

AMENDED IN SENATE JUNE 30, 2016

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 25503.6 of the Business and Professions Code, relating to alcoholic beverages;~~ *add Section 12012.71 to the Government Code, relating to tribal gaming, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

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

Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude tribal-state gaming compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on

the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would ratify the amendment to the tribal-state gaming compact entered into between the State of California and the Jackson Rancheria Band of Miwuk Indians, executed on June 22, 2016. The bill would provide that, in deference to tribal sovereignty, certain actions related to that amended compact are not projects for purposes of CEQA.

This bill would declare that it is to take effect immediately as an urgency statute.

~~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.~~

Vote: ~~majority~~^{2/3}. 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 12012.71 is added to the Government
- 2 Code, to read:
- 3 12012.71. (a) *The amendment to the tribal-state gaming*
- 4 *compact entered into in accordance with the federal Indian Gaming*
- 5 *Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive,*
- 6 *and 25 U.S.C. Sec. 2701 et seq.) between the State of California*
- 7 *and the Jackson Rancheria Band of Miwuk Indians, executed on*
- 8 *June 22, 2016, is hereby ratified.*
- 9 (b) (1) *In deference to tribal sovereignty, none of the following*
- 10 *shall be deemed a project for purposes of the California*
- 11 *Environmental Quality Act (Division 13 (commencing with Section*
- 12 *21000) of the Public Resources Code):*

1 (A) *The execution of an amendment to the tribal-state gaming*
2 *compact ratified by this section.*

3 (B) *The execution of the amended tribal-state gaming compact*
4 *ratified by this section.*

5 (C) *The execution of an intergovernmental agreement between*
6 *a tribe and a county or city government negotiated pursuant to*
7 *the express authority of, or as expressly referenced in, the amended*
8 *tribal-state gaming compact ratified by this section.*

9 (D) *The execution of an intergovernmental agreement between*
10 *a tribe and the Department of Transportation, or other state*
11 *agency, negotiated pursuant to the express authority of, or as*
12 *expressly referenced in, the amended tribal-state gaming compact*
13 *ratified by this section.*

14 (E) *The on-reservation impacts of compliance with the terms*
15 *of the amended tribal-state gaming compact ratified by this section.*

16 (F) *The sale of compact assets, as defined in subdivision (a) of*
17 *Section 63048.6, or the creation of the special purpose trust*
18 *established pursuant to Section 63048.65.*

19 (2) *Except as expressly provided in this section, this subdivision*
20 *does not exempt a city, county, or city and county, or the*
21 *Department of Transportation, or any state agency or local*
22 *jurisdiction, from the requirements of the California Environmental*
23 *Quality Act.*

24 SEC. 2. *This act is an urgency statute necessary for the*
25 *immediate preservation of the public peace, health, or safety within*
26 *the meaning of Article IV of the Constitution and shall go into*
27 *immediate effect. The facts constituting the necessity are:*

28 *In order to enhance, at the earliest possible time, the economic*
29 *development, long-term stability, and self-sufficiency of the Jackson*
30 *Rancheria Band of Miwuk Indians, and to protect the interests of*
31 *the tribe and its members, the surrounding community, and the*
32 *California public, it is necessary for this act to take effect*
33 *immediately.*

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

36 ~~25503.6. (a) Notwithstanding any other provision of this~~
37 ~~chapter, a beer manufacturer, the holder of a winegrower's license,~~
38 ~~a distilled spirits rectifier, a distilled spirits manufacturer, or~~
39 ~~distilled spirits manufacturer's agent may purchase advertising~~

1 space and time from, or on behalf of, an on-sale retail licensee
2 subject to all of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

- 1 ~~(K) An outdoor soccer stadium with a fixed seating capacity of~~
2 ~~at least 25,000 seats, an outdoor tennis stadium with a fixed~~
3 ~~capacity of at least 7,000 seats, an outdoor track and field facility~~
4 ~~with a fixed seating capacity of at least 7,000 seats, and an indoor~~
5 ~~velodrome with a fixed seating capacity of at least 2,000 seats, all~~
6 ~~located within a sports and athletic complex built before January~~
7 ~~1, 2005, in the City of Carson in Los Angeles County.~~
- 8 ~~(L) An outdoor professional sports facility with a fixed seating~~
9 ~~capacity of at least 4,200 seats located in San Joaquin County.~~
- 10 ~~(M) A fully enclosed arena with a fixed seating capacity in~~
11 ~~excess of 13,000 seats in the City of Inglewood.~~
- 12 ~~(N) (i) An outdoor stadium with a fixed seating capacity of at~~
13 ~~least 68,000 seats located in the City of Santa Clara.~~
- 14 ~~(ii) A beer manufacturer, the holder of a winegrower's license,~~
15 ~~a distilled spirits rectifier, a distilled spirits manufacturer, or~~
16 ~~distilled spirits manufacturer's agent may purchase advertising~~
17 ~~space and time from, or on behalf of, a major tenant of an outdoor~~
18 ~~stadium described in clause (i), provided the major tenant does not~~
19 ~~hold a retail license, and the advertising may include the placement~~
20 ~~of advertising in an on-sale licensed premises operated at the~~
21 ~~outdoor stadium.~~
- 22 ~~(O) A complex of not more than 50 acres located on the campus~~
23 ~~of, and owned by, Sonoma State University dedicated to presenting~~
24 ~~live artistic, musical, sports, food, beverage, culinary, lifestyle, or~~
25 ~~other cultural and entertainment events and performances with~~
26 ~~venues that include a concert hall with a seating capacity of~~
27 ~~approximately 1,500 seats, a second concert hall with a seating~~
28 ~~capacity of up to 300 seats, an outdoor area with a seating capacity~~
29 ~~of up to 5,000 seats, and a further outdoor area with a seating~~
30 ~~capacity of up to 10,000 seats. With respect to this complex,~~
31 ~~advertising space and time may also be purchased from or on behalf~~
32 ~~of the owner of the complex, a long-term tenant or licensee of the~~
33 ~~venue, whether or not the owner, long-term tenant, or licensee~~
34 ~~holds an on-sale license.~~
- 35 ~~(P) A fairgrounds with a horse racetrack and equestrian and~~
36 ~~sports facilities located in San Diego County.~~
- 37 ~~(2) The outdoor stadium or fully enclosed arena described in~~
38 ~~paragraph (1) is not owned by a community college district.~~
- 39 ~~(3) The advertising space or time is purchased only in connection~~
40 ~~with the events to be held on the premises of the exposition park,~~

