

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 557

Introduced by Senator Hall

February 26, 2015

An act to amend ~~Sections 25502.2 and~~ *Section 25503.6* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 557, as amended, Hall. Alcoholic beverages: ~~advertising: promotions:~~ *tied-house restrictions: advertising.*

Existing law authorizes the holder of a winegrower's license, a beer manufacturer, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

This bill would expand the exceptions to existing law 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 at a fairgrounds with a horse racetrack and equestrian and sports facilities located in the County of San Diego.

By creating new crimes this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Diego.

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.

~~The Alcoholic Beverage Control Act includes tied-house restrictions, which prohibit specified licensees from furnishing, giving, or lending money or other thing of value, directly or indirectly, to a person engaged in operating, owning, or maintaining an off-sale licensed premises. Existing law authorizes, until January 1, 2016, the appearance of a person employed or engaged by an authorized licensee at a promotional event held at the premises of an off-sale retail licensee for the purposes of providing autographs, subject to specified conditions.~~

~~This bill would delete the sunset date of the above provision, thereby extending the provision indefinitely.~~

~~This bill would also make nonsubstantive changes to the act.~~

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 25502.2 of the Business and Professions~~
- 2 ~~Code is amended to read:~~
- 3 ~~25502.2. (a) A person employed or engaged by an authorized~~
- 4 ~~licensee may appear at a promotional event at the premises of an~~
- 5 ~~off-sale retail licensee for the purposes of providing autographs~~
- 6 ~~to consumers at the promotional event only under the following~~
- 7 ~~conditions:~~
- 8 ~~(1) A purchase from the off-sale retail licensee is not required.~~
- 9 ~~(2) A fee is not charged to attend the promotional event.~~
- 10 ~~(3) Autographing may only be provided on consumer advertising~~
- 11 ~~specialities given by the authorized licensee to a consumer or on~~
- 12 ~~any item provided by the consumer.~~
- 13 ~~(4) The promotional event does not exceed four hours in~~
- 14 ~~duration.~~
- 15 ~~(5) There are no more than two promotional events per calendar~~
- 16 ~~year involving the same authorized licensee at a single premises~~
- 17 ~~of an off-sale retail licensee.~~

1 ~~(6) The off-sale retail licensee may advertise the promotional~~
2 ~~event to be held at its licensed premises.~~

3 ~~(7) An authorized licensee may advertise in advance of the~~
4 ~~promotional event only in publications of the authorized licensee,~~
5 ~~subject to the following conditions:~~

6 ~~(A) The advertising only lists the name and address of the~~
7 ~~off-sale retail licensee, the name of the alcoholic beverage product~~
8 ~~being featured at the promotional event, and the time, date, and~~
9 ~~location of the off-sale retail licensee location where the~~
10 ~~promotional event is being held.~~

11 ~~(B) The listing of the off-sale retail licensee’s name and address~~
12 ~~is the only reference to the off-sale retail licensee in the~~
13 ~~advertisement and is relatively inconspicuous in relation to the~~
14 ~~advertisement as a whole, and the advertisement does not contain~~
15 ~~any pictures or illustrations of the off-sale retail licensee’s premises~~
16 ~~or laudatory references to the off-sale retail licensee.~~

17 ~~(8) A wholesaler does not directly or indirectly underwrite,~~
18 ~~share in, or contribute to any costs related to the promotional event,~~
19 ~~except that a beer and wine wholesaler that holds at least six~~
20 ~~distilled spirits wholesaler licenses may directly or indirectly~~
21 ~~underwrite, share in, or contribute to any costs related to a~~
22 ~~promotional event for which the wholesaler employs or engages~~
23 ~~the person providing autographs to consumers at the promotional~~
24 ~~event.~~

25 ~~(9) The authorized licensee notifies the department in writing~~
26 ~~of the promotional event at least 30 days in advance of the~~
27 ~~promotional event.~~

28 ~~(10) The authorized licensee maintains records necessary to~~
29 ~~establish its compliance with this section.~~

30 ~~(b) For purposes of this section, “authorized licensee” means a~~
31 ~~manufacturer, winegrower, manufacturer’s agent, California~~
32 ~~winegrower’s agent, rectifier, importer, brandy manufacturer,~~
33 ~~brandy importer, or wholesaler.~~

34 ~~SEC. 2.~~

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

37 25503.6. (a) Notwithstanding any other provision of this
38 chapter, a beer manufacturer, the holder of a winegrower’s license,
39 a distilled spirits rectifier, a distilled spirits manufacturer, or
40 distilled spirits manufacturer’s agent may purchase advertising

1 space and time from, or on behalf of, an on-sale retail licensee
2 subject to all of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (O) *A fairgrounds with a horse racetrack and equestrian and*
23 *sports facilities located in San Diego County.*

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

26 (3) The advertising space or time is purchased only in connection
27 with the events to be held on the premises of the exposition park,
28 stadium, or arena owned by the on-sale licensee. With respect to
29 an exposition park as described in subparagraph (J) of paragraph
30 (1) that includes at least one hotel, the advertising space or time
31 shall not be displayed on or in any hotel located in the exposition
32 park, or purchased in connection with the operation of any hotel
33 located in the exposition park.

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

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

4 (b) Any purchase of advertising space or time pursuant to
5 subdivision (a) shall be conducted pursuant to a written contract
6 entered into by the beer manufacturer, the holder of the
7 winegrower's license, the distilled spirits rectifier, the distilled
8 spirits manufacturer, or the distilled spirits manufacturer's agent
9 and the on-sale licensee, or with respect to clause (ii) of
10 subparagraph (N) of paragraph (1) of subdivision (a), the major
11 tenant of the outdoor stadium.

12 (c) Any beer manufacturer or holder of a winegrower's license,
13 any distilled spirits rectifier, any distilled spirits manufacturer, or
14 any distilled spirits manufacturer's agent who, through coercion
15 or other illegal means, induces, directly or indirectly, a holder of
16 a wholesaler's license to fulfill all or part of those contractual
17 obligations entered into pursuant to subdivision (a) or (b) shall be
18 guilty of a misdemeanor and shall be punished by imprisonment
19 in the county jail not exceeding six months, or by a fine in an
20 amount equal to the entire value of the advertising space, time, or
21 costs involved in the contract, whichever is greater, plus ten
22 thousand dollars (\$10,000), or by both imprisonment and fine. The
23 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, directly or indirectly, solicits or coerces a holder of a
27 wholesaler's license to solicit a beer manufacturer, a holder of a
28 winegrower's license, a distilled spirits rectifier, a distilled spirits
29 manufacturer, or a distilled spirits manufacturer's agent to purchase
30 advertising space or time pursuant to subdivision (a) or (b) shall
31 be guilty of a misdemeanor and shall be punished by imprisonment
32 in the county jail not exceeding six months, or by a fine in an
33 amount equal to the entire value of the advertising space or time
34 involved in the contract, whichever is greater, plus ten thousand
35 dollars (\$10,000), or by both imprisonment and fine. The person
36 shall also be subject to license revocation pursuant to Section
37 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. 2. The Legislature finds and declares that a special law*
4 *is necessary and that a general law cannot be made applicable*
5 *within the meaning of Section 16 of Article IV of the California*
6 *Constitution because of the unique conditions located in the County*
7 *of San Diego.*

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.*

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