

Assembly Bill No. 1425

Passed the Assembly September 12, 2013

Chief Clerk of the Assembly

Passed the Senate September 12, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 23055, 23356.2, 23356.8, 23356.9, and 25503.31 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1425, Committee on Governmental Organization. Alcoholic beverages.

(1) Under existing law, the Alcoholic Beverage Control Act is administered by the Department of Alcoholic Beverage Control. Existing law requires the department to make an annual report to the Legislature on the department's activities, on or before March 1 of each year.

This bill would require the department to post the report on its Internet Web site.

(2) Existing law authorizes a person to manufacture beer or wine for personal or family use without the need for a license or permit, as provided. Existing law authorizes the removal of beer from the premises where made for use in competition at organized affairs, exhibitions, or competitions. Existing law authorizes the removal of wine from the premises where made, for use at organized affairs, exhibitions, or competitions, including homemakers' contests, tastings, or judgments, and prohibits that wine from being sold or offered for sale.

This bill would revise the limitations on the use of beer and wine produced under the above-described circumstances, to authorize these products to be removed from the premises where made only when used in a bona fide competition or exhibition, for personal or family use, or when donated to a nonprofit organization for sale at a fundraising event, excluding nonprofit organizations that either promote home brewing or home winemaking or that are primarily composed of home brewers or home winemakers, as specified. The bill would require beer or wine donated to a nonprofit organization under the bill to be labeled with designated information, and would otherwise exempt it from complying with existing labeling requirements.

(3) Existing law prohibits a licensed wine blender from owning or holding, directly or indirectly, a retailer's license. Existing law also provides that a wine blender's license does not authorize specified wine tasting activities.

This bill would remove obsolete references from these provisions.

(4) Existing law, until December 1, 2014, authorizes a beer manufacturer, holder of a winegrower's license, a California winegrower's agent, a distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, a distilled spirits manufacturer's agent, and a licensed retailer to make monetary or alcoholic beverage contributions to a symphony association, as specified. 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 delete the repeal of this provision, thereby authorizing these types of contributions indefinitely. By extending the imposition of an existing crime, this bill imposes 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.

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

SECTION 1. Section 23055 of the Business and Professions Code is amended to read:

23055. On or before March 1 of each year, the director shall prepare and submit to the Legislature an annual report on the department's activities and post the report on the department's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the department for licensing, enforcement, and administration.

(b) The number of licenses issued, renewed, denied, suspended, and revoked, by license category.

(c) The average time for processing license applications, by license category.

(d) The number and type of enforcement activities conducted by the department and by local law enforcement agencies in conjunction with the department.

(e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the department.

SEC. 2. Section 23356.2 of the Business and Professions Code is amended to read:

23356.2. (a) No license or permit shall be required for the manufacture of beer or wine for personal or family use, and not for sale, by a person over 21 years of age. The aggregate amount of beer or wine with respect to any household shall not exceed (1) 200 gallons per calendar year if there are two or more adults in the household or (2) 100 gallons per calendar year if there is only one adult in the household.

(b) Beer or wine produced pursuant to this section may be removed from the premises where made only under any of the following circumstances:

(1) For use, including tasting by judges, in a bona fide competition or exhibition.

(2) For personal or family use.

(3) When donated to a nonprofit organization for use as provided in subdivision (c).

(c) (1) Beer or wine produced pursuant to this section may be donated to a nonprofit organization for sale at fundraising events conducted solely by and for the benefit of the nonprofit organization. Beer and wine donated pursuant to this subdivision may be sold by the nonprofit organization only for consumption on the premises of the fundraising event, under a license issued by the department to the nonprofit organization pursuant to this division.

(2) Beer or wine donated and sold pursuant to this subdivision shall bear a label identifying its producer and stating that the beer or wine is homemade and not available for sale or for consumption off the licensed premises. The beer or wine is not required to comply with other labeling requirements under this division. However, nothing in this paragraph authorizes the use of any false or misleading information on a beer or wine label.

(3) A nonprofit organization established for the purpose of promoting home production of beer or wine, or whose membership is composed primarily of home brewers or home winemakers, shall not be eligible to sell beer or wine pursuant to this subdivision.

(d) Except as provided in subdivision (c), this section does not authorize the sale or offering for sale by any person of any beer or wine produced pursuant to this section.

(e) Except as provided herein, nothing in this section authorizes any activity in violation of Section 23300, 23355, or 23399.1.

SEC. 3. Section 23356.8 of the Business and Professions Code is amended to read:

23356.8. A licensed wine blender shall not be issued and shall not own or hold, directly or indirectly, any retailer's license, nor shall the holder of a retailer's license be issued or own or hold, directly or indirectly, a wine blender's license, or own or hold any interest in a wine blender's license.

SEC. 4. Section 23356.9 of the Business and Professions Code is amended to read:

23356.9. A wine blender's license does not authorize winetasting activities or the conducting or sponsoring of wine tastings either on or off the wine blender's licensed premises.

SEC. 5. Section 25503.31 of the Business and Professions Code is amended to read:

25503.31. (a) Notwithstanding any other provision of this division, a beer manufacturer, holder of a winegrower's license, a California winegrower's agent, a distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, a distilled spirits manufacturer's agent, and a licensed retailer may make monetary contributions or alcoholic beverage contributions of the type that licensee is authorized to sell to a symphony association, if all the following conditions are met:

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

(2) The symphony association has been incorporated in the City and County of San Francisco by and through its predecessor organizations for not less than 99 years and produces not less than

175 musical events open to the general public per symphony season.

(3) The symphony association holds a retail on-sale license in a portion of its premises, provided that no contribution shall be used in or for the benefit of the symphony association's retail on-sale license.

(4) The contribution shall not be conditioned directly or indirectly, in any way, on the purchase, sale, or distribution of any alcoholic beverage manufactured or distributed by the beer manufacturer, holder of a winegrower's license, California winegrower's agent, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, a distilled spirits manufacturer's agent, or a licensed retailer by the symphony association.

(b) The symphony association shall serve other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the contributing beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced or marketed by the contributing winegrower or California winegrower's agent, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the contribution distilled spirits manufacturer or distilled spirits manufacturer's agent.

(c) For purposes of this section, "beer manufacturer" includes a holder of a beer manufacturer's license, a holder of an out-of-state beer manufacturer's certificate, or a holder of a beer and wine importer's general license.

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

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

Approved _____, 2013

Governor