

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 774

Introduced by Assembly Member Levine

February 25, 2015

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 amended, 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-no*.

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 a
13 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
20 21 years of age or older, or an employee of the licensee may
21 conduct 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 (E) *The licensee shall not permit any consumer to leave the*
31 *instructional tasting area with an open container of beer.*

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

1 than one permit. The department shall notify the city, county, or
2 city and county and the applicable law enforcement agency where
3 the certified farmers’ market or permitted community event is to
4 be held of the issuance of the permit.

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

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

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

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

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

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

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

1 Only three special licenses authorized by this section shall be
2 issued to any corporation in a calendar year.

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

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

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