

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN SENATE JUNE 13, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2913

Introduced by Committee on Governmental Organization (Assembly Members Gray (Chair), Bigelow (Vice Chair), Alejo, Bonta, Campos, Cooley, Cooper, Daly, Gallagher, Gipson, Jones-Sawyer, Levine, Linder, Maienschein, Salas, and Wilk)

March 17, 2016

An act to amend Sections 23355.3, 23502, 23504, 23506, 23508, 25503.6, and 25503.8 ~~of~~ *of, and to add Section 23771.5 to*, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2913, as amended, Committee on Governmental Organization. Alcoholic beverages: licensees: *craft distillers*: tied-house restrictions.

(1) Existing law, the Craft Distillers Act of 2015, authorizes the Department of Alcoholic Beverage Control to issue a craft distiller's license to manufacture distilled spirits, subject to specified conditions, including that the licensee manufacture no more than 100,000 gallons of distilled spirits per fiscal year, excluding brandy the craft distiller manufactures or has manufactured for them. Existing law allows these licensees to sell distilled spirits to specified consumers, to own interests in on-sale retail licenses, and to sell beer, wines, brandies, and distilled spirits to consumers for consumption on the premises of a bona fide eating place, as provided.

This bill, among other things related to the craft distiller's license, would define "manufacture" for the purposes of the license, allow these

licensees to produce, as defined, distilled spirits, and require a specified percentage of the 100,000 allowed gallons to be manufactured or produced by the licensee.

~~The~~

(2) *The* Alcoholic Beverage Control Act regulates the application for, the issuance of, the suspension of, and the conditions imposed upon, various alcoholic beverage licenses pursuant to which the licensees may exercise specified privileges in the state. The act authorizes licensees to sponsor or otherwise participate in an event conducted by, and for the benefit of, a nonprofit organization in which retail and nonretail licensees are involved as sponsors or participants, subject to specified conditions.

The act authorizes a nonretail licensee to advertise or communicate sponsorship or participation in the event and provides that advertising or communication may include, but is not limited to, initiating, sharing, reposting, or otherwise forwarding a social media post by a permanent retail licensee or a nonretail licensee, as specified.

This bill would delete the word “initiating” from that provision.

The act also prohibits a retail licensee from receiving any advertising, sale, or promotional benefit from any permanent retail licensee in connection with the sponsorship or participation.

This bill would instead prohibit a nonretail licensee from receiving that advertising, sale, or promotional benefit.

~~Existing~~

(3) *Existing* law authorizes specified licensees, including distilled spirits rectifiers, 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 specified facilities. Existing law makes it a crime for an on-sale licensee to coerce certain licensees to purchase advertising space or time, as specified.

This bill would revise these authorizations to instead allow a rectifier to purchase the above-described advertising space and time and would include rectifiers as licensees subject to specified criminal provisions. By expanding the definition of a crime, this 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 23355.3 of the Business and Professions
2 Code is amended to read:

3 23355.3. (a) A licensee may sponsor or otherwise participate
4 in an event conducted by, and for the benefit of, a nonprofit
5 organization in which retail and nonretail licensees are involved
6 as sponsors or participants, subject to all of the following
7 conditions:

8 (1) Except as otherwise provided in this section, any payment
9 of money or other consideration for sponsorship or participation
10 in the event shall be made only to the nonprofit organization
11 conducting the event.

12 (2) Except as otherwise provided in this section, a nonretail
13 licensee shall not, directly or indirectly, pay money or provide any
14 other thing of value to a permanent retail licensee that is also a
15 sponsor of, or participant in, the event.

16 (3) A nonretail licensee may donate alcoholic beverages to a
17 nonprofit only as otherwise authorized by Section 25503.9.

18 (4) Except as otherwise provided by this division, a retail
19 licensee shall not give, sell, or furnish any alcoholic beverages to
20 the temporary licensee.

21 (5) A nonretail or retail licensee may choose to participate in
22 any level of sponsorship, including at the name or principal sponsor
23 level. A nonprofit organization may choose to have one, or
24 multiple, name or principal sponsors.

