

**ASSEMBLY BILL**

**No. 2096**

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**Introduced by Assembly Member Low**

February 17, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2096, as introduced, Low. Alcoholic beverages: tied-house restrictions: advertising.

Existing law, the Alcoholic Beverage Control Act, authorizes a beer manufacturer, the holder of a winegrower's license, a distilled spirits rectifier, 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 subject to specified conditions, including that the advertising space or time is purchased only in connection with the events to be held on the premises of the exposition park, stadium, or arena owned by the on-sale licensee. Existing law makes a violation of these provisions a crime.

This bill would change that specified condition to also allow the advertising space or time to be purchased in connection with the events to be held on those premises leased by the on-sale licensee. By changing the definition of a crime, the 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: yes.  
State-mandated local program: 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 in Riverside County.  
34 (H) An outdoor stadium with a fixed seating capacity in excess  
35 of 1,500 seats located in Tulare County.

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

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

12 (K) An outdoor soccer stadium with a fixed seating capacity of  
13 at least 25,000 seats, an outdoor tennis stadium with a fixed  
14 capacity of at least 7,000 seats, an outdoor track and field facility  
15 with a fixed seating capacity of at least 7,000 seats, and an indoor  
16 velodrome with a fixed seating capacity of at least 2,000 seats, all  
17 located within a sports and athletic complex built before January  
18 1, 2005, in the City of Carson in Los Angeles County.

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

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

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

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

33 (O) A complex of not more than 50 acres located on the campus  
34 of, and owned by, Sonoma State University dedicated to presenting  
35 live artistic, musical, sports, food, beverage, culinary, lifestyle, or  
36 other cultural and entertainment events and performances with  
37 venues that include a concert hall with a seating capacity of  
38 approximately 1,500 seats, a second concert hall with a seating  
39 capacity of up to 300 seats, an outdoor area with a seating capacity  
40 of up to 5,000 seats, and a further outdoor area with a seating

1 capacity of up to 10,000 seats. With respect to this complex,  
2 advertising space and time may also be purchased from or on behalf  
3 of the owner of the complex, a long-term tenant or licensee of the  
4 venue, whether or not the owner, long-term tenant, or licensee  
5 holds an on-sale license.

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

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

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

23 (4) The on-sale licensee serves other brands of beer distributed  
24 by a competing beer wholesaler in addition to the brand  
25 manufactured or marketed by the beer manufacturer, other brands  
26 of wine distributed by a competing wine wholesaler in addition to  
27 the brand produced by the winegrower, and other brands of distilled  
28 spirits distributed by a competing distilled spirits wholesaler in  
29 addition to the brand manufactured or marketed by the distilled  
30 spirits rectifier, the distilled spirits manufacturer, or the distilled  
31 spirits manufacturer’s agent that purchased the advertising space  
32 or time.

33 (b) Any purchase of advertising space or time pursuant to  
34 subdivision (a) shall be ~~conducted~~ *controlled* pursuant to a written  
35 contract entered into by the beer manufacturer, the holder of the  
36 winegrower’s license, the distilled spirits rectifier, the distilled  
37 spirits manufacturer, or the distilled spirits manufacturer’s agent  
38 and any of the following:

39 (1) The on-sale licensee.

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

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

7 (c) Any beer manufacturer or holder of a winegrower's license,  
8 any distilled spirits rectifier, any distilled spirits manufacturer, or  
9 any distilled spirits manufacturer's agent who, through coercion  
10 or other illegal means, induces, directly or indirectly, a holder of  
11 a wholesaler's license to fulfill all or part of those contractual  
12 obligations entered into pursuant to subdivision (a) or (b) shall be  
13 guilty of a misdemeanor and shall be punished by imprisonment  
14 in the county jail not exceeding six months, or by a fine in an  
15 amount equal to the entire value of the advertising space, time, or  
16 costs involved in the contract, whichever is greater, plus ten  
17 thousand dollars (\$10,000), or by both imprisonment and fine. The  
18 person shall also be subject to license revocation pursuant to  
19 Section 24200.

20 (d) Any on-sale retail licensee, as described in subdivision (a),  
21 who, directly or indirectly, solicits or coerces a holder of a  
22 wholesaler's license to solicit a beer manufacturer, a holder of a  
23 winegrower's license, a distilled spirits rectifier, a distilled spirits  
24 manufacturer, or a distilled spirits manufacturer's agent to purchase  
25 advertising space or time pursuant to subdivision (a) or (b) shall  
26 be guilty of a misdemeanor and shall be punished by imprisonment  
27 in the county jail not exceeding six months, or by a fine in an  
28 amount equal to the entire value of the advertising space or time  
29 involved in the contract, whichever is greater, plus ten thousand  
30 dollars (\$10,000), or by both imprisonment and fine. The person  
31 shall also be subject to license revocation pursuant to Section  
32 24200.

33 (e) For the purposes of this section, "beer manufacturer" includes  
34 any holder of a beer manufacturer's license, any holder of an  
35 out-of-state beer manufacturer's certificate, or any holder of a beer  
36 and wine importer's general license.

37 (f) The Legislature finds that it is necessary and proper to require  
38 a separation among manufacturing interests, wholesale interests,  
39 and retail interests in the production and distribution of alcoholic  
40 beverages in order to prevent suppliers from dominating local

1 markets through vertical integration and to prevent excessive sales  
2 of alcoholic beverages produced by overly aggressive marketing  
3 techniques. The Legislature further finds that the exceptions  
4 established by this section to the general prohibition against tied  
5 interests shall be limited to their express terms so as not to  
6 undermine the general prohibition and intends that this section be  
7 construed accordingly.

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