

AMENDED IN SENATE AUGUST 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1424

Introduced by Committee on Governmental Organization (Hall (Chair), Nestande (Vice Chair), Chesbro, Cooley, Hagman, Jones, Jones-Sawyer, Levine, Perea, V. Manuel Pérez, Salas, Torres, and Waldron)

March 21, 2013

An act to amend ~~Section 25503.5~~ *Sections 25503.5 and 25503.6* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, as amended, Committee on Governmental Organization. Alcoholic beverages: instruction:—~~tastings~~: *tastings: tied-house restrictions: advertising*.

The Alcoholic Beverage Control Act permits a winegrower, beer manufacturer, or a beer and wine wholesaler to instruct licensees and their employees on the subject of wine or beer, including, but not limited to, the history, nature, values, and characteristics of those beverages, as provided.

This bill would specifically reference the composition of the beer or wine as a subject that may be included in this type of instruction.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a winegrower's license, a beer manufacturer, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent to purchase advertising space and time from, or

on behalf of, on-sale retail licensees at specified facilities located in the City of Santa Clara, as provided.

This bill would expand that exception to allow the purchase of advertising space and time from, or on behalf of, a major tenant that does not hold a retail alcoholic beverage license, of one of the specified facilities in Santa Clara, and allows that advertising to include the placement of advertising in an on-sale licensed premises operated at that stadium, as provided.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Santa Clara.

This bill would incorporate additional changes to Section 25503.5 of the Business and Professions Code proposed by AB 520 that would become operative if this bill and AB 520 are enacted and this bill is enacted last.

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

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

- 1 SECTION 1. Section 25503.5 of the Business and Professions
- 2 Code is amended to read:
- 3 25503.5. (a) A winegrower, beer manufacturer, or a beer and
- 4 wine wholesaler may, without charge, instruct licensees and their
- 5 employees, or conduct courses of instruction for licensees and
- 6 their employees, on the subject of wine or beer, ~~including~~
- 7 *including*, but not limited to, the history, nature, values,
- 8 composition, and characteristics of wine or beer, the use of wine
- 9 lists, and the methods of presenting and serving wine or beer. The
- 10 winegrower, beer manufacturer, or beer and wine wholesaler may
- 11 furnish wine or beer and the equipment, ~~materials~~ *materials*, and
- 12 utensils that may be required for use in connection with the
- 13 instruction or courses of instruction.
- 14 (b) A distilled spirits manufacturer, distilled spirits
- 15 manufacturer's agent, distilled spirits general rectifier, or distilled
- 16 spirits general importer may, without charge, instruct licensees
- 17 and their employees, or conduct courses of instruction for licensees
- 18 and their employees, on the subject of distilled spirits, including,
- 19 but not limited to, the history, nature, values, and characteristics
- 20 of distilled spirits, and the methods of presenting and serving
- 21 distilled spirits. The distilled spirits manufacturer or distilled spirits

1 manufacturer's agent may furnish distilled spirits and the
2 equipment, materials, and utensils that may be required for use in
3 connection with the instruction or courses of instruction.

4 (c) A winegrower or distilled spirits manufacturer, or its
5 authorized agent may instruct consumers at an on-sale retail
6 licensed premises authorized to sell its product with the permission
7 of the retail on-sale licensee. The instruction may include, without
8 limitation, the history, nature, values, and characteristics of the
9 product and the methods of presenting and serving the product.
10 The instruction of consumers may include the furnishing of not
11 more than three tastings to any individual in one day. A single
12 tasting of distilled spirits may not exceed one-fourth of one ounce
13 and a single tasting of wine may not exceed one ounce. The
14 winegrower or distilled spirits manufacturer, or its authorized agent
15 shall remove any unfinished alcoholic beverages that he or she
16 provided following the instruction. Nothing in this subdivision
17 shall limit the giving away of samples pursuant to subdivision (a)
18 of Section 23386.

19 (d) The instruction or courses of instruction, authorized in
20 subdivision (a) or (b), may be given at the premises of the
21 winegrower, beer manufacturer, beer and wine wholesaler, distilled
22 spirits manufacturer, distilled spirits manufacturer's agent, distilled
23 spirits general rectifier, distilled spirits general ~~importer~~ importer,
24 or of a licensee, including an on-sale retail licensee, or elsewhere.

25 *SEC. 1.5. Section 25503.5 of the Business and Professions*
26 *Code is amended to read:*

27 25503.5. (a) A winegrower, beer manufacturer, or a beer and
28 wine wholesaler may, without charge, instruct licensees and their
29 employees, or conduct courses of instruction for licensees and
30 their employees, on the subject of wine or beer, ~~including~~
31 *including*, but not limited to, the history, nature, values,
32 *composition*, and characteristics of wine or beer, the use of wine
33 lists, and the methods of presenting and serving wine or beer. The
34 winegrower, beer manufacturer, or beer and wine wholesaler may
35 furnish wine or beer and the equipment, ~~materials~~ *materials*, and
36 utensils that may be required for use in connection with the
37 instruction or courses of instruction.