25 (6) (A) A nonretail licensee may advertise or communicate
26 sponsorship or participation in the event. This advertising or
27 communication may include, but is not limited to, sharing,
28 reposting, or otherwise forwarding a social media post by a
29 permanent retail licensee or a nonretail licensee if the advertisement
30 or communication does not contain the retail price of any alcoholic
31 beverage or otherwise promotes a retail licensee beyond its
32 sponsorship or participation in the event.

1 (B) A nonretail licensee shall not pay or reimburse a permanent
2 licensee, directly or indirectly, for any advertising services,
3 including by way of social media. Except as otherwise permitted
4 by this section, a permanent retail licensee shall not accept any
5 payment or reimbursement, directly or indirectly, for any
6 advertising services offered by a nonretail licensee.

7 (C) For the purposes of this subdivision, “social media” means
8 a service, platform, application, or site where users communicate
9 and share media, such as pictures, videos, music, and blogs, with
10 other users.

11 (7) A nonretail licensee shall not require, directly or indirectly,
12 as a condition of sponsorship or participation in any event under
13 this section, that its products be sold or served exclusively at the
14 event. A nonretail licensee shall not receive, directly or indirectly,
15 any advertising, sale, or promotional benefit from any permanent
16 retail licensee in connection with the sponsorship or participation.
17 A permanent retail licensee shall not offer or provide a nonretail
18 licensee any advertising, sale, or promotional benefit in connection
19 with the sponsorship or participation.

20 (b) This section does not authorize a nonretail licensee to pay,
21 in whole or in part, any costs, including the cost of sponsorship,
22 of any retail licensee that is sponsoring or participating in a
23 nonprofit event.

24 (c) A licensee that sponsors or participates in a nonprofit event
25 under this section shall keep detailed records of its sponsorship or
26 participation and shall maintain those records for a period of at
27 least three years. These records shall be provided to the department
28 upon request.

29 (d) Nothing in this section shall be deemed to exempt the
30 nonprofit organization from obtaining any licenses or permits as
31 may be required to conduct the event.

32 *SEC. 2. Section 23502 of the Business and Professions Code*
33 *is amended to read:*

34 23502. (a) The department may issue a craft distiller’s license
35 to a person that has facilities and equipment for the purposes of,
36 and is engaged in, the commercial manufacture of distilled spirits.
37 The craft distiller’s license authorizes the licensee to do all of the
38 following:

39 (1) Manufacture distilled spirits. ~~A licensed craft distiller may~~
40 ~~manufacture up to 100,000 gallons of distilled spirits per fiscal~~

1 year (July 1 through June 30), excluding brandy the craft distiller
2 manufactures or has manufactured for them pursuant to a brandy
3 manufacturer license, as reported to the department in the manner
4 prescribed by the department for the fiscal year prior to the date
5 of submitting an application for the license. *For purposes of this*
6 *article, “manufacture” means the actual distillation of distilled*
7 *spirits from naturally fermented materials or the redistillation of*
8 *distilled spirits obtained from another manufacturer of distilled*
9 *spirits.*

10 ~~(2) Package, rectify, mix, flavor, color, label, and export only~~
11 ~~those distilled spirits manufactured by the licensee.~~

12 (2) *Produce distilled spirits. For purposes of this article,*
13 *“produce” means to mix, color, flavor, or blend distilled spirits,*
14 *whether manufactured by the licensee or by another manufacturer*
15 *of distilled spirits.*

16 (3) Only sell distilled spirits that are manufactured and packaged
17 or produced by the licensee solely to a wholesaler, manufacturer,
18 winegrower, manufacturer’s agent, or rectifier that holds a license
19 authorizing the sale of distilled spirits or to persons that take
20 delivery of those distilled spirits within this state for delivery or
21 use without the state.

22 (4) Deal in warehouse receipts.

