

AMENDED IN SENATE APRIL 8, 2015

SENATE BILL

No. 462

Introduced by Senator Wolk

(Principal coauthor: Assembly Member Dodd)

(Coauthor: Senator McGuire)

(Coauthor: Assembly Member Levine)

February 25, 2015

An act to amend Section 25503.6 of, and to add Section 25503.34 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 462, as amended, Wolk. Alcoholic beverages: tied house restrictions: Sonoma County.

The

(1) *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 specified 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, and arenas, subject to specified conditions. Existing law requires the purchase of advertising space or time in this context to be conducted pursuant to a written contract with the on-sale licensee, with a specified exception. Existing law defines a beer manufacturer for these specific purposes as including any holder of an out-of-state beer manufacturer's certificate or any holder of a beer and wine importer's general license. *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 expand the exceptions described above to allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees, as described above, at a specified complex located ~~in Sonoma County~~ *on the campus of, and owned by, Sonoma State University*. The bill would permit the contract for purchasing space or time in this context to also be with an owner, ~~long-term~~ *long-term* tenant of the venue, or licensee of the venue. The bill would ~~also include within the definition of beer manufacturer, for these purposes, a holder of a beer and wine wholesaler's license~~ *within the exceptions described above generally, as well as for the Sonoma State University complex specifically, beer and wine wholesalers that also hold an off-sale beer and wine retail license and only sell wine. By expanding the definition of a crime, this bill would impose a state-mandated local program.*

Existing

(2) Existing law permits specified alcoholic beverage licensees to donate money and sponsor events at certain sites and facilities.

This bill would permit a holder of a winegrower's license, a beer manufacturer, as defined, a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent to donate wine, beer, or spirits, and make monetary contributions to a specified complex located ~~in Sonoma County~~, *on the campus of, and owned by, Sonoma State University*, if certain conditions are met. *The bill would also include within this authorization generally, as well as for the Sonoma State University complex specifically, beer and wine wholesalers that also hold an off-sale beer and wine retail license and only sell wine, as specified.*

(3) *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: ~~no~~-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 beer and wine wholesaler that also holds an off-sale beer and*
6 *wine retail license and only sells wine*, a distilled spirits rectifier,
7 a distilled spirits manufacturer, or distilled spirits manufacturer's
8 agent may purchase advertising space and time from, or on behalf
9 of, an on-sale retail licensee subject to all of the following
10 conditions:
- 11 (1) The on-sale licensee is the owner, manager, agent of the
12 owner, assignee of the owner's advertising rights, or the major
13 tenant of the owner of any of the following:
- 14 (A) An outdoor stadium or a fully enclosed arena with a fixed
15 seating capacity in excess of 10,000 seats located in Sacramento
16 County or Alameda County.
- 17 (B) A fully enclosed arena with a fixed seating capacity in
18 excess of 18,000 seats located in Orange County or Los Angeles
19 County.
- 20 (C) An outdoor stadium or fully enclosed arena with a fixed
21 seating capacity in excess of 8,500 seats located in Kern County.
- 22 (D) An exposition park of not less than 50 acres that includes
23 an outdoor stadium with a fixed seating capacity in excess of 8,000
24 seats and a fully enclosed arena with an attendance capacity in
25 excess of 4,500 people, located in San Bernardino County.
- 26 (E) An outdoor stadium with a fixed seating capacity in excess
27 of 10,000 seats located in Yolo County.
- 28 (F) An outdoor stadium and a fully enclosed arena with fixed
29 seating capacities in excess of 10,000 seats located in Fresno
30 County.
- 31 (G) An athletic and entertainment complex of not less than 50
32 acres that includes within its boundaries an outdoor stadium with
33 a fixed seating capacity of at least 8,000 seats and a second outdoor
34 stadium with a fixed seating capacity of at least 3,500 seats located
35 within Riverside County.
- 36 (H) An outdoor stadium with a fixed seating capacity in excess
37 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 within 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, within 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 within 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 ~~in Sonoma~~
34 ~~County~~ *on the campus of, and owned by, Sonoma State University*
35 dedicated to presenting live artistic, musical, sports, food, beverage,
36 culinary, lifestyle, or other cultural and entertainment events and
37 performances ~~that includes~~ *with venues that include* a concert hall
38 with a seating capacity of approximately 1,500 seats, a second
39 concert hall with a seating capacity of up to 300 seats, an outdoor
40 area with a seating capacity of up to 5,000 seats, and a ~~planned~~

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

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

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

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

33 (b) Any purchase of advertising space or time pursuant to
34 subdivision (a) shall be conducted pursuant to a written contract
35 entered into by the beer manufacturer, the holder of the
36 winegrower's license, *the beer and wine wholesaler that also holds*
37 *an off-sale beer and wine retail license and only sells wine*, the
38 distilled spirits rectifier, the distilled spirits manufacturer, or the
39 distilled spirits manufacturer's agent and any of the following:

40 (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~~ *long-term* tenant of the
5 ~~venue, complex~~, or licensee of the ~~venue, complex~~, whether or not
6 the owner, ~~long-term~~ *long-term* tenant, or licensee holds an on-sale
7 license.

