

ASSEMBLY BILL

No. 527

Introduced by Assembly Member Dodd

February 23, 2015

An act to add Section 25503.40 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 527, as introduced, Dodd. Alcoholic beverage control: tied-house restrictions: advertising.

Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages. Existing law expressly authorizes a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to sponsor events promoted by or purchase advertising space and time from, or on behalf of, a live entertainment marketing company that is a wholly owned subsidiary of a live entertainment company that has its principal place of business in the County of Los Angeles, as provided.

This bill would expressly authorize a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to sponsor events promoted by or purchase advertising space and time from, or on behalf of, a live entertainment marketing company that is a wholly owned subsidiary of a live entertainment company that has its

principal place of business in the County of Napa, under specified conditions. This bill would also make a beer manufacturer, holder of a winegrower’s license, winegrower’s agent, holder of an importer’s general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer’s agent who, through coercion or other illegal means, induces the holder of a wholesaler’s license to fulfill those contractual obligations entered into pursuant to these provisions guilty of a misdemeanor. This bill would additionally make an on-sale retail licensee, as described, who solicits or coerces a holder of a wholesaler’s license to solicit a beer manufacturer, holder of a winegrower’s license, winegrower’s agent, holder of an importer’s general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer’s agent to purchase advertising time or space pursuant to these provisions guilty of a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Napa.

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 25503.40 is added to the Business and
- 2 Professions Code, to read:
- 3 25503.40. (a) Notwithstanding any other law, a beer
- 4 manufacturer, holder of a winegrower’s license, winegrower’s
- 5 agent, holder of an importer’s general license, distilled spirits
- 6 manufacturer, holder of a distilled spirits rectifiers general license,
- 7 or a distilled spirits manufacturer’s agent may sponsor events
- 8 promoted by, and may purchase advertising space and time from,
- 9 or on behalf of, a live entertainment marketing company subject
- 10 to all of the following conditions:

1 (1) The live entertainment marketing company is a wholly
2 owned subsidiary of a live entertainment company that has its
3 principal place of business in the County of Napa, that may also
4 own interests, directly or indirectly, in retail licenses.

5 (2) The sponsorship and the advertising space or time is
6 purchased only in connection with the promotion of live artistic,
7 musical, sports, food, beverage, culinary, lifestyle, or other cultural
8 entertainment events at entertainment facilities, parks, fairgrounds,
9 auditoriums, arenas, or other areas or venues that are designed for,
10 or set up to be, lawfully used for live artistic, musical, sports, food,
11 beverage, culinary, lifestyle, or other cultural entertainment events.

12 (3) (A) Any on-sale licensee operating at a venue where live
13 artistic, musical, sports, food, beverage, culinary, lifestyle, or other
14 cultural entertainment events are performed pursuant to a
15 sponsorship described in this section or where advertising is
16 purchased as described in this section shall serve other brands of
17 beer, distilled spirits, and wine in addition to any brand
18 manufactured or distributed by the sponsoring or advertising beer
19 manufacturer, holder of a winegrower's license, winegrower's
20 agent, holder of an importer's general license, distilled spirits
21 manufacturer, holder of a distilled spirits rectifiers general license,
22 or a distilled spirits manufacturer's agent. If, however, there is
23 brand diversity by virtue of the existence of multiple sponsors
24 within the same sponsorship category, this subparagraph shall not
25 apply.

26 (B) Any on-sale retail licensee owned by the live entertainment
27 company described in paragraph (1) shall serve other brands of
28 beer, distilled spirits, and wine in addition to any brand
29 manufactured or distributed by the sponsoring or advertising beer
30 manufacturer, holder of a winegrower's license, winegrower's
31 agent, holder of an importer's general license, distilled spirits
32 manufacturer, holder of a distilled spirits rectifiers general license,
33 or a distilled spirits manufacturer's agent. If, however, there is
34 brand diversity by virtue of the existence of multiple sponsors
35 within the same sponsorship category, this subparagraph shall not
36 apply.

37 (4) (A) Advertising space or time purchased pursuant to this
38 section shall not be placed in any on-sale licensed premises where
39 the on-sale retail licensee is owned by the live entertainment
40 company, or any of its subsidiaries, described in paragraph (1).