23 (5) *Manufacture or produce up to 100,000 gallons of distilled*
24 *spirits per fiscal year (July 1 through June 30), excluding brandy*
25 *the craft distiller manufactures or has manufactured for them*
26 *pursuant to a brandy manufacturer license, as reported to the*
27 *department in the manner prescribed by the department for the*
28 *fiscal year prior to the date of submitting an application for the*
29 *license. At least 65 percent of the total volume of distilled spirits*
30 *manufactured or produced shall be actually manufactured by the*
31 *licensee. The volume of distilled spirits authorized by this*
32 *paragraph shall be calculated by adding the volume of distilled*
33 *spirits, less waste, drawn off the still with the volume of distilled*
34 *spirits obtained by the licensee from any other source that is not*
35 *redistilled by the licensee. For purposes of this paragraph,*
36 *“volume” means the liquid volume and shall not be based on proof*
37 *gallons or packaged goods.*

38 (b) A craft distiller’s license shall not be issued to any person,
39 any officer, director, employee, or agent of such person, or any
40 person who is affiliated with, directly or indirectly, a person that

1 manufactures or has manufactured for them more than 100,000
2 gallons of distilled spirits per year within or without the state,
3 excluding brandy it manufactures or has manufactured for them
4 pursuant to a brandy manufacturer license, or to any person that
5 is affiliated with, directly or indirectly, a wholesaler.

6 (c) (1) The fee for an original craft distiller’s license issued
7 pursuant to this section shall be consistent with the distilled spirits
8 manufacturer’s license and shall be adjusted pursuant to
9 subdivisions (b) and (c) of Section 23320.

10 (2) The annual license fee for a craft distiller’s license shall be
11 consistent with the distilled spirits manufacturer’s license and shall
12 be adjusted pursuant to subdivisions (b) and (c) of Section 23320.

13 (3) All moneys collected as fees pursuant to this section shall
14 be deposited in the Alcohol Beverage Control Fund as provided
15 in Section 25761.

16 (d) A licensed craft distiller shall report to the department, at
17 the time of renewal in the manner prescribed by the department,
18 the amount of distilled spirits ~~manufactured~~, *manufactured or*
19 *produced by the licensee specifying, as applicable, the respective*
20 *amounts of distilled spirits the licensed craft distiller has*
21 *manufactured itself, obtained from another manufacturer of*
22 *distilled spirits, and imported*, excluding brandy manufactured by
23 or for the licensee pursuant to a brandy manufacturer license,
24 during the previous fiscal year. If the report to the department
25 establishes that the licensee no longer qualifies to hold a craft
26 distiller’s ~~license~~, *license because the licensee has either exceeded*
27 *the 100,000 gallon manufacture or production limitation as*
28 *specified in paragraph (5) of subdivision (a) or actually*
29 *manufactured less than 65 percent of the total volume of distilled*
30 *spirits as specified in paragraph (5) of subdivision (a)*, the
31 department shall renew the license as a distilled spirits
32 manufacturer’s license.

33 *SEC. 3. Section 23504 of the Business and Professions Code*
34 *is amended to read:*

35 23504. Notwithstanding any other provision, a licensed craft
36 distiller may sell up to the equivalent of 2.25 liters in any
37 combination of prepackaged containers per day per consumer of
38 distilled spirits *manufactured or produced* by the licensee at its
39 premises to a consumer attending an instructional tasting conducted

1 by the licensee on its licensed premises pursuant to subdivision
2 (c) of Section 23363.1.

3 *SEC. 4. Section 23506 of the Business and Professions Code*
4 *is amended to read:*

5 23506. (a) Notwithstanding any other provision of this
6 division, a licensed craft distiller or one or more of its direct or
7 indirect subsidiaries of which the licensed craft distiller owns not
8 less than a 51-percent interest, who manufactures or produces,
9 bottles, processes, imports, or sells distilled spirits under a craft
10 distiller's license or any other license issued pursuant to this
11 division, or any officer or director of, or any person holding any
12 interest in, those persons may serve as an officer or director of,
13 and may hold the ownership of any interest or any financial or
14 representative relationship in, any on-sale license, or the business
15 conducted under that license, provided that, except in the case of
16 a holder of on-sale general licenses for airplanes and duplicate
17 on-sale general licenses for air common carriers, all of the
18 following conditions are met:

19 (1) The on-sale licensee purchases all alcoholic beverages sold
20 and served only from California wholesale licensees.