1 stadium, or arena owned or leased by the on-sale licensee. With
2 respect to an exposition park as described in subparagraph (J) of
3 paragraph (1) that includes at least one hotel, the advertising space
4 or time shall not be displayed on or in any hotel located in the
5 exposition park, or purchased in connection with the operation of
6 any hotel located in the exposition park. With respect to the
7 complex described in subparagraph (O) of paragraph (1), the
8 advertising space or time shall be purchased only in connection
9 with live artistic, musical, sports, food, beverage, culinary, lifestyle,
10 or other cultural and entertainment events and performances to be
11 held on the premises of the complex.

12 ~~(4) The on-sale licensee serves other brands of beer distributed~~
13 ~~by a competing beer wholesaler in addition to the brand~~
14 ~~manufactured or marketed by the beer manufacturer, other brands~~
15 ~~of wine distributed by a competing wine wholesaler in addition to~~
16 ~~the brand produced by the winegrower, and other brands of distilled~~
17 ~~spirits distributed by a competing distilled spirits wholesaler in~~
18 ~~addition to the brand manufactured or marketed by the distilled~~
19 ~~spirits rectifier, the distilled spirits manufacturer, or the distilled~~
20 ~~spirits manufacturer's agent that purchased the advertising space~~
21 ~~or time.~~

22 (b) Any purchase of advertising space or time pursuant to
23 subdivision (a) shall be conducted pursuant to a written contract
24 entered into by the beer manufacturer, the holder of the
25 winegrower's license, the distilled spirits rectifier, the distilled
26 spirits manufacturer, or the distilled spirits manufacturer's agent
27 and any of the following:

28 (1) The on-sale licensee.

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

31 (3) With respect to subparagraph (O) of paragraph (1) of
32 subdivision (a), the owner, a long-term tenant of the complex, or
33 licensee of the complex, whether or not the owner, long-term
34 tenant, or licensee holds an on-sale license.

35 (e) Any beer manufacturer or holder of a winegrower's license,
36 any distilled spirits rectifier, any distilled spirits manufacturer, or
37 any distilled spirits manufacturer's agent who, through coercion
38 or other illegal means, induces, directly or indirectly, a holder of
39 a wholesaler's license to fulfill all or part of those contractual
40 obligations entered into pursuant to subdivision (a) or (b) shall be

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

8 (d) Any on-sale retail licensee, as described in subdivision (a),
9 who, directly or indirectly, solicits or coerces a holder of a
10 wholesaler's license to solicit a beer manufacturer, a holder of a
11 winegrower's license, a distilled spirits rectifier, a distilled spirits
12 manufacturer, or a distilled spirits manufacturer's agent to purchase
13 advertising space or time pursuant to subdivision (a) or (b) shall
14 be guilty of a misdemeanor and shall be punished by imprisonment
15 in the county jail not exceeding six months, or by a fine in an
16 amount equal to the entire value of the advertising space or time
17 involved in the contract, whichever is greater, plus ten thousand
18 dollars (\$10,000), or by both imprisonment and fine. The person
19 shall also be subject to license revocation pursuant to Section
20 24200.

21 (e) For the purposes of this section, "beer manufacturer" includes
22 any holder of a beer manufacturer's license, any holder of an
23 out-of-state beer manufacturer's certificate, or any holder of a beer
24 and wine importer's general license.

25 (f) The Legislature finds that it is necessary and proper to require
26 a separation among manufacturing interests, wholesale interests,
27 and retail interests in the production and distribution of alcoholic
28 beverages in order to prevent suppliers from dominating local
29 markets through vertical integration and to prevent excessive sales
30 of alcoholic beverages produced by overly aggressive marketing
31 techniques. The Legislature further finds that the exceptions
32 established by this section to the general prohibition against tied
33 interests shall be limited to their express terms so as not to
34 undermine the general prohibition and intends that this section be
35 construed accordingly.