

Senate Bill No. 462

CHAPTER 315

An act to amend Section 25503.6 of, and to add Section 25503.34 to, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 2015. Filed with
Secretary of State September 21, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

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

(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 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 tenant of the venue, or licensee of the venue. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(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

on the campus of, and owned by, Sonoma State University, if certain conditions are met.

(3) This bill would incorporate changes to Section 25503.6 of the Business and Professions Code proposed by both this bill and SB 557, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last.

(4) 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.

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

The people of the State of California do enact as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) 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. With respect to an exposition park as described in subparagraph (J) of paragraph (1) that includes at least one

hotel, the advertising space or time shall not be displayed on or in any hotel located in the exposition park, or purchased in connection with the operation of any hotel located in the exposition park. With respect to the complex described in subparagraph (O) of paragraph (1), the advertising space or time shall be purchased only in connection with live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances to be held on the premises of the complex.

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

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

(1) The on-sale licensee.

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

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

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

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

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

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

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

SEC. 1.5. Section 25503.6 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) 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. With respect to an exposition park as described in subparagraph (J) of paragraph (1) that includes at least one

hotel, the advertising space or time shall not be displayed on or in any hotel located in the exposition park, or purchased in connection with the operation of any hotel located in the exposition park. With respect to the complex described in subparagraph (O) of paragraph (1), the advertising space or time shall be purchased only in connection with live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances to be held on the premises of the complex.

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

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

(1) The on-sale licensee.

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

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

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

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

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

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

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

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

25503.34. (a) A holder of a winegrower’s license, a beer manufacturer as defined in subdivision (d), a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer’s agent may donate wine, beer, or spirits, and make monetary contributions to a complex dedicated to the presentation of live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural entertainment events or performances, if all of the following conditions are met:

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

(2) The complex is of not more than 50 acres located on the campus of, and owned by, Sonoma State University dedicated to presenting live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances with venues that include a concert hall with a seating capacity of approximately 1,500 seats, a second concert hall with a seating capacity of up to 300 seats, an outdoor area with a seating capacity of up to 5,000 seats, and a further outdoor area with a seating capacity of up to 10,000 seats.

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

(4) The donation or monetary contribution shall not be conditioned directly or indirectly, in any way, on the purchase, sale, or distribution of any alcoholic beverage manufactured or distributed by the holder of a winegrower’s license, the beer manufacturer, the distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer’s agent by the licensee of the complex.

(5) The permanent retail on-sale licensee in the complex shall:

(A) Serve other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by a contributing beer manufacturer.

(B) Serve other brands of wine distributed by a competing wine wholesaler in addition to the brand produced or distributed by a contributing winegrower.

(C) Serve other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the contributing distilled spirits manufacturer or distilled spirits manufacturer's agent.

(6) Except as provided in paragraph (7), donated wine, beer, or spirits shall not be used or sold by the permanent retail licensee and a monetary contribution shall not be used in, or for the benefit of, the permanent retail on-sale licensee.

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

(b) The complex may acknowledge and thank a donating winegrower, beer manufacturer as defined in subdivision (d), distilled spirits rectifier, distilled spirits manufacturer, or distilled spirits manufacturer's agent in the complex's event programs, on the complex's Internet Web site, and on stage at the permanent licensed premises during an event or performance.

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

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

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 25503.6 of the Business and Professions Code proposed by both this bill and Senate Bill 557. It shall only become operative if (1) both bills are

enacted and become effective on or before January 1, 2016, but this bill becomes operative first, (2) each bill amends Section 25503.6 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 557, in which case Section 25503.6 of the Business and Professions Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of Senate Bill 557, at which time Section 1.5 of this bill shall become operative.

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Green Music Center to continue to provide performing arts and to authorize the receipt of donations to facilitate that provision, it is necessary that this act take effect immediately.