21 (2) The number of distilled spirits items by brand offered for
22 sale by the on-sale licensee that are manufactured, produced,
23 bottled, processed, imported, or sold by the licensed craft distiller
24 or by the subsidiary of which the licensed craft distiller owns not
25 less than 51 percent, or by any officer or director of, or by any
26 person holding any interest in, those persons does not exceed 15
27 percent of the total distilled spirits items by brand listed and offered
28 for sale by the on-sale licensee selling and serving that distilled
29 spirit. Notwithstanding paragraph (1), distilled spirits sold pursuant
30 to this provision may be purchased from a California licensed craft
31 distiller so long as the distilled spirits purchased are produced or
32 bottled by, or produced and packaged for, the same licensed craft
33 distiller that holds an interest in the on-sale license and such direct
34 sales do not involve more than two on-sale licenses in which the
35 licensed craft distiller or any person holding an interest in the
36 licensed craft distiller holds any interest, directly or indirectly,
37 either individually or in combination or together with each other
38 in the aggregate.

1 (3) None of the persons specified in this section may have any
2 of the interests specified in this section in more than two on-sale
3 licenses.

4 (b) Notwithstanding any other provision of this division, a
5 ~~licensed craft distiller licensee~~ that has an interest in one or more
6 on-sale retail licenses pursuant to this section may continue to hold
7 that interest in the event the licensee no longer qualifies as a craft
8 distiller, provided that the interest was ~~first obtained~~ held, or an
9 application was pending, at a time when the licensee did hold a
10 craft distiller's license pursuant to Section 23502. *Nothing in this*
11 *subdivision is intended to prevent the department from denying a*
12 *pending application for any reason other than the change in license*
13 *of the licensee.*

14 ~~(c) A craft distiller licensee may sell all beers, wines, brandies,~~
15 ~~or distilled spirits to consumers for consumption on the premises~~
16 ~~in a bona fide eating place as defined in Section 23038, which is~~
17 ~~located on the licensed premises or on premises owned by the~~
18 ~~licensee that are contiguous licensed premises and which is~~
19 ~~operated by and for the licensee, provided that any alcoholic~~
20 ~~beverage products not manufactured or produced by the licensee~~
21 ~~must be purchased from a licensed wholesaler. Beer, wine, and~~
22 ~~brandy may be used in the preparation of food and beverages in~~
23 ~~the bona fide public eating place for consumption on the premises.~~

24 *SEC. 5. Section 23508 of the Business and Professions Code*
25 *is amended to read:*

26 23508. (a) A licensed craft distiller may also have upon its
27 licensed premises all beers, wines, and distilled spirits, regardless
28 of source, for sale or service only to guests during private events
29 or private functions not open to the general public. Alcoholic
30 beverage products sold at the premises that are not manufactured
31 or produced and bottled by, or manufactured or produced and
32 packaged for, the licensed craft distiller shall be purchased by the
33 licensed craft distiller only from a licensed wholesaler.

34 (b) *A licensed craft distiller may sell all beers, wines, brandies,*
35 *or distilled spirits to consumers for consumption on the premises*
36 *in a bona fide eating place as defined in Section 23038, which is*
37 *located on the licensed premises or on premises owned by the*
38 *licensee that are contiguous licensed premises and which is*
39 *operated by and for the licensee, provided that any alcoholic*
40 *beverage products not manufactured or produced by the licensee*

1 *must be purchased from a licensed wholesaler. Beer, wine, and*
2 *brandy may be used in the preparation of food and beverages in*
3 *the bona fide public eating place for consumption on the premises.*

4 (b)

5 (c) Notwithstanding any other provision of this division, in the
6 event that the licensee no longer qualifies as a craft distiller due
7 to the amount of distilled spirits reported pursuant to Section
8 23502, the licensee may continue to hold the privileges granted
9 by this section.

