

AMENDED IN SENATE MAY 12, 2016

AMENDED IN SENATE MARCH 30, 2016

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 866**

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**Introduced by Assembly Member Eduardo Garcia**  
*(Principal coauthors: Senators Block and Hall)*

February 26, 2015

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An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 866, as amended, Eduardo Garcia. Alcoholic beverages: advertising: ~~San Diego~~. *Diego: Inglewood.*

Existing law generally prohibits various licenseholders from providing money or any other thing of value to a person owning or operating an on-sale premises where alcoholic beverages are served, subject to specified exceptions. Existing law authorizes the holder of a winegrower's license, a beer manufacturer, a distilled spirits rectifier, a distilled spirits manufacturer, and a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

Existing law makes it a misdemeanor to coerce or solicit licensees in connection with these provisions, as specified.

This bill would expand the facilities to which the exception described above would apply to include ~~an outdoor stadium with a fixed seating capacity of at least 46,000 seats located in the City of San Diego.~~ *outdoor stadiums with specified seating capacities located in the Cities of San Diego and Inglewood.* By expanding the scope of a crime, this 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.

This bill would make legislative findings and declarations as to the necessity of a special statute for the ~~City of San Diego.~~ *Cities of San Diego and Inglewood.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 25503.6 of the Business and Professions
- 2 Code is amended to read:
- 3 25503.6. (a) Notwithstanding any other provision of this
- 4 chapter, a beer manufacturer, the holder of a winegrower’s license,
- 5 a distilled spirits rectifier, a distilled spirits manufacturer, or
- 6 distilled spirits manufacturer’s agent may purchase advertising
- 7 space and time from, or on behalf of, an on-sale retail licensee
- 8 subject to all of the following conditions:
- 9 (1) The on-sale licensee is the owner, manager, agent of the
- 10 owner, assignee of the owner’s advertising rights, or the major
- 11 tenant of the owner of any of the following:
- 12 (A) An outdoor stadium or a fully enclosed arena with a fixed
- 13 seating capacity in excess of 10,000 seats located in Sacramento
- 14 County or Alameda County.
- 15 (B) A fully enclosed arena with a fixed seating capacity in
- 16 excess of 18,000 seats located in Orange County or Los Angeles
- 17 County.

- 1 (C) An outdoor stadium or fully enclosed arena with a fixed  
2 seating capacity in excess of 8,500 seats located in Kern County.
- 3 (D) An exposition park of not less than 50 acres that includes  
4 an outdoor stadium with a fixed seating capacity in excess of 8,000  
5 seats and a fully enclosed arena with an attendance capacity in  
6 excess of 4,500 people, located in San Bernardino County.
- 7 (E) An outdoor stadium with a fixed seating capacity in excess  
8 of 10,000 seats located in Yolo County.
- 9 (F) An outdoor stadium and a fully enclosed arena with fixed  
10 seating capacities in excess of 10,000 seats located in Fresno  
11 County.
- 12 (G) An athletic and entertainment complex of not less than 50  
13 acres that includes within its boundaries an outdoor stadium with  
14 a fixed seating capacity of at least 8,000 seats and a second outdoor  
15 stadium with a fixed seating capacity of at least 3,500 seats located  
16 in Riverside County.
- 17 (H) An outdoor stadium with a fixed seating capacity in excess  
18 of 1,500 seats located in Tulare County.
- 19 (I) A motorsports entertainment complex of not less than 50  
20 acres that includes within its boundaries an outdoor speedway with  
21 a fixed seating capacity of at least 50,000 seats, located in San  
22 Bernardino County.
- 23 (J) An exposition park, owned or operated by a bona fide  
24 nonprofit organization, of not less than 400 acres with facilities  
25 including a grandstand with a seating capacity of at least 8,000  
26 people, at least one exhibition hall greater than 100,000 square  
27 feet, and at least four exhibition halls, each greater than 30,000  
28 square feet, located in the City of Pomona or the City of La Verne  
29 in Los Angeles County.
- 30 (K) An outdoor soccer stadium with a fixed seating capacity of  
31 at least 25,000 seats, an outdoor tennis stadium with a fixed  
32 capacity of at least 7,000 seats, an outdoor track and field facility  
33 with a fixed seating capacity of at least 7,000 seats, and an indoor  
34 velodrome with a fixed seating capacity of at least 2,000 seats, all  
35 located within a sports and athletic complex built before January  
36 1, 2005, in the City of Carson in Los Angeles County.
- 37 (L) An outdoor professional sports facility with a fixed seating  
38 capacity of at least 4,200 seats located in San Joaquin County.
- 39 (M) A fully enclosed arena with a fixed seating capacity in  
40 excess of 13,000 seats in the City of Inglewood.

