

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1767

Introduced by Assembly Member Bigelow

February 3, 2016

An act to amend Section ~~12012.68~~ 25503.6 of the ~~Government Business and Professions Code~~, relating to ~~tribal gaming~~; *alcoholic beverages*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1767, as amended, Bigelow. ~~Tribal gaming~~-*Alcoholic beverages: tied-house restrictions: advertising.*

Existing law, 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, fairgrounds, 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.

~~Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts. The California Constitution authorizes the Governor to~~

~~negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, including the tribal-state gaming compact entered into between the State of California and the United Auburn Indian Community, executed on August 14, 2015.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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.

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

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

8 (I) A motorsports entertainment complex of not less than 50
9 acres that includes within its boundaries an outdoor speedway with
10 a fixed seating capacity of at least 50,000 seats, located in San
11 Bernardino County.

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

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

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

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

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

32 (ii) A beer manufacturer, the holder of a winegrower's license,
33 a distilled spirits rectifier, a distilled spirits manufacturer, or
34 distilled spirits manufacturer's agent may purchase advertising
35 space and time from, or on behalf of, a major tenant of an outdoor
36 stadium described in clause (i), provided the major tenant does not
37 hold a retail license, and the advertising may include the placement
38 of advertising in an on-sale licensed premises operated at the
39 outdoor stadium.

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

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

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

18 (3) The advertising space or time is purchased only in connection
19 with the events to be held on the premises of the exposition park,
20 stadium, or arena owned *or leased* by the on-sale licensee. With
21 respect to an exposition park as described in subparagraph (J) of
22 paragraph (1) that includes at least one hotel, the advertising space
23 or time shall not be displayed on or in any hotel located in the
24 exposition park, or purchased in connection with the operation of
25 any hotel located in the exposition park. With respect to the
26 complex described in subparagraph (O) of paragraph (1), the
27 advertising space or time shall be purchased only in connection
28 with live artistic, musical, sports, food, beverage, culinary, lifestyle,
29 or other cultural and entertainment events and performances to be
30 held on the premises of the complex.

31 (4) The on-sale licensee serves other brands of beer distributed
32 by a competing beer wholesaler in addition to the brand
33 manufactured or marketed by the beer manufacturer, other brands
34 of wine distributed by a competing wine wholesaler in addition to
35 the brand produced by the winegrower, and other brands of distilled
36 spirits distributed by a competing distilled spirits wholesaler in
37 addition to the brand manufactured or marketed by the distilled
38 spirits rectifier, the distilled spirits manufacturer, or the distilled
39 spirits manufacturer's agent that purchased the advertising space
40 or time.

1 (b) Any purchase of advertising space or time pursuant to
2 subdivision (a) shall be conducted pursuant to a written contract
3 entered into by the beer manufacturer, the holder of the
4 winegrower's license, the distilled spirits rectifier, the distilled
5 spirits manufacturer, or the distilled spirits manufacturer's agent
6 and any of the following:

7 (1) The on-sale licensee.

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

10 (3) With respect to subparagraph (O) of paragraph (1) of
11 subdivision (a), the owner, a long-term tenant of the complex, or
12 licensee of the complex, whether or not the owner, long-term
13 tenant, or licensee holds an on-sale license.

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.

5 (f) The Legislature finds that it is necessary and proper to require
6 a separation among manufacturing interests, wholesale interests,
7 and retail interests in the production and distribution of alcoholic
8 beverages in order to prevent suppliers from dominating local
9 markets through vertical integration and to prevent excessive sales
10 of alcoholic beverages produced by overly aggressive marketing
11 techniques. The Legislature further finds that the exceptions
12 established by this section to the general prohibition against tied
13 interests shall be limited to their express terms so as not to
14 undermine the general prohibition and intends that this section be
15 construed accordingly.

16 ~~SECTION 1. Section 12012.68 of the Government Code is~~
17 ~~amended to read:~~

18 ~~12012.68. (a) The tribal-state gaming compact entered into in~~
19 ~~accordance with the federal Indian Gaming Regulatory Act of~~
20 ~~1988 (18 U.S.C. Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec.~~
21 ~~2701 et seq.) between the State of California and the United Auburn~~
22 ~~Indian Community, executed on August 14, 2015, is hereby~~
23 ~~ratified.~~

24 ~~(b) (1) In deference to tribal sovereignty, the following shall~~
25 ~~not be deemed a project for purposes of the California~~
26 ~~Environmental Quality Act (Division 13 (commencing with Section~~
27 ~~21000) of the Public Resources Code):~~

28 ~~(A) The execution of an amendment to the tribal-state gaming~~
29 ~~compact ratified by this section.~~

30 ~~(B) The execution of the tribal-state gaming compact ratified~~
31 ~~by this section.~~

32 ~~(C) The execution of an intergovernmental agreement between~~
33 ~~a tribe and a county or city government negotiated pursuant to the~~
34 ~~express authority of, or as expressly referenced in, the tribal-state~~
35 ~~gaming compact ratified by this section.~~

36 ~~(D) The execution of an intergovernmental agreement between~~
37 ~~a tribe and the Department of Transportation negotiated pursuant~~
38 ~~to the express authority of, or as expressly referenced in, the~~
39 ~~tribal-state gaming compact ratified by this section.~~

1 ~~(E) The on-reservation impacts of compliance with the terms~~
2 ~~of the tribal-state gaming compact ratified by this section.~~

3 ~~(F) The sale of compact assets, as defined in subdivision (a) of~~
4 ~~Section 63048.6, or the creation of the special purpose trust~~
5 ~~established pursuant to Section 63048.65.~~

6 ~~(2) Except as expressly provided herein, this subdivision does~~
7 ~~not exempt a city, county, or city and county, or the Department~~
8 ~~of Transportation, from the requirements of the California~~
9 ~~Environmental Quality Act.~~

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