10 *SEC. 6. Section 23771.5 is added to the Business and*
11 *Professions Code, to read:*

12 *23771.5. Section 23771 does not prevent a licensed craft*
13 *distiller from holding a distilled spirits license authorizing the*
14 *importing of distilled spirits, provided, however, that any distilled*
15 *spirits imported by the licensee shall only be used by the licensee*
16 *to manufacture or produce distilled spirits pursuant to Section*
17 *23502.*

18 ~~SEC. 2.~~

19 *SEC. 7. Section 25503.6 of the Business and Professions Code*
20 *is amended to read:*

21 25503.6. (a) Notwithstanding any other provision of this
22 chapter, a beer manufacturer, the holder of a winegrower's license,
23 a rectifier, a distilled spirits manufacturer, or distilled spirits
24 manufacturer's agent may purchase advertising space and time
25 from, or on behalf of, an on-sale retail licensee subject to all of
26 the following conditions:

27 (1) The on-sale licensee is the owner, manager, agent of the
28 owner, assignee of the owner's advertising rights, or the major
29 tenant of the owner of any of the following:

30 (A) An outdoor stadium or a fully enclosed arena with a fixed
31 seating capacity in excess of 10,000 seats located in Sacramento
32 County or Alameda County.

33 (B) A fully enclosed arena with a fixed seating capacity in
34 excess of 18,000 seats located in Orange County or Los Angeles
35 County.

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

38 (D) An exposition park of not less than 50 acres that includes
39 an outdoor stadium with a fixed seating capacity in excess of 8,000

1 seats and a fully enclosed arena with an attendance capacity in
2 excess of 4,500 people, located in San Bernardino County.

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

5 (F) An outdoor stadium and a fully enclosed arena with fixed
6 seating capacities in excess of 10,000 seats located in Fresno
7 County.

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

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

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

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

26 (K) An outdoor soccer stadium with a fixed seating capacity of
27 at least 25,000 seats, an outdoor tennis stadium with a fixed *seating*
28 capacity of at least 7,000 seats, an outdoor track and field facility
29 with a fixed seating capacity of at least 7,000 seats, and an indoor
30 velodrome with a fixed seating capacity of at least 2,000 seats, all
31 located within a sports and athletic complex built before January
32 1, 2005, in the City of Carson in Los Angeles County.

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

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

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

39 (ii) A beer manufacturer, the holder of a winegrower's license,
40 a rectifier, a distilled spirits manufacturer, or distilled spirits

1 manufacturer's agent may purchase advertising space and time
2 from, or on behalf of, a major tenant of an outdoor stadium
3 described in clause (i), provided the major tenant does not hold a
4 retail license, and the advertising may include the placement of
5 advertising in an on-sale licensed premises operated at the outdoor
6 stadium.

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

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

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

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

37 (4) The on-sale licensee serves other brands of beer distributed
38 by a competing beer wholesaler in addition to the brand
39 manufactured or marketed by the beer manufacturer, other brands
40 of wine distributed by a competing wine wholesaler in addition to

1 the brand produced by the winegrower, and other brands of distilled
2 spirits distributed by a competing distilled spirits wholesaler in
3 addition to the brand manufactured or marketed by the rectifier,
4 the distilled spirits manufacturer, or the distilled spirits
5 manufacturer's agent that purchased the advertising space or time.

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

12 (1) The on-sale licensee.

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

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

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

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

1 (\$10,000), or by both imprisonment and fine. The person shall also
2 be subject to license revocation pursuant to Section 24200.

