

**ASSEMBLY BILL**

**No. 774**

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**Introduced by Assembly Member Levine**

February 25, 2015

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An act to amend Sections 23399.45, 24045.6, and 25607.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 774, as introduced, Levine. Alcoholic beverages: beer manufacturers: farmers' market: tasting: nonprofit corporation: donated beer.

Existing law, the Alcoholic Beverage Control Act, authorizes a licensed winegrower or a licensed beer manufacturer to apply to the Department of Alcoholic Beverage Control for a certified farmers' market sales permit, which allows, among others, the licensee to sell wine or beer at a certified farmers' market, under specified conditions, and requires the licensee to pay a fee of \$50 for the permit. Existing law requires a certified farmers' market sales permit issued to a licensed winegrower, but not a licensed beer manufacturer, to allow an instructional tasting event on the subject of wine at a certified farmers' market, under specified conditions. Under existing law, a violation of the act is a misdemeanor, unless another penalty or punishment is specified. Existing law provides that moneys collected as fees pursuant to the act are to be deposited in the Alcohol Beverage Control Fund. These moneys are generally allocated to the Department of Alcoholic Beverage Control upon appropriation by the Legislature.

This bill would also require a certified farmers' market sales permit issued to a licensed beer manufacturer to allow an instructional tasting

event on the subject of beer at a certified farmers’ market, under specified conditions.

Existing law authorizes specified nonprofit corporations that have not been issued a license authorizing the sale of wine to receive and possess wine donated to that nonprofit corporation, if the nonprofit corporation has submitted a license application to sell wine with the Department of Alcoholic Beverage Control.

This bill would additionally authorize those nonprofit corporations to receive and possess beer under the same circumstances.

Existing law authorizes the Department of Alcoholic Beverage Control to issue a special temporary on-sale or off-sale wine license to a nonprofit corporation that is exempt from payment of income taxes, subject to specified requirements and limitations.

This bill would extend this authorization to issue a special temporary on-sale or off-sale license to sell beer.

Because a violation of the provisions of this bill would be a misdemeanor under the Alcoholic Beverage Control Act, the bill would impose 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.

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 23399.45 of the Business and Professions
- 2 Code is amended to read:
- 3 23399.45. (a) For the purposes of this section:
- 4 (1) “Certified farmers’ market” means a location operated in
- 5 accordance with Chapter 10.5 (commencing with Section 47000)
- 6 of Division 17 of the Food and Agricultural Code.
- 7 (2) “Community event” means an event as defined by Section
- 8 113755 of the Health and Safety Code.
- 9 (b) (1) A licensed beer manufacturer may apply to the
- 10 department for a certified farmers’ market beer sales permit.
- 11 Subject to the requirements of Chapter 10.5 (commencing with
- 12 Section 47000) of Division 17 of the Food and Agricultural Code,

1 and to the discretion and managerial control of a certified farmers’  
2 market or community event operator, respectively, a certified  
3 farmers’ market beer sales permit shall authorize the licensee, a  
4 member of the licensee’s family who is 21 years of age or older,  
5 or an employee of the licensee to sell packaged beer that has been  
6 manufactured by a beer manufacturer applying for the permit at a  
7 certified farmers’ market, including any permitted community  
8 event area adjacent to, and operated in conjunction with, a certified  
9 farmers’ market, located within the county or an adjacent county  
10 of the physical location of the licensed beer manufacturer.

11 (2) (A) *A certified farmers’ market beer sales permit shall also*  
12 *authorize an instructional tasting event on the subject of beer at*  
13 *a certified farmers’ market, including any permitted community*  
14 *event area adjacent to, and operated in conjunction with, a certified*  
15 *farmers’ market, located within the county or an adjacent county*  
16 *of the physical location of the licensed beer manufacturer.*

17 (B) *An instructional tasting event is subject to the authorization*  
18 *and managerial control of the operator of the certified farmers’*  
19 *market. The licensee, a member of the licensee’s family who is 21*  
20 *years of age or older, or an employee of the licensee may conduct*  
21 *the instructional tasting event.*

