

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1320**

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**Introduced by Assembly Member Maienschein**

February 27, 2015

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An act to amend Section ~~25503.24~~ 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as amended, Maienschein. Alcoholic beverages: tied-house ~~restrictions~~: *restrictions: fairgrounds*.

Existing law ~~prohibits specified holders of alcoholic beverage licenses from having specified relationships with an on-sale alcoholic beverage licensee, with limited exceptions. Existing law permits a manufacturer, winegrower, rectifier, distiller, distilled spirits wholesaler, or any agent of those licenses, to conduct market research and, in connection with that research, to purchase from licensed off-sale retailers data, regarding purchases and sales of alcoholic beverage products, at the customary rates that those retailers sell similar data for nonalcoholic beverage products, provided that no licensed retailer shall be obligated to purchase or sell the alcoholic beverages of the manufacturer, winegrower, rectifier, or distiller.~~ *generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages. Existing law expressly authorizes a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to sponsor events*

*promoted by or purchase advertising space and time from, or on behalf of, specified entities, including certain parks, entertainment complexes, and outdoor stadiums, as provided.*

*This bill would ~~make a nonsubstantive change to this provision.~~ expressly authorize a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to sponsor events promoted by or own, sponsor, conduct, or purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of a state- or county-owned fairground, under specified conditions. The bill would also make a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent who, through coercion or other illegal means, induces the holder of a wholesaler's license to fulfill those contractual obligations entered into pursuant to these provisions guilty of a misdemeanor. The bill would additionally make an on-sale retail licensee, as described, who solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to purchase advertising time or space pursuant to these provisions guilty of a misdemeanor.*

*By creating new crimes, 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.*

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

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 (O) *A state- or county-owned fairground.*

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

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

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

1 park, or purchased in connection with the operation of any hotel  
2 located in the exposition park.

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

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

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

34 (d) Any on-sale retail licensee, as described in subdivision (a),  
35 who, directly or indirectly, solicits or coerces a holder of a  
36 wholesaler's license to solicit a beer manufacturer, a holder of a  
37 winegrower's license, a distilled spirits rectifier, a distilled spirits  
38 manufacturer, or a distilled spirits manufacturer's agent to purchase  
39 advertising space or time pursuant to subdivision (a) or (b) shall  
40 be guilty of a misdemeanor and shall be punished by imprisonment

1 in the county jail not exceeding six months, or by a fine in an  
2 amount equal to the entire value of the advertising space or time  
3 involved in the contract, whichever is greater, plus ten thousand  
4 dollars (\$10,000), or by both imprisonment and fine. The person  
5 shall also be subject to license revocation pursuant to Section  
6 24200.

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

11 *SEC. 2. No reimbursement is required by this act pursuant to*  
12 *Section 6 of Article XIII B of the California Constitution because*  
13 *the only costs that may be incurred by a local agency or school*  
14 *district will be incurred because this act creates a new crime or*  
15 *infraction, eliminates a crime or infraction, or changes the penalty*  
16 *for a crime or infraction, within the meaning of Section 17556 of*  
17 *the Government Code, or changes the definition of a crime within*  
18 *the meaning of Section 6 of Article XIII B of the California*  
19 *Constitution.*

20 ~~SECTION 1. Section 25503.24 of the Business and Professions~~  
21 ~~Code is amended to read:~~

22 ~~25503.24. (a) Notwithstanding any other provision of this~~  
23 ~~chapter, any manufacturer, winegrower, rectifier, distiller, distilled~~  
24 ~~spirits wholesaler, or any agent, director, officer, or representative~~  
25 ~~of any of those entities, may conduct market research and, in~~  
26 ~~connection with that research, the entity conducting the market~~  
27 ~~research may purchase from licensed off-sale retailers data~~  
28 ~~regarding purchases and sales of alcoholic beverage products at~~  
29 ~~the customary rates that those retailers sell similar data for~~  
30 ~~nonalcoholic beverage products subject to the following limitations:~~

31 ~~(1) No licensed retailer shall be obligated to purchase or sell~~  
32 ~~the alcoholic beverage products of that manufacturer, winegrower,~~  
33 ~~rectifier, or distiller.~~

34 ~~(2) No retail premises shall participate in more than one research~~  
35 ~~project conducted by any single manufacturer, winegrower,~~  
36 ~~rectifier, distiller, or distilled spirits wholesaler during a calendar~~  
37 ~~year. A research project may involve multiple onsite surveys.~~

38 ~~(3) Nothing in this section shall allow a licensed retailer to~~  
39 ~~require a manufacturer, winegrower, rectifier, distiller, or distilled~~

1 spirits wholesaler to conduct any market research as a condition  
2 for selling alcoholic beverage products to that licensed retailer.  
3 (b) ~~Any holder of a beer manufacturer's license or winegrower's~~  
4 ~~license who, through coercion or other illegal means, induces,~~  
5 ~~directly or indirectly, a holder of a beer or wine wholesaler's~~  
6 ~~license to fulfill obligations entered into pursuant to subdivision~~  
7 ~~(a) shall be guilty of a misdemeanor and shall be punished by~~  
8 ~~imprisonment in the county jail not exceeding six months, or by~~  
9 ~~a fine in an amount equal to the entire value of the market research~~  
10 ~~or time involved in the project, whichever is greater, plus ten~~  
11 ~~thousand dollars (\$10,000), or by both imprisonment and fine. The~~  
12 ~~person shall also be subject to license revocation pursuant to~~  
13 ~~Section 24200.~~  
14 (c) ~~Any retail licensee who, directly or indirectly, solicits or~~  
15 ~~coerces a holder of a beer or wine wholesaler's license to solicit~~  
16 ~~a beer manufacturer, or holder of a winegrower's license to fulfill~~  
17 ~~obligations entered into pursuant to subdivision (a) shall be guilty~~  
18 ~~of a misdemeanor and shall be punished by imprisonment in the~~  
19 ~~county jail not exceeding six months, or by a fine in an amount~~  
20 ~~equal to the entire value of the market research or time involved~~  
21 ~~in the project, whichever is greater, plus ten thousand dollars~~  
22 ~~(\$10,000), or by both imprisonment and fine. The person shall also~~  
23 ~~be subject to license revocation pursuant to Section 24200.~~  
24 (d) ~~For the purposes of this section, "beer manufacturer"~~  
25 ~~includes any holder of a beer manufacturer's license, any holder~~  
26 ~~of an out-of-state beer manufacturer's certificate, or any holder of~~  
27 ~~a beer and wine importer's general license.~~