the listing of names, addresses, telephone numbers, or e-mail addresses in other forms of electronic media do not*

constitute a thing of value and would revise the direct inquiry provisions to remove the requirement that the unaffiliated on-sale retailer ~~operates operate and is~~ be licensed as a bona fide public eating place.

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

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

1 SECTION 1. Section 25500.1 of the Business and Professions
2 Code is repealed.

3 25500.1. (a) ~~Notwithstanding Section 25500, the listing of the~~
4 ~~names, addresses, telephone numbers, e-mail addresses, or Internet~~
5 ~~Web site addresses, of two or more unaffiliated on-sale retailers~~
6 ~~selling wine, brandy, or both wine and brandy and operating and~~
7 ~~licensed as bona fide public eating places pursuant to Section~~
8 ~~23038 selling the wine, brandy, or both wine and brandy produced,~~
9 ~~distributed, imported, or both distributed and imported by a~~
10 ~~nonretail industry member in response to a direct inquiry from a~~
11 ~~consumer received by telephone, by mail, by electronic inquiry or~~
12 ~~in person does not constitute a thing of value or prohibited~~
13 ~~inducement to the listed on-sale retailer, provided:~~

14 (1) ~~The listing does not also contain the retail price of the~~
15 ~~product, and~~

16 (2) ~~The listing is the only reference to the on-sale retailers in~~
17 ~~the direct communication, and~~

18 (3) ~~The listing does not refer only to one on-sale retailer or only~~
19 ~~to on-sale retail establishments controlled directly or indirectly by~~
20 ~~the same on-sale retailer, and~~

21 (4) ~~The listing is made by, produced by, or paid for, or any~~
22 ~~combination thereof, exclusively by the nonretail industry member~~
23 ~~making the response.~~

24 (b) ~~For the purposes of this section, “nonretail industry member”~~
25 ~~is defined as a manufacturer, winegrower, distiller of wine, brandy,~~
26 ~~or both, regardless of any other licenses held directly or indirectly~~
27 ~~by such person. Except as specifically provided above, any~~
28 ~~payment for, making or production, either directly or indirectly,~~
29 ~~listing the names, addresses, telephone numbers, e-mail addresses,~~
30 ~~or Internet Web site addresses, of on-sale retailers otherwise~~
31 ~~authorized by this section by a wholesaler or by a wholesaler that~~
32 ~~also holds an importer’s license shall constitute the furnishing of~~

1 a thing of value or inducement to the listed on-sale retailers in
2 violation of this division.

3 SECTION 1.

4 SEC. 2. Section 25500.2 of the Business and Professions Code
5 is amended *and renumbered* to read:

6 ~~25500.2.~~

7 25500.1. (a) Notwithstanding Section 25500, the listing of the
8 names, addresses, telephone numbers, e-mail addresses, or Internet
9 Web site addresses, *or other electronic media*, of two or more
10 unaffiliated on-sale retailers selling beer, wine, or distilled spirits,
11 *or brandy* produced, distributed, or imported by a nonretail industry
12 member in response to a direct inquiry from a consumer received
13 by telephone, by mail, by electronic inquiry, or in person does not
14 constitute a thing of value or prohibited inducement to the listed
15 on-sale retailer, provided all of the following conditions are met:

16 (1) The listing does not also contain the retail price of the
17 product.

18 (2) The listing is the only reference to the on-sale retailers in
19 the direct communication.

20 (3) The listing does not refer only to one on-sale retailer or only
21 to on-sale retail establishments controlled directly or indirectly by
22 the same on-sale retailer.

23 (4) The listing is made by, or produced by, or paid for,
24 exclusively by the nonretail industry member making the response.

25 (b) For the purposes of this section, “nonretail industry member”
26 is defined as a manufacturer, including, but not limited to, a beer
27 manufacturer, winegrower, ~~or~~ distiller of alcoholic beverages, *or*
28 *brandy manufacturer* or an agent of that entity, or a wholesaler,
29 regardless of any other licenses held directly or indirectly by that
30 person.