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

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

37 (e) For the purposes of this section, "beer manufacturer" includes
38 any holder of a beer manufacturer's license, any holder of an
39 out-of-state beer manufacturer's certificate, ~~any holder of a beer~~

1 ~~and wine wholesaler's license~~, or any holder of a beer and wine
2 importer's general license.

3 SEC. 2. Section 25503.34 is added to the Business and
4 Professions Code, to read:

5 25503.34. (a) A holder of a winegrower's license, *a beer and*
6 *wine wholesaler that also holds an off-sale beer and wine retail*
7 *license and only sells wine*, a beer manufacturer as defined in
8 subdivision (d), a distilled spirits rectifier, a distilled spirits
9 manufacturer, or distilled spirits manufacturer's agent may donate
10 wine, beer, or spirits, and make monetary contributions to a
11 complex dedicated to the presentation of live artistic, musical,
12 sports, food, beverage, culinary, lifestyle, or other cultural
13 entertainment events or performances, if all of the following
14 conditions are met:

15 (1) The permanent retail on-sale licensee in the complex is a
16 nonprofit charitable corporation or association exempt from
17 payment of income taxes under the provisions of the Internal
18 Revenue Code and Chapter 4 (commencing with Section 23701)
19 of Part 11 of Division 2 of the Revenue and Taxation Code.

20 (2) The complex is of not more than 50 acres located ~~in Sonoma~~
21 ~~County~~ *on the campus of, and owned by, Sonoma State University*
22 dedicated to presenting live artistic, musical, sports, food, beverage,
23 culinary, lifestyle, or other cultural and entertainment events and
24 performances ~~that includes~~ *with venues that include* a concert hall
25 with a seating capacity of approximately 1,500 seats, a second
26 concert hall with a seating capacity of up to 300 seats, an outdoor
27 area with a seating capacity of up to 5,000 seats, and a ~~planned~~
28 ~~further outdoor facility~~ *area* with a seating capacity of up to 10,000
29 seats.

30 (3) The complex has a permanent retail on-sale license that is
31 a long-term tenant of the complex.

32 (4) The donation or monetary contribution shall not be
33 conditioned directly or indirectly, in any way, on the purchase,
34 sale, or distribution of any alcoholic beverage manufactured or
35 distributed by the holder of a winegrower's license, *the holder of*
36 *a beer and wine wholesaler that also holds an off-sale beer and*
37 *wine retail license and only sells wine*, the beer manufacturer, the
38 distilled spirits rectifier, the distilled spirits manufacturer, or the
39 distilled spirits manufacturer's agent by the licensee of the
40 complex.

1 (5) Except as provided in paragraph (6), donated wine, beer, or
2 spirits shall not be used or sold by the permanent retail licensee
3 and a monetary contribution shall not be used in, or for the benefit
4 of, the permanent retail on-sale licensee.

5 (6) Donated wine, beer, or spirits may only be used or sold in
6 connection with fundraising activities held on or off the permanent
7 licensed premises. Fundraising activities held in any area included
8 in the licensed premises during which donated wine, beer, or spirits
9 is used or sold shall not take place at the complex while the
10 permanent retail licensee is exercising its license privileges and
11 shall only be conducted pursuant to a temporary license issued by
12 the department, provided however, that the permanent licensee
13 shall surrender its license during the fundraising only for those
14 areas of the complex where the fundraising activities are being
15 presented and may continue to operate under its permanent license
16 in other areas covered by the license where the fundraising is not
17 taking place.

18 (b) The complex may acknowledge and thank a donating
19 winegrower, *beer and wine wholesaler that also holds an off-sale*
20 *beer and wine retail license and only sells wine*, beer manufacturer
21 as defined in subdivision (d), distilled spirits rectifier, distilled
22 spirits manufacturer, or distilled spirits manufacturer's agent in
23 the complex's event programs, on the complex's Internet Web
24 site, and on stage at the permanent licensed premises during an
25 event or performance.

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

37 (d) For the purposes of this section, "beer manufacturer"
38 includes any holder of a beer manufacturer's license, any holder
39 of an out-of-state beer manufacturer's certificate, ~~any holder of a~~

1 ~~beer and wine wholesaler's license~~, or any holder of a beer and
2 wine importer's general license.

3 *(e) The privilege granted by this section to a beer and wine*
4 *wholesaler that also holds an off-sale beer and wine retail license*
5 *and only sells wine shall apply only to wine produced for the*
6 *donating licensee that is labeled with a brand owned exclusively*
7 *by the donating licensee.*

8 *SEC. 3. 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.*

O