

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 20, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1971**

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**Introduced by Assembly Member Cooper**

February 16, 2016

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An act to ~~add Section 25503.61 to amend Sections 23083, 23399.65, and 24310 of, and to add Sections 24301 and 25503.61 to, the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1971, as amended, Cooper. ~~Alcoholic beverages: tied-house restrictions: advertising: beverages.~~

*(1) The Alcoholic Beverage Control Act (act) authorizes the Department of Alcoholic Beverage Control (department) to conduct administrative hearings for, among other things, violations of the act by a licensee. Existing law allows a licensee to appeal specified decisions to the Alcoholic Beverage Control Appeals Board, authorizes a person to request a transcript of a hearing from the department for a case on appeal, and allows a party to an appeal to request the right to appear before the board for argument.*

*This bill would require an audio record to be kept as the official record of any administrative hearing conducted by the department, would require the department to provide an audio recording, when one has been made, of a hearing to the Alcoholic Beverage Control Appeals Board and each party in lieu of a transcript for a case on appeal, and would require an audio record to be kept of an argument before the board. The bill would prohibit the department from making the official*

*record of any administrative hearing by videographic recording and would provide that this type of recording is inadmissible in any proceeding before the board.*

*(2) The act authorizes a licensee under an on-sale general license or an on-sale beer and wine license to apply to the department for an event permit that allows the sale of alcoholic beverages under that license for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. The act also authorizes a licensed beer manufacturer to apply to the department for a brewery event permit that allows the sale of beer produced by that beer manufacturer for consumption on property contiguous and adjacent to the licensed premises of the manufacturer. Under the act, the fee for an event permit issued to an on-sale general licensee or an on-sale beer and wine licensee is \$110 for permits issued during the 2004 calendar year and indexed for inflation thereafter, and the fee for a brewery event permit issued during the 2017 calendar year is \$110 and indexed for inflation thereafter, as specified. Under the act, these and other fees collected pursuant to the act are deposited in the Alcohol Beverage Control Fund and are generally allocated to the department upon appropriation by the Legislature.*

*This bill would revise the fee for a brewery event permit to be identical to the fee for an event permit issued to an on-sale general licensee or an on-sale beer and wine licensee, as described above.*

**Existing law**

*(3) The act authorizes the holder of a winegrower's license, a beer manufacturer, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of facilities meeting specified criteria, ~~including~~, *including* location in a specified city, county, or university campus.*

*This bill would, in-a addition, allow a beer manufacturer, the holder of a ~~winegrowers~~ winegrower's license, a rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent to purchase advertising time and space from, or on behalf of, an on-sale retail licensee if the licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of stadiums and arenas subject to specified conditions, including that the advertising time and space is purchased only in connection with events *to* be held*

on the premises of those stadiums or arenas, but without specifying the location of the facility.

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 23083 of the Business and Professions  
2     Code is amended to read:

3     23083. (a) The board shall determine the appeal upon the  
4     record of the department and upon any briefs which may be filed  
5     by the parties. If any party to the appeal requests the right to appear  
6     before the board, the board shall fix a time and place for argument.  
7     A record of the argument shall be kept by audio recording. The  
8     board shall not receive any evidence other than that contained in  
9     the record of the proceedings of the department.

10    (b) Notwithstanding Section 11425.10 of the Government Code,  
11    Chapter 4.5 (commencing with Section 11400) of Part 1 of Division  
12    3 of Title 2 of the Government Code does not apply to the  
13    determination.

14    SEC. 2. Section 23399.65 of the Business and Professions Code  
15    is amended to read:

16    23399.65. (a) A licensed beer manufacturer may apply to the  
17    department for a brewery event permit. A brewery event permit  
18    shall authorize the sale of beer produced by the licensee pursuant  
19    to Section 23357 for consumption on property contiguous and  
20    adjacent to the licensed premises owned or under the control of  
21    the licensee. The property shall be secured and controlled by the  
22    licensee.

23    (b) (1) The fee for a brewery event permit for a licensed beer  
24    manufacturer shall be ~~one hundred ten dollars (\$110) for a permit~~  
25    ~~issued during the 2016 calendar year, and for a permit issued during~~  
26    ~~the years thereafter, the annual fee shall be calculated pursuant to~~  
27    ~~subdivisions (b) and (e) of Section 23320: the same as the fee for~~  
28    ~~an event permit issued to an on-sale general licensee or an on-sale~~  
29    ~~beer and wine licensee pursuant to subdivision (e) of Section~~  
30    ~~23399, inclusive of any annual adjustments.~~ The permit may be  
31    renewed annually at the same time as the licensee’s license. A  
32    brewery event permit shall be transferable as a part of the license.