1 (B) Sponsorship provided pursuant to this section shall not be
2 allowed if the event or activity is held at or in any on-sale licensed
3 premises where the on-sale retail licensee is owned by the live
4 entertainment company, or any of its subsidiaries, described in
5 paragraph (1).

6 (5) An agreement for the sponsorship of, or for the purchase of
7 advertising space and time during, a live artistic, musical, sports,
8 food, beverage, culinary, lifestyle, or other cultural entertainment
9 event shall not be conditioned directly or indirectly, in any way,
10 on the purchase, sale, or distribution of any alcoholic beverage
11 manufactured or distributed by the advertising or sponsoring beer
12 manufacturer, holder of a winegrower’s license, winegrower’s
13 agent, holder of an importer’s general license, distilled spirits
14 manufacturer, holder of a distilled spirits rectifiers general license,
15 or a distilled spirits manufacturer’s agent by the live entertainment
16 company described in paragraph (1) or by any on-sale retail
17 licensee that is owned by the live entertainment company.

18 (b) Any sponsorship of events or purchase of advertising space
19 or time conducted pursuant to subdivision (a) shall be conducted
20 pursuant to a written contract entered into by the beer manufacturer,
21 holder of a winegrower’s license, winegrower’s agent, holder of
22 an importer’s general license, distilled spirits manufacturer, holder
23 of a distilled spirits rectifiers general license, or a distilled spirits
24 manufacturer’s agent and the live entertainment marketing
25 company.

26 (c) Any beer manufacturer, holder of a winegrower’s license,
27 winegrower’s agent, holder of an importer’s general license,
28 distilled spirits manufacturer, holder of a distilled spirits rectifiers
29 general license, or a distilled spirits manufacturer’s agent who,
30 through coercion or other illegal means, induces, directly or
31 indirectly, a holder of a wholesaler’s license to fulfill those
32 contractual obligations entered into pursuant to subdivision (a)
33 shall be guilty of a misdemeanor and shall be punished by
34 imprisonment in the county jail not exceeding six months, or by
35 a fine in an amount equal to the entire value of the advertising
36 space or time involved in the contract, whichever is greater, plus
37 ten thousand dollars (\$10,000), or by both imprisonment and fine.
38 The person shall also be subject to license revocation pursuant to
39 Section 24200.

1 (d) Any on-sale retail licensee who, directly or indirectly, solicits
2 or coerces a holder of a wholesaler’s license to solicit a beer
3 manufacturer, holder of a winegrower’s license, winegrower’s
4 agent, holder of an importer’s general license, distilled spirits
5 manufacturer, holder of a distilled spirits rectifiers general license,
6 or a distilled spirits manufacturer’s agent to purchase advertising
7 time or space pursuant to subdivision (a) shall be guilty of a
8 misdemeanor and shall be punished by imprisonment in the county
9 jail not exceeding six months, or by a fine in an amount equal to
10 the entire value of the advertising space or time involved in the
11 contract, whichever is greater, plus ten thousand dollars (\$10,000),
12 or by both imprisonment and fine. The person shall also be subject
13 to license revocation pursuant to Section 24200.

14 (e) For purposes of this section, “beer manufacturer” includes
15 a holder of a beer manufacturer’s license, a holder of an out-of-state
16 beer manufacturer’s certificate, a holder of a beer and wine
17 wholesaler’s license, or a holder of a beer and wine importer’s
18 general license.

19 (f) Nothing in this section shall authorize the purchasing of
20 advertising space or time directly from, or on behalf of, any on-sale
21 licensee.

22 (g) Nothing in this section shall authorize a beer manufacturer,
23 holder of a winegrower’s license, winegrower’s agent, holder of
24 an importer’s general license, distilled spirits manufacturer, holder
25 of a distilled spirits rectifiers general license, or a distilled spirits
26 manufacturer’s agent to furnish, give, or lend anything of value to
27 an on-sale retail licensee described in subdivision (a) except as
28 expressly authorized by this section or any other provision of this
29 division.

30 SEC. 2. The Legislature finds and declares that a special law
31 is necessary and that a general law cannot be made applicable
32 within the meaning of Section 16 of Article IV of the California
33 Constitution because of the unique conditions located in the County
34 of Napa.

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

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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