38 (b) A distilled spirits manufacturer, distilled spirits
39 manufacturer's agent, distilled spirits general rectifier, or distilled
40 spirits general importer may, without charge, instruct licensees

1 and their employees, or conduct courses of instruction for licensees
2 and their employees, on the subject of distilled spirits, including,
3 but not limited to, the history, nature, values, and characteristics
4 of distilled spirits, and the methods of presenting and serving
5 distilled spirits. The distilled spirits manufacturer or distilled spirits
6 manufacturer's agent may furnish distilled spirits and the
7 equipment, materials, and utensils that may be required for use in
8 connection with the instruction or courses of instruction.

9 ~~(e) A winegrower or distilled spirits manufacturer, or its
10 authorized agent may instruct consumers at an on-sale retail
11 licensed premises authorized to sell its product with the permission
12 of the retail on-sale licensee. The instruction may include, without
13 limitation, the history, nature, values, and characteristics of the
14 product and the methods of presenting and serving the product.
15 The instruction of consumers may include the furnishing of not
16 more than three tastings to any individual in one day. A single
17 tasting of distilled spirits may not exceed one-fourth of one ounce
18 and a single tasting of wine may not exceed one ounce. The
19 winegrower or distilled spirits manufacturer, or its authorized agent
20 shall remove any unfinished alcoholic beverages that he or she
21 provided following the instruction. Nothing in this subdivision
22 shall limit the giving away of samples pursuant to subdivision (a)
23 of Section 23386.~~

24 ~~(d)~~

25 (c) The instruction or courses of instruction, authorized in
26 subdivision (a) or (b), may be given at the premises of the
27 winegrower, beer manufacturer, beer and wine wholesaler, distilled
28 spirits manufacturer, distilled spirits manufacturer's agent, distilled
29 spirits general rectifier, distilled spirits general ~~importer~~ importer,
30 or of a licensee, including an on-sale retail licensee, or elsewhere.

31 *SEC. 2. Section 25503.6 of the Business and Professions Code*
32 *is amended to read:*

33 25503.6. (a) Notwithstanding any other provision of this
34 chapter, a beer manufacturer, the holder of a winegrower's license,
35 a distilled spirits rectifier, a distilled spirits manufacturer, or
36 distilled spirits manufacturer's agent may purchase advertising
37 space and time from, or on behalf of, an on-sale retail licensee
38 subject to all of the following conditions:

1 (1) The on-sale licensee is the owner, manager, agent of the
2 owner, assignee of the owner's advertising rights, or the major
3 tenant of the owner of any of the following:

4 (A) An outdoor stadium or a fully enclosed arena with a fixed
5 seating capacity in excess of 10,000 seats located in Sacramento
6 County or Alameda County.

7 (B) A fully enclosed arena with a fixed seating capacity in
8 excess of 18,000 seats located in Orange County or Los Angeles
9 County.

10 (C) An outdoor stadium or fully enclosed arena with a fixed
11 seating capacity in excess of 8,500 seats located in Kern County.

12 (D) An exposition park of not less than 50 acres that includes
13 an outdoor stadium with a fixed seating capacity in excess of 8,000
14 seats and a fully enclosed arena with an attendance capacity in
15 excess of 4,500 people, located in San Bernardino County.

16 (E) An outdoor stadium with a fixed seating capacity in excess
17 of 10,000 seats located in Yolo County.

18 (F) An outdoor stadium and a fully enclosed arena with fixed
19 seating capacities in excess of 10,000 seats located in Fresno
20 County.

21 (G) An athletic and entertainment complex of not less than 50
22 acres that includes within its boundaries an outdoor stadium with
23 a fixed seating capacity of at least 8,000 seats and a second outdoor
24 stadium with a fixed seating capacity of at least 3,500 seats located
25 within Riverside County.

26 (H) An outdoor stadium with a fixed seating capacity in excess
27 of 1,500 seats located in Tulare County.

28 (I) A motorsports entertainment complex of not less than 50
29 acres that includes within its boundaries an outdoor speedway with
30 a fixed seating capacity of at least 50,000 seats, located within San
31 Bernardino County.

32 (J) An exposition park, owned or operated by a bona fide
33 nonprofit organization, of not less than 400 acres with facilities
34 including a grandstand with a seating capacity of at least 8,000
35 people, at least one exhibition hall greater than 100,000 square
36 feet, and at least four exhibition halls, each greater than 30,000
37 square feet, located in the City of Pomona or the City of La Verne
38 in Los Angeles County.

39 (K) An outdoor soccer stadium with a fixed seating capacity of
40 at least 25,000 seats, an outdoor tennis stadium with a fixed

1 capacity of at least 7,000 seats, an outdoor track and field facility
2 with a fixed seating capacity of at least 7,000 seats, and an indoor
3 velodrome with a fixed seating capacity of at least 2,000 seats, all
4 located within a sports and athletic complex built before January
5 1, 2005, within the City of Carson in Los Angeles County.