22 (C) *At all times during an instructional tasting event, the*  
23 *instructional tasting event area shall be separated from the*  
24 *remainder of the market by a wall, rope, cable, cord, chain, fence,*  
25 *or other permanent or temporary barrier.*

26 (D) *Only one licensed beer manufacturer may conduct an*  
27 *instructional tasting event during the operational hours of any one*  
28 *certified farmers’ market. The licensee shall not pour more than*  
29 *eight ounces of beer per person per day.*

30 (c) Sales under the certified farmers’ market beer sales permit  
31 shall only occur at a certified farmers’ market or within a permitted  
32 community event area adjacent to, and operated in conjunction  
33 with, the certified farmers’ market that is located within the same  
34 county or adjacent county of the location of the licensed beer  
35 manufacturer’s manufacturing facility. The permit may be issued  
36 for up to 12 months but shall not be valid for more than one day  
37 a week at any single specified certified farmers’ market or  
38 community event location. A beer manufacturer may hold more  
39 than one permit. The department shall notify the city, county, or  
40 city and county and the applicable law enforcement agency where

1 the certified farmers' market or permitted community event is to  
2 be held of the issuance of the permit.

3 (d) The licensed beer manufacturer eligible for the certified  
4 farmers' market beer sales permit shall not sell more than 5,000  
5 gallons of beer annually pursuant to all certified farmers' market  
6 beer sales permits held by any single beer manufacturer. The  
7 licensed beer manufacturer shall maintain records of annual beer  
8 sales made pursuant to all certified farmers' market beer sales  
9 permits issued.

10 (e) The fee for any permit issued pursuant to this section shall  
11 be fifty dollars (\$50), subject to adjustment pursuant to subdivisions  
12 (b) and (c) of Section 23320.

13 (f) All money collected as fees pursuant to this section shall be  
14 deposited in the Alcohol Beverage Control Fund as provided in  
15 Section 25761.

16 SEC. 2. Section 24045.6 of the Business and Professions Code  
17 is amended to read:

18 24045.6. (a) The department may issue a special temporary  
19 on-sale or off-sale *beer or wine* license to any nonprofit corporation  
20 that is exempt from payment of income taxes under Section 23701d  
21 or 23701e of the Revenue and Taxation Code and Section 501(c)(3)  
22 or 501(c)(6) of the Internal Revenue Code. An applicant for this  
23 license shall accompany the application with a fee of one hundred  
24 dollars (\$100).

25 (b) This special license shall only entitle the licensee to sell *beer*  
26 *or wine* bought by, or donated to, the licensee to a consumer and  
27 to any person holding a license authorizing the sale of *beer or*  
28 *wine*. Notwithstanding any other provision of this division, a  
29 licensee may donate or sell *beer or wine* to a nonprofit corporation  
30 that obtains a special temporary on-sale or off-sale license under  
31 this section, provided that the donation is not made in connection  
32 with a sale of an alcoholic beverage.

33 (c) This special license shall be for a period not exceeding 15  
34 days. In the event the license under this section is issued for a  
35 period exceeding two days, it shall be used solely for retail sales  
36 in conjunction with an identifiable fundraising event sponsored or  
37 conducted by the licensee and all bottles of *beer or wine* sold under  
38 this license shall bear a label prominently identifying the event.  
39 Only three special licenses authorized by this section shall be  
40 issued to any corporation in a calendar year.

1 SEC. 3. Section 25607.5 of the Business and Professions Code  
2 is amended to read:

3 25607.5. A nonprofit corporation that is required to obtain a  
4 license to sell *beer or wine* under Section 23300 may receive and  
5 possess *beer or wine* donated to it if, at the time of receipt of the  
6 *beer or wine*, the nonprofit corporation has submitted an  
7 application with the department for a license to sell the donated  
8 *beer or wine*. Nothing in this section is intended to affect or  
9 otherwise limit the application of Section 25503.9.

10 SEC. 4. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

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