

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1189**

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**Introduced by Assembly Member Bigelow**

February 27, 2015

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An act to amend Section ~~25503.6~~ 23055 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1189, as amended, Bigelow. ~~Alcoholic beverages: tied-house restrictions: advertising. Department of Alcoholic Beverage Control: report.~~

*Under existing law, the Alcoholic Beverage Control Act is administered by the Department of Alcoholic Beverage Control through the Director of Alcoholic Beverage Control. Existing law requires the director to make an annual report to the Legislature on the department's activities, on or before March 1 of each year.*

*This bill would instead require the director to make that report by November 1 of each even calendar year.*

~~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 23055 of the Business and Professions  
2 Code is amended to read:

3 23055. (a) On or before ~~March~~ November 1 of each even  
4 calendar year, the director shall prepare and submit to the  
5 Legislature ~~an annual~~ a report on the department's activities and  
6 post the report on the department's Internet Web site. The report  
7 shall include, but not be limited to, the following information for  
8 ~~the previous relevant fiscal year:~~ years:

9 (a)

10 (1) The amount of funds allocated and spent by the department  
11 for licensing, enforcement, and administration.

12 (b)

13 (2) The number of licenses issued, renewed, denied, suspended,  
14 and revoked, by license category.

15 (c)

16 (3) The average time for processing license applications, by  
17 license category.

18 (d)

19 (4) The number and type of enforcement activities conducted  
20 by the department and by local law enforcement agencies in  
21 conjunction with the department.

22 (e)

23 (5) The number, type, and amount of penalties, fines, and other  
24 disciplinary actions taken by the department.

25 (b) A report to the Legislature pursuant to this section shall be  
26 submitted in compliance with Section 9795 of the Government  
27 Code.

28 SECTION 1. ~~Section 25503.6 of the Business and Professions~~  
29 ~~Code is amended to read:~~

1     ~~25503.6. (a) Notwithstanding any other provision of this~~  
2 ~~chapter, a beer manufacturer, the holder of a winegrower's license,~~  
3 ~~a distilled spirits rectifier, a distilled spirits manufacturer, or~~  
4 ~~distilled spirits manufacturer's agent may purchase advertising~~  
5 ~~space and time from, or on behalf of, an on-sale retail licensee~~  
6 ~~subject to all of the following conditions:~~

7     ~~(1) The on-sale licensee is the owner, manager, agent of the~~  
8 ~~owner, assignee of the owner's advertising rights, or the major~~  
9 ~~tenant of the owner of any of the following:~~

10     ~~(A) An outdoor stadium or a fully enclosed arena with a fixed~~  
11 ~~seating capacity in excess of 10,000 seats located in Sacramento~~  
12 ~~County or Alameda County.~~

13     ~~(B) A fully enclosed arena with a fixed seating capacity in~~  
14 ~~excess of 18,000 seats located in Orange County or Los Angeles~~  
15 ~~County.~~

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

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

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

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

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

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

34     ~~(I) A motorsports entertainment complex of not less than 50~~  
35 ~~acres that includes within its boundaries an outdoor speedway with~~  
36 ~~a fixed seating capacity of at least 50,000 seats, located within San~~  
37 ~~Bernardino County.~~

38     ~~(J) An exposition park, owned or operated by a bona fide~~  
39 ~~nonprofit organization, of not less than 400 acres with facilities~~  
40 ~~including a grandstand with a seating capacity of at least 8,000~~

1 people, at least one exhibition hall greater than 100,000 square  
2 feet, and at least four exhibition halls, each greater than 30,000  
3 square feet, located in the City of Pomona or the City of La Verne  
4 in Los Angeles County.

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

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

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

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

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

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

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

36 (4) The on-sale licensee serves other brands of beer distributed  
37 by a competing beer wholesaler in addition to the brand  
38 manufactured or marketed by the beer manufacturer, other brands  
39 of wine distributed by a competing wine wholesaler in addition to  
40 the brand produced by the winegrower, and other brands of distilled

1 spirits distributed by a competing distilled spirits wholesaler in  
2 addition to the brand manufactured or marketed by the distilled  
3 spirits rectifier, the distilled spirits manufacturer or the distilled  
4 spirits manufacturer's agent that purchased the advertising space  
5 or time.

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

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

27 (d) Any on-sale retail licensee, as described in subdivision (a),  
28 who, directly or indirectly, solicits or coerces a holder of a  
29 wholesaler's license to solicit a beer manufacturer, a holder of a  
30 winegrower's license, a distilled spirits rectifier, a distilled spirits  
31 manufacturer, or a distilled spirits manufacturer's agent to purchase  
32 advertising space or time pursuant to subdivision (a) or (b) shall  
33 be guilty of a misdemeanor and shall be punished by imprisonment  
34 in the county jail not exceeding six months, or by a fine in an  
35 amount equal to the entire value of the advertising space or time  
36 involved in the contract, whichever is greater, plus ten thousand  
37 dollars (\$10,000), or by both imprisonment and fine. The person  
38 shall also be subject to license revocation pursuant to Section  
39 24200.

1     ~~(e) For the purposes of this section, “beer manufacturer” includes~~  
2     ~~any holder of a beer manufacturer’s license, any holder of an~~  
3     ~~out-of-state beer manufacturer’s certificate, or any holder of a beer~~  
4     ~~and wine importer’s general license.~~

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