

ASSEMBLY BILL

No. 1189

Introduced by Assembly Member Bigelow

February 27, 2015

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1189, as introduced, Bigelow. Alcoholic beverages: tied-house restrictions: advertising.

The Alcoholic Beverage Control Act generally prohibits a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising. The act creates a variety of exceptions from this prohibition, including permitting licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions. Among these conditions, the act requires that the advertising space or time be purchased only in connection with events held on the premises of the exposition park, stadium, or arena owned by the on-sale licensee.

This bill would permit the purchase of advertising space or time, as described above, on the premises of the exposition, park, stadium, or arena leased by the on-sale licensee.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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.

18 (C) An outdoor stadium or fully enclosed arena with a fixed
19 seating capacity in excess of 8,500 seats located in Kern County.

20 (D) An exposition park of not less than 50 acres that includes
21 an outdoor stadium with a fixed seating capacity in excess of 8,000
22 seats and a fully enclosed arena with an attendance capacity in
23 excess of 4,500 people, located in San Bernardino County.

24 (E) An outdoor stadium with a fixed seating capacity in excess
25 of 10,000 seats located in Yolo County.

26 (F) An outdoor stadium and a fully enclosed arena with fixed
27 seating capacities in excess of 10,000 seats located in Fresno
28 County.

29 (G) An athletic and entertainment complex of not less than 50
30 acres that includes within its boundaries an outdoor stadium with
31 a fixed seating capacity of at least 8,000 seats and a second outdoor
32 stadium with a fixed seating capacity of at least 3,500 seats located
33 within Riverside County.

34 (H) An outdoor stadium with a fixed seating capacity in excess
35 of 1,500 seats located in Tulare County.

36 (I) A motorsports entertainment complex of not less than 50
37 acres that includes within its boundaries an outdoor speedway with

1 a fixed seating capacity of at least 50,000 seats, located within San
2 Bernardino County.

3 (J) An exposition park, owned or operated by a bona fide
4 nonprofit organization, of not less than 400 acres with facilities
5 including a grandstand with a seating capacity of at least 8,000
6 people, at least one exhibition hall greater than 100,000 square
7 feet, and at least four exhibition halls, each greater than 30,000
8 square feet, located in the City of Pomona or the City of La Verne
9 in Los Angeles County.

10 (K) An outdoor soccer stadium with a fixed seating capacity of
11 at least 25,000 seats, an outdoor tennis stadium with a fixed
12 capacity of at least 7,000 seats, an outdoor track and field facility
13 with a fixed seating capacity of at least 7,000 seats, and an indoor
14 velodrome with a fixed seating capacity of at least 2,000 seats, all
15 located within a sports and athletic complex built before January
16 1, 2005, within the City of Carson in Los Angeles County.

17 (L) An outdoor professional sports facility with a fixed seating
18 capacity of at least 4,200 seats located within San Joaquin County.

19 (M) A fully enclosed arena with a fixed seating capacity in
20 excess of 13,000 seats in the City of Inglewood.

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

23 (ii) A beer manufacturer, the holder of a winegrower's license,
24 a distilled spirits rectifier, a distilled spirits manufacturer, or
25 distilled spirits manufacturer's agent may purchase advertising
26 space and time from, or on behalf of, a major tenant of an outdoor
27 stadium described in clause (i), provided the major tenant does not
28 hold a retail license, and the advertising may include the placement
29 of advertising in an on-sale licensed premises operated at the
30 outdoor stadium.

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

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

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

11 (b) Any purchase of advertising space or time pursuant to
12 subdivision (a) shall be conducted pursuant to a written contract
13 entered into by the beer manufacturer, the holder of the
14 winegrower's license, the distilled spirits rectifier, the distilled
15 spirits manufacturer, or the distilled spirits manufacturer's agent
16 and the on-sale licensee, or with respect to clause (ii) of
17 subparagraph (N) of paragraph (1) of subdivision (a), the major
18 tenant of the outdoor stadium.

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

32 (d) Any on-sale retail licensee, as described in subdivision (a),
33 who, directly or indirectly, solicits or coerces a holder of a
34 wholesaler's license to solicit a beer manufacturer, a holder of a
35 winegrower's license, a distilled spirits rectifier, a distilled spirits
36 manufacturer, or a distilled spirits manufacturer's agent to purchase
37 advertising space or time pursuant to subdivision (a) or (b) shall
38 be guilty of a misdemeanor and shall be punished by imprisonment
39 in the county jail not exceeding six months, or by a fine in an
40 amount equal to the entire value of the advertising space or time

1 involved in the contract, whichever is greater, plus ten thousand
2 dollars (\$10,000), or by both imprisonment and fine. The person
3 shall also be subject to license revocation pursuant to Section
4 24200.

5 (e) For the purposes of this section, “beer manufacturer” includes
6 any holder of a beer manufacturer’s license, any holder of an
7 out-of-state beer manufacturer’s certificate, or any holder of a beer
8 and wine importer’s general license.

O