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

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

11 (O) A complex of not more than 50 acres located on the campus  
12 of, and owned by, Sonoma State University dedicated to presenting  
13 live artistic, musical, sports, food, beverage, culinary, lifestyle, or  
14 other cultural and entertainment events and performances with  
15 venues that include a concert hall with a seating capacity of  
16 approximately 1,500 seats, a second concert hall with a seating  
17 capacity of up to 300 seats, an outdoor area with a seating capacity  
18 of up to 5,000 seats, and a further outdoor area with a seating  
19 capacity of up to 10,000 seats. With respect to this complex,  
20 advertising space and time may also be purchased from or on behalf  
21 of the owner of the complex, a long-term tenant or licensee of the  
22 venue, whether or not the owner, long-term tenant, or licensee  
23 holds an on-sale license.

24 (P) A fairgrounds with a horse racetrack and equestrian and  
25 sports facilities located in San Diego County.

26 (Q) An outdoor stadium with a fixed seating capacity of at least  
27 43,000 seats located in the City of San Diego.

28 (R) *An outdoor stadium with a fixed seating capacity of at least*  
29 *70,000 seats located in the City of Inglewood.*

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

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

1 space or time shall be purchased only in connection with live  
2 artistic, musical, sports, food, beverage, culinary, lifestyle, or other  
3 cultural and entertainment events and performances to be held on  
4 the premises of the complex.

5 (4) The on-sale licensee serves other brands of beer distributed  
6 by a competing beer wholesaler in addition to the brand  
7 manufactured or marketed by the beer manufacturer, other brands  
8 of wine distributed by a competing wine wholesaler in addition to  
9 the brand produced by the winegrower, and other brands of distilled  
10 spirits distributed by a competing distilled spirits wholesaler in  
11 addition to the brand manufactured or marketed by the distilled  
12 spirits rectifier, the distilled spirits manufacturer, or the distilled  
13 spirits manufacturer's agent that purchased the advertising space  
14 or time.

15 (b) Any purchase of advertising space or time pursuant to  
16 subdivision (a) shall be conducted pursuant to a written contract  
17 entered into by the beer manufacturer, the holder of the  
18 winegrower's license, the distilled spirits rectifier, the distilled  
19 spirits manufacturer, or the distilled spirits manufacturer's agent  
20 and any of the following:

21 (1) The on-sale licensee.

22 (2) With respect to clause (ii) of subparagraph (N) of paragraph  
23 (1) of subdivision (a), the major tenant of the outdoor stadium.

24 (3) With respect to subparagraph (O) of paragraph (1) of  
25 subdivision (a), the owner, a long-term tenant of the complex, or  
26 licensee of the complex, whether or not the owner, long-term  
27 tenant, or licensee holds an on-sale license.

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

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

14 (e) For the purposes of this section, "beer manufacturer" includes  
15 any holder of a beer manufacturer's license, any holder of an  
16 out-of-state beer manufacturer's certificate, or any holder of a beer  
17 and wine importer's general license.

18 (f) The Legislature finds that it is necessary and proper to require  
19 a separation among manufacturing interests, wholesale interests,  
20 and retail interests in the production and distribution of alcoholic  
21 beverages in order to prevent suppliers from dominating local  
22 markets through vertical integration and to prevent excessive sales  
23 of alcoholic beverages produced by overly aggressive marketing  
24 techniques. The Legislature further finds that the exceptions  
25 established by this section to the general prohibition against tied  
26 interests shall be limited to their express terms so as not to  
27 undermine the general prohibition and intends that this section be  
28 construed accordingly.

29 SEC. 2. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.

38 SEC. 3. The Legislature finds and declares that a special law  
39 is necessary and that a general law cannot be made applicable  
40 within the meaning of Section 16 of Article IV of the California

1 Constitution because of the unique conditions located in the City  
2 of San Diego. *Cities of San Diego and Inglewood.*

3 SEC. 4. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to ensure the fair and efficient application of the  
8 alcoholic beverage control licensing laws with respect to eligible  
9 facilities in the City of San Diego, *Cities of San Diego and*  
10 *Inglewood*, it is necessary that this act take immediate effect.