

AMENDED IN ASSEMBLY MAY 13, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1320

Introduced by Assembly Member Maienschein

February 27, 2015

An act to add Section 25503.36 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as amended, Maienschein. Alcoholic beverages: tied-house restrictions: advertising.

Existing law 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 rectifier's 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, a live entertainment marketing company that is a wholly owned subsidiary of a live entertainment company that has its principal place of business in the County of Los Angeles, as provided.

This bill would expressly authorize a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, as described, distilled spirits manufacturer, holder of a

distilled spirits rectifier’s 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, a live entertainment marketing company that conducts entertainment events solely at the San Diego County Fairgrounds, 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 rectifier’s 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 rectifier’s general license, or a distilled spirits manufacturer’s agent to purchase advertising time or space pursuant to these provisions guilty of a misdemeanor. The bill would make a related statement of findings.

By creating new crimes this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Diego.

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.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.36 is added to the Business and
- 2 Professions Code, to read:
- 3 25503.36. (a) Notwithstanding any other ~~law~~, *provision of this*
- 4 *division*, a beer manufacturer, holder of a winegrower’s license,
- 5 winegrower’s agent, holder of an importer’s general license that
- 6 does not also hold a wholesale or retail license as an additional
- 7 license, distilled spirits manufacturer, holder of a distilled spirits

1 rectifier’s general license, or a distilled spirits manufacturer’s agent
2 may sponsor events promoted by, and may purchase advertising
3 space and time from, or on behalf of, a live entertainment
4 marketing company subject to all of the following conditions:

5 (1) The live entertainment marketing company operates and
6 promotes live artistic, musical, sports, or cultural entertainment
7 events only.

8 (2) All of the live artistic, musical, sports, or cultural
9 entertainment events are conducted at the San Diego County
10 Fairgrounds, located in the City of Del Mar in the County of San
11 Diego, and the events will typically occur over a period of ~~three~~
12 ~~or more~~ *no more than four* consecutive days during which
13 approximately 100 acts will perform before approximately 20,000
14 or more patrons. The live entertainment marketing company shall
15 not conduct more than three of these types of events within a
16 calendar year.

17 (3) The live entertainment marketing company is a Delaware
18 limited liability company that is under common ownership,
19 management, or control by a private equity firm that may also have
20 common ownership, management, or control of a licensed
21 California winery, provided the winery represents not more than
22 25 percent of the assets under common ownership, management,
23 or control by the private equity firm or its subsidiaries, and the
24 live entertainment marketing company exercises no control over
25 the operations of the winery.

26 (4) Any on-sale licensee operating at a venue where live artistic,
27 musical, sports, or cultural entertainment events are performed
28 pursuant to a sponsorship described in this section or where
29 advertising is purchased as described in this section shall serve
30 other brands of beer, distilled spirits, and wine distributed by a
31 competing wholesaler in addition to any brand manufactured or
32 distributed by the owning, sponsoring, or advertising beer
33 manufacturer, holder of a winegrower’s license, winegrower’s
34 agent, holder of an importer’s general license, distilled spirits
35 manufacturer, holder of a distilled spirits rectifier’s general license,
36 or a distilled spirits manufacturer’s agent.

37 (5) An agreement for the sponsorship of, or for the purchase of
38 advertising space and time during, a live artistic, musical, sports,
39 or cultural entertainment event shall not be conditioned directly
40 or indirectly, in any way, on the purchase, sale, or distribution of

1 any alcoholic beverage manufactured or distributed by the owning,
 2 advertising, or sponsoring beer manufacturer, holder of a
 3 winegrower’s license, winegrower’s agent, holder of an importer’s
 4 general license, distilled spirits manufacturer, holder of a distilled
 5 spirits rectifier’s general license, or a distilled spirits
 6 manufacturer’s agent by the live entertainment company described
 7 in this section.

8 (b) Any sponsorship of events or purchase of advertising space
 9 or time conducted pursuant to subdivision (a) shall be conducted
 10 pursuant to a written contract entered into by the beer manufacturer,
 11 holder of a winegrower’s license, winegrower’s agent, holder of
 12 an importer’s general license, distilled spirits manufacturer, holder
 13 of a distilled spirits rectifier’s general license, or a distilled spirits
 14 manufacturer’s agent and the live entertainment marketing
 15 company.

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

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

1 or by both imprisonment and fine. The person shall also be subject
2 to license suspension or revocation pursuant to Section 24200.

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

7 (f) Nothing in this section shall authorize the purchasing of
8 advertising space or time directly from, or on behalf of, any on-sale
9 licensee except as expressly authorized by this section or any other
10 provision of this division.

11 (g) Nothing in this section shall authorize a beer manufacturer,
12 holder of a winegrower’s license, winegrower’s agent, holder of
13 an importer’s general license, distilled spirits manufacturer, holder
14 of a distilled spirits rectifier’s general license, or a distilled spirits
15 manufacturer’s agent to furnish, give, or lend anything of value to
16 an on-sale retail licensee described in subdivision (a) except as
17 expressly authorized by this section or any other provision of this
18 division.

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

30 SEC. 2. The Legislature finds and declares that a special law
31 is necessary and that a general law cannot be made applicable
32 within the meaning of Section 16 of Article IV of the California
33 Constitution because of the unique conditions located in the County
34 of San Diego.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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