

Introduced by Committee on Governmental Organization (Senators Hall (Chair), Berryhill, Block, Gaines, Galgiani, Hernandez, Hill, Hueso, Lara, McGuire, and Vidak)

March 12, 2015

An act to add Section 23405.4 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 796, as introduced, Committee on Governmental Organization. Alcoholic beverage licenses: private equity funds.

The Alcoholic Beverage Control Act specifies the rules and procedures for the issuance and transfer of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. The act requires the department to make a thorough investigation to determine whether the applicant for a license and the premises for which a license is applied qualify for a license.

This bill would provide that the Department of Alcoholic Beverage Control is not required to qualify for a license a person who is an investor in a private equity fund that holds an interest in an alcoholic beverage license, subject to specified conditions, and would authorize the department to require the manager of the private equity fund to execute an affidavit confirming compliance with the requirements of this provision.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 23405.4 is added to the Business and
2 Professions Code, to read:

3 23405.4. (a) The department is not required to qualify for a
4 license a person who is an investor in a private equity fund that
5 holds an interest in a license, provided all of the following
6 conditions are satisfied:

7 (1) The private equity fund’s interest in the license is limited to
8 a passive investment, so that neither the private equity fund nor
9 any manager, employee, or agent of the private equity fund has
10 any involvement in, or control over, the management of the
11 licensed business or of the licensee.

12 (2) The private equity fund advisors are registered under the
13 federal Investment Advisors Act of 1940, and the private equity
14 fund advisors are subject to, and comply with, Section 275.204(b)-1
15 of Title 17 of the Code of Federal Regulations.

16 (3) An investor shall not, directly or indirectly, hold more than
17 10-percent interest in the private equity fund.

18 (4) An investor in the private equity fund shall not have any
19 control, directly or indirectly, over the investment decisions of the
20 private equity fund.

21 (b) For purposes of this section, private equity fund means an
22 investment company that makes investments in equity or debt
23 securities of another company that does not provide investors with
24 redemption rights in the ordinary course. A private equity fund
25 does not include a hedge fund, liquidity fund, real estate fund,
26 securitized asset fund, or venture capital fund.

27 (c) The department may require the manager of the private
28 equity fund to execute an affidavit confirming compliance with
29 the requirements of this section. If the manager does not have
30 personal knowledge of any of the facts necessary to execute the
31 affidavit, the manager shall make a diligent inquiry and may
32 thereafter execute the affidavit upon information and belief. The
33 manager of the private equity fund shall promptly notify the
34 department in writing if any of the facts attested to change.

35 (d) This section is not intended to allow a person, by reason of
36 his or her investment in a private equity fund, to hold an interest

- 1 in a license issued by the department if that interest is not otherwise
- 2 permitted under this division.

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