6 (L) An outdoor professional sports facility with a fixed seating
7 capacity of at least 4,200 seats located within San Joaquin County.

8 (M) A fully enclosed arena with a fixed seating capacity in
9 excess of 13,000 seats in the City of Inglewood.

10 (N) (i) An outdoor stadium with a fixed seating capacity of at
11 least 68,000 seats located in the City of Santa Clara.

12 (ii) *A beer manufacturer, the holder of a winegrower's license,*
13 *a distilled spirits rectifier, a distilled spirits manufacturer, or*
14 *distilled spirits manufacturer's agent may purchase advertising*
15 *space and time from, or on behalf of, a major tenant of an outdoor*
16 *stadium described in clause (i), provided the major tenant does*
17 *not hold a retail license, and the advertising may include the*
18 *placement of advertising in an on-sale licensed premises operated*
19 *at the outdoor stadium.*

20 (2) The outdoor stadium or fully enclosed arena described in
21 paragraph (1) is not owned by a community college district.

22 (3) The advertising space or time is purchased only in connection
23 with the events to be held on the premises of the exposition park,
24 stadium, or arena owned by the on-sale licensee. With respect to
25 an exposition park as described in subparagraph (J) of paragraph
26 (1) that includes at least one hotel, the advertising space or time
27 shall not be displayed on or in any hotel located in the exposition
28 park, or purchased in connection with the operation of any hotel
29 located in the exposition park.

30 (4) The on-sale licensee serves other brands of beer distributed
31 by a competing beer wholesaler in addition to the brand
32 manufactured or marketed by the beer manufacturer, other brands
33 of wine distributed by a competing wine wholesaler in addition to
34 the brand produced by the winegrower, and other brands of distilled
35 spirits distributed by a competing distilled spirits wholesaler in
36 addition to the brand manufactured or marketed by the distilled
37 spirits rectifier, the distilled spirits manufacturer or the distilled
38 spirits manufacturer's agent that purchased the advertising space
39 or time.

1 (b) Any purchase of advertising space or time pursuant to
2 subdivision (a) shall be conducted pursuant to a written contract
3 entered into by the beer manufacturer, the holder of the
4 winegrower’s license, the distilled spirits rectifier, the distilled
5 spirits manufacturer, or the distilled spirits manufacturer’s agent
6 and the on-sale licensee, *or with respect to clause (ii) of*
7 *subparagraph (N) of paragraph (1) of subdivision (a), the major*
8 *tenant of the outdoor stadium.*

9 (c) Any beer manufacturer or holder of a winegrower’s license,
10 any distilled spirits rectifier, any distilled spirits manufacturer, or
11 any distilled spirits manufacturer’s agent who, through coercion
12 or other illegal means, induces, directly or indirectly, a holder of
13 a wholesaler’s license to fulfill all or part of those contractual
14 obligations entered into pursuant to subdivision (a) or (b) shall be
15 guilty of a misdemeanor and shall be punished by imprisonment
16 in the county jail not exceeding six months, or by a fine in an
17 amount equal to the entire value of the advertising space, time, or
18 costs involved in the contract, whichever is greater, plus ten
19 thousand dollars (\$10,000), or by both imprisonment and fine. The
20 person shall also be subject to license revocation pursuant to
21 Section 24200.

22 (d) Any on-sale retail licensee, as described in subdivision (a),
23 who, directly or indirectly, solicits or coerces a holder of a
24 wholesaler’s license to solicit a beer manufacturer, a holder of a
25 winegrower’s license, a distilled spirits rectifier, a distilled spirits
26 manufacturer, or a distilled spirits manufacturer’s agent to purchase
27 advertising space or time pursuant to subdivision (a) or (b) shall
28 be guilty of a misdemeanor and shall be punished by imprisonment
29 in the county jail not exceeding six months, or by a fine in an
30 amount equal to the entire value of the advertising space or time
31 involved in the contract, whichever is greater, plus ten thousand
32 dollars (\$10,000), or by both imprisonment and fine. The person
33 shall also be subject to license revocation pursuant to Section
34 24200.

35 (e) For the purposes of this section, “beer manufacturer” includes
36 any holder of a beer manufacturer’s license, any holder of an
37 out-of-state beer manufacturer’s certificate, or any holder of a beer
38 and wine importer’s general license.

39 *SEC. 3. The Legislature finds and declares that a special law*
40 *is necessary and that a general law cannot be made applicable*

1 *within the meaning of Section 16 of Article IV of the California*
2 *Constitution because of the unique circumstances and concerns*
3 *applicable to certain facilities in the City of Santa Clara.*

4 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
5 *Section 25503.5 of the Business and Professions Code proposed*
6 *by both this bill and Assembly Bill 520. It shall only become*
7 *operative if (1) both bills are enacted and become effective on or*
8 *before January 1, 2015, (2) each bill amends Section 25503.5 of*
9 *the Business and Professions Code, and (3) this bill is enacted*
10 *after Assembly Bill 520, in which case Section 1 of this bill shall*
11 *not become operative.*

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