

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY JULY 5, 2012

AMENDED IN ASSEMBLY JUNE 20, 2012

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1531

Introduced by Senator Wolk

February 24, 2012

An act to add and repeal Section 25503.32 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1531, as amended, Wolk. Alcoholic beverages: tied-house restrictions: opera houses.

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, 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 on-sale licensed premises. Existing law authorizes specific exceptions to this prohibition, including exceptions for donations to nonprofit corporations.

This bill would additionally authorize, until January 1, 2018, donations of wine and monetary contributions by specified winegrowers to an opera house under specified conditions, as provided. This bill would make findings regarding the need for special legislation.

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. This bill would expand existing crimes by imposing additional requirements on a licensee under the act, thus, the bill 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 25503.32 is added to the Business and
2 Professions Code, to read:

3 25503.32. (a) A holder of a winegrower's license whose
4 licensed premises of production are located within the Counties
5 of Lake, Mendocino, Napa, or Sonoma may donate wine and make
6 monetary contributions to an opera house, if all of the following
7 conditions are met:

8 (1) The opera house is a nonprofit charitable corporation or
9 association exempt from payment of income taxes under the
10 provisions of the Internal Revenue Code of the United States and
11 Chapter 4 (commencing with Section 23701) of Part 11 of Division
12 2 of the Revenue and Taxation Code.

13 (2) The opera house has been incorporated in the City and
14 County of Napa and produces not less than 150 events open to the
15 general public per year.

16 (3) The opera house holds a permanent retail on-sale license.

17 (4) The donation *or monetary contribution* shall not be
18 conditioned directly or indirectly, in any way, on the purchase,
19 sale, or distribution of any alcoholic beverage manufactured or
20 distributed by the holder of a winegrower's license by the opera
21 house.

22 (5) Except as provided in paragraph (6), donated wine shall not
23 be used or sold by the permanent retail licensee *and a monetary*
24 *contribution shall not be used in or for the benefit of the permanent*
25 *retail on-sale licensee.*

1 (6) Donated wine may only be used or sold in connection with
2 fundraising activities held on or off the permanent licensed
3 premises. Fundraising activities held on the licensed premises
4 during which donated wine is used or sold shall not take place in
5 conjunction with any performance at the opera house or while the
6 permanent retail licensee is exercising its license privileges and
7 shall only be conducted pursuant to a temporary license issued by
8 the department.

9 (b) The opera house may acknowledge and thank a donating
10 winegrower in the opera house's event programs, on the opera
11 house's Internet Web site, and on stage at the permanent licensed
12 premises during an event.

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

24 (d) This section shall remain in effect only until January 1, 2018,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2018, deletes or extends that date.

27 SEC. 2. The Legislature finds and declares that, because of the
28 unique circumstances, and the cultural importance of the Napa
29 Valley Opera House, a statute of general applicability cannot be
30 enacted within the meaning of subdivision (b) of Section 16 of
31 Article IV of the California Constitution, and, therefore, this special
32 statute is necessary.

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

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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