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

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

18 ~~SEC. 3.~~

19 *SEC. 8.* Section 25503.8 of the Business and Professions Code
20 is amended to read:

21 25503.8. (a) Notwithstanding any other provision of this
22 chapter, a beer manufacturer, the holder of a winegrower’s license,
23 a California winegrower’s agent, a rectifier, a distilled spirits
24 manufacturer, or a distilled spirits manufacturer’s agent may
25 purchase advertising space and time from, or on behalf of, an
26 on-sale retail licensee if all of the following conditions are met:

27 (1) The on-sale licensee is the owner of any of the following:

28 (A) A fully enclosed auditorium or theater with a fixed seating
29 capacity in excess of 6,000 seats, at least 60 percent of the use of
30 which is for plays or musical concerts, not including sporting
31 events.

32 (B) A motion picture studio facility at which public tours are
33 conducted for at least four million people per year.

34 (C) A retail, entertainment development adjacent to, and under
35 common ownership with, a theme park, amphitheater, and motion
36 picture production studio.

37 (D) A theme or amusement park and the adjacent retail, dining,
38 and entertainment area located in the City of Los Angeles, Los
39 Angeles County, or Orange County.

1 (E) A fully enclosed theater, with box office sales and attendance
 2 by the public on a ticketed basis only, with a fixed seating capacity
 3 in excess of 6,000 seats, located in Los Angeles County within the
 4 area subject to the Los Angeles Sports and Entertainment District
 5 Specific Plan adopted by the City of Los Angeles pursuant to
 6 ordinance number 174225, as approved on September 6, 2001.

7 (F) A fully enclosed arena with a fixed seating capacity in excess
 8 of 15,000 seats located in Santa Clara County. With respect to the
 9 arena described in this subparagraph, advertising space may also
 10 be purchased from, or on behalf of, a lessee or manager of the
 11 arena.

12 (2) The advertising space or time is purchased only in connection
 13 with one of the following:

14 (A) In the case of a fully enclosed auditorium or theater, in
 15 connection with sponsorship of plays or musical concerts to be
 16 held on the premises of the auditorium or theater owned by the
 17 on-sale licensee.

18 (B) In the case of a motion picture studio facility, in connection
 19 with sponsorship of the public tours or special events conducted
 20 at the studio facility.

21 (C) In the case of a retail, entertainment development, in
 22 connection with sponsorship of public tours or special events
 23 conducted at the development.

24 (D) In the case of a theme or amusement park and the adjacent
 25 retail, dining, and entertainment area, located in the City of Los
 26 Angeles, Los Angeles County, or Orange County, in connection
 27 with daily activities and events at the theme or amusement park
 28 and the adjacent retail, dining, and entertainment area.

29 (E) In the case of the fully enclosed theater described in
 30 subparagraph (E) of paragraph (1) of subdivision (a), in connection
 31 with events conducted at the theater.

32 (F) In the case of a fully enclosed arena described in
 33 subparagraph (F) of paragraph (1) of subdivision (a), interior
 34 advertising in connection with events conducted within the arena.

35 (3) The on-sale licensee serves other brands of beer distributed
 36 by a competing beer wholesaler in addition to the brand
 37 manufactured or marketed by the beer manufacturer, other brands
 38 of wine distributed by a competing wine wholesaler in addition to
 39 the brand produced or marketed by the winegrower or California
 40 winegrower’s agent, and other brands of distilled spirits distributed

1 by a competing distilled spirits wholesaler in addition to the brand
2 manufactured or marketed by the distilled spirits manufacturer or
3 distilled spirits manufacturer’s agent purchasing the advertising
4 space or time.

5 (b) Any purchase of advertising space or time conducted
6 pursuant to subdivision (a) shall be conducted pursuant to a written
7 contract entered into by the beer manufacturer, the holder of the
8 winegrower’s license, the California winegrower’s agent, the
9 rectifier, the distilled spirits manufacturer, or the distilled spirits
10 manufacturer’s agent, and the on-sale licensee, which contract
11 shall not in any way involve the holder of a wholesaler’s license.

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

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

38 (e) For the purposes of this section, “beer manufacturer” includes
39 any holder of a beer manufacturer’s license, any holder of an

1 out-of-state beer manufacturer’s certificate, or any holder of a beer
2 and wine importer’s general license.

3 ~~SEC. 4.~~

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