

Assembly Bill No. 1424

Passed the Assembly August 29, 2014

Chief Clerk of the Assembly

Passed the Senate August 29, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, Committee on Governmental Organization. Alcoholic beverages: instruction: 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.

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

SECTION 1. Section 25503.5 of the Business and Professions Code is amended to read:

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

(b) A distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits general rectifier, or distilled spirits general importer may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, on the subject of distilled spirits, including, but not limited to, the history, nature, values, and characteristics of distilled spirits, and the methods of presenting and serving distilled spirits. The distilled spirits manufacturer or distilled spirits manufacturer's agent may furnish distilled spirits and the equipment, materials, and utensils that may be required for use in connection with the instruction or courses of instruction.

(c) A winegrower or distilled spirits manufacturer, or its authorized agent may instruct consumers at an on-sale retail licensed premises authorized to sell its product with the permission of the retail on-sale licensee. The instruction may include, without limitation, the history, nature, values, and characteristics of the product and the methods of presenting and serving the product. The instruction of consumers may include the furnishing of not more than three tastings to any individual in one day. A single tasting of distilled spirits may not exceed one-fourth of one ounce and a single tasting of wine may not exceed one ounce. The winegrower or distilled spirits manufacturer, or its authorized agent shall remove any unfinished alcoholic beverages that he or she provided following the instruction. Nothing in this subdivision

shall limit the giving away of samples pursuant to subdivision (a) of Section 23386.

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

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

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

(b) A distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits general rectifier, or distilled spirits general importer may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, on the subject of distilled spirits, including, but not limited to, the history, nature, values, and characteristics of distilled spirits, and the methods of presenting and serving distilled spirits. The distilled spirits manufacturer or distilled spirits manufacturer's agent may furnish distilled spirits and the equipment, materials, and utensils that may be required for use in connection with the instruction or courses of instruction.

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

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

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

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

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

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

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

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

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

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

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

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

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

(J) An exposition park, owned or operated by a bona fide nonprofit organization, of not less than 400 acres with facilities including a grandstand with a seating capacity of at least 8,000

people, at least one exhibition hall greater than 100,000 square feet, and at least four exhibition halls, each greater than 30,000 square feet, located in the City of Pomona or the City of La Verne in Los Angeles County.

(K) An outdoor soccer stadium with a fixed seating capacity of at least 25,000 seats, an outdoor tennis stadium with a fixed capacity of at least 7,000 seats, an outdoor track and field facility with a fixed seating capacity of at least 7,000 seats, and an indoor velodrome with a fixed seating capacity of at least 2,000 seats, all located within a sports and athletic complex built before January 1, 2005, within the City of Carson in Los Angeles County.

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

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

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

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

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

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

(4) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled

spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits rectifier, the distilled spirits manufacturer or the distilled spirits manufacturer's agent that purchased the advertising space or time.

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

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

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

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

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances and concerns applicable to certain facilities in the City of Santa Clara.

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

Approved _____, 2014

Governor