

ASSEMBLY BILL

No. 816

Introduced by Assembly Member Hall

February 21, 2013

An act to amend Section 25500.1 of, and to repeal Section 25502.1 of, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL’S DIGEST

AB 816, as introduced, Hall. Alcoholic beverages: tied-house restrictions: on-sale and off-sale retailers 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 email addresses, or Internet Web site addresses, of 2 or more unaffiliated off-sale retailers selling beer, wine, or distilled spirits 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 off-sale retailer, if specified conditions are met.

Existing law includes similar provisions applicable to on-sale licensed premises, except that those provisions also extend the above-described exception to other forms of electronic media.

This bill would delete the above exceptions that apply specifically to off-sale licensed premises and instead would include off-sale licensed premises within the exceptions previously applicable only to on-sale licensed premises.

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 amended to read:
3 25500.1. (a) The listing of the names, addresses, telephone
4 numbers, email addresses, or Internet Web site addresses, or other
5 electronic media, of two or more unaffiliated on-sale *or off-sale*
6 retailers selling beer, wine, or distilled spirits produced, distributed,
7 or imported by a nonretail industry member in response to a direct
8 inquiry from a consumer received by telephone, by mail, by
9 electronic inquiry, or in person does not constitute a thing of value
10 or prohibited inducement to the listed on-sale *or off-sale* retailer,
11 provided all of the following conditions are met:
12 (1) The listing does not also contain the retail price of the
13 product.
14 (2) The listing is the only reference to the on-sale *or off-sale*
15 retailers in the direct communication.
16 (3) The listing does not refer only to one on-sale retailer or only
17 to on-sale *or off-sale* retail establishments controlled directly or
18 indirectly by the same ~~on-sale~~ retailer.
19 (4) The listing is made by, or produced by, or paid for,
20 exclusively by the nonretail industry member making the response.
21 (b) For the purposes of this section, “nonretail industry member”
22 is defined as a manufacturer, including, but not limited to, a beer
23 manufacturer, winegrower, or distiller of alcoholic beverages or
24 an agent of that entity, or a wholesaler, regardless of any other
25 licenses held directly or indirectly by that person.
26 SEC. 2. Section 25502.1 of the Business and Professions Code
27 is repealed.
28 ~~25502.1. (a) Notwithstanding Section 25502, the listing of the~~
29 ~~names, addresses, telephone numbers, e-mail addresses, or Internet~~
30 ~~Web site addresses, of two or more unaffiliated off-sale retailers~~
31 ~~selling the products produced, distributed or imported by a nonretail~~

1 industry member in response to a direct inquiry from a consumer
2 received by telephone, by mail, by electronic inquiry or in person
3 does not constitute a thing of value or prohibited inducement to
4 the listed off-sale retailer, provided all of the following conditions
5 are met:

6 (1) ~~The listing does not also contain the retail price of the~~
7 ~~product.~~

8 (2) ~~The listing is the only reference to the off-sale retailers in~~
9 ~~the direct communication.~~

10 (3) ~~The listing does not refer only to one off-sale retailer or only~~
11 ~~to off-sale retail establishments controlled directly or indirectly~~
12 ~~by the same off-sale retailer.~~

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

15 (b) ~~For the purposes of this section, "nonretail industry member"~~
16 ~~is defined as a manufacturer, including, but not limited to, a beer~~
17 ~~manufacturer, winegrower, or distiller of alcoholic beverages, or~~
18 ~~an agent of those entities, or a wholesaler, regardless of any other~~
19 ~~licenses held directly or indirectly by that person.~~