1 (2) For each brewery event, consent for the sale of beer pursuant  
2 to subdivision (a) at the brewery event shall be first obtained by  
3 the licensee from the department in the form of an event  
4 authorization issued by the department. An event authorization  
5 shall be subject to approval by the appropriate local law  
6 enforcement agency. The fee for each event authorization shall  
7 not exceed twenty-five dollars (\$25). The number of events  
8 authorized by a brewery event permit shall not exceed four in any  
9 calendar year.

10 (3) All moneys collected as fees pursuant to this subdivision  
11 shall be deposited in the Alcohol Beverage Control Fund, as  
12 described in Section 25761, for allocation, upon appropriation by  
13 the Legislature, as provided in subdivision (d) of that section.

14 (c) At all approved events, the licensee may exercise only those  
15 privileges authorized by the licensee's license and shall comply  
16 with all provisions of the act pertaining to the conduct of on-sale  
17 premises, and violation of those provisions may be grounds for  
18 suspension or revocation of the licensee's license or permit, or  
19 both, as though the violation occurred on the licensed premises.

20 (d) The department may adopt any regulations it determines to  
21 be necessary for the administration of this section.

22 *SEC. 3. Section 24301 is added to the Business and Professions*  
23 *Code, to read:*

24 *24301. Notwithstanding subdivision (d) of Section 11512 of*  
25 *the Government Code, an audio record shall be kept as the official*  
26 *record of any administrative hearing conducted by the department.*  
27 *The department shall not create an official record by videographic*  
28 *recording. A videographic recording of an administrative hearing*  
29 *shall not be admissible in any proceeding before the Alcoholic*  
30 *Beverage Control Appeals Board or in any proceeding undertaken*  
31 *pursuant to Section 23090.*

32 *SEC. 4. Section 24310 of the Business and Professions Code*  
33 *is amended to read:*

34 24310. (a) Any person requesting a transcript from the  
35 department in a case on appeal to the Alcoholic Beverage Control  
36 Appeals Board, shall pay the transcript cost specified in Section  
37 69950 of the Government Code. Any actual cost in excess thereof  
38 shall be paid by the ~~Appeals Board~~ *appeals board* from the  
39 Alcoholic Beverage Control Appeals Fund.

1 ~~(b) A party in a case on appeal to the Appeals Board who, in~~  
2 ~~1983 or 1984, has paid that portion of the transcript fee in excess~~  
3 ~~of the fee specified in Section 69950 of the Government Code~~  
4 ~~shall be refunded that excess by payment from the Alcoholic~~  
5 ~~Beverage Control Appeals Fund, providing the Appeals Board has~~  
6 ~~not issued a dismissal or other final decision in the case on appeal.~~

7 *(b) When a hearing record has been created by audio recording,*  
8 *the department shall provide to the appeals board and each party*  
9 *a copy of the audio recording in lieu of a transcript. The audio*  
10 *recording shall serve as the record of the hearing for purposes of*  
11 *Section 23083.*

12 **SECTION 1.**

13 *SEC. 5.* Section 25503.61 is added to the Business and  
14 Professions Code, to read:

15 25503.61. Notwithstanding any other provision of this division,  
16 and in addition to the exceptions provided in Section 25503.6, a  
17 beer manufacturer, the holder of a ~~winegrowers~~ *winegrower's*  
18 license, a rectifier, a distilled spirits manufacturer, or distilled  
19 spirits manufacturer's agent may purchase advertising time and  
20 space from, or on behalf of, an on-sale retail licensee subject to  
21 all of the following conditions:

22 (a) The on-sale licensee is the owner, manager, agent of the  
23 owner, assignee of the owner's advertising rights, or the major  
24 tenant of the owner of any outdoor stadium or fully enclosed arena  
25 with a fixed seating capacity in excess of 1,500. This subdivision  
26 includes all stadiums and arenas licensed prior to the effective date  
27 of the measure adding this section.

28 (b) The outdoor stadium or fully enclosed arena described in  
29 subdivision (a) is not owned by a community college district.

30 (c) The advertising space or time is purchased only in connection  
31 with events to be held on the premises of the outdoor stadium or  
32 fully enclosed arena.

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

- 1 the distilled spirits manufacturer, or the distilled spirits
- 2 manufacturer's agent that purchased the advertising space or time.

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