

AMENDED IN SENATE MAY 19, 2016

AMENDED IN SENATE APRIL 5, 2016

**SENATE BILL**

**No. 1032**

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**Introduced by Senator Galgiani**

February 12, 2016

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An act to amend Section 25600.3 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1032, as amended, Galgiani. Alcoholic beverages: coupons.

Existing law, the Alcoholic Beverage Control Act, prohibits a beer manufacturer or a beer wholesaler from offering, funding, producing, sponsoring, promoting, furnishing, or redeeming any type of coupon and a licensee authorized to sell alcoholic beverages at retail from accepting, redeeming, possessing, or utilizing any type of coupon that is funded, produced, sponsored, promoted, or furnished by a beer manufacturer or beer wholesaler. Existing law makes a violation of any of its provisions, for which another penalty or punishment is not specifically provided, a misdemeanor.

This bill would expand this provision to prohibit a nonretail licensee, as defined, from offering, funding, producing, sponsoring, promoting, furnishing, or redeeming any type of coupon and a licensee authorized to sell alcoholic beverages at retail from accepting, redeeming, possessing, or utilizing any type of coupon that is funded, produced, sponsored, promoted, or furnished by a nonretail licensee. The bill would revise the definition of "coupon" for these purposes. By imposing additional duties on a licensee under the act, and, thereby, expanding the definition of an existing crime, the 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 25600.3 of the Business and Professions  
 2 Code is amended to read:

3 25600.3. (a) A nonretail licensee shall not offer, fund, produce,  
 4 sponsor, promote, furnish, or redeem any type of coupon.

5 (b) A licensee authorized to sell alcoholic beverages at retail  
 6 shall not accept, redeem, possess, or utilize any type of coupon  
 7 that is funded, produced, sponsored, promoted, or furnished by a  
 8 nonretail licensee.

9 (c) For purposes of this section:

10 ~~(1) “Nonretail licensee” means a manufacturer, winegrower,~~  
 11 ~~wine blender, manufacturer’s agent, rectifier, bottler, broker,~~  
 12 ~~importer, wholesaler, or holder of an out-of-state beer~~  
 13 ~~manufacturer’s certificate, or any beer manufacturer or winegrower~~  
 14 ~~located without the state, or any officer, director, agent, or affiliate~~  
 15 ~~of such person, or a beer and wine wholesaler that also holds an~~  
 16 ~~off-sale beer and wine retail license and only sells wine.~~

17 (1) *“Nonretail licensee” means any person who own or holds*  
 18 *any interest, directly or indirectly, in any license, authorization,*  
 19 *or permit issued pursuant to this division that authorizes the*  
 20 *manufacture, production, rectification, importation, or wholesaling*  
 21 *of alcoholic beverages, except for a brewpub restaurant license*  
 22 *issued pursuant to Section 23396.3.*

23 (2) “Cider” has the same meaning set forth in Section 4.21(e)(5)  
 24 of the Code of Federal Regulations.

25 (3) “Perry” has the same meaning set forth in Section 4.21(e)(5)  
 26 of the Code of Federal Regulations.

27 (4) “Coupon” means any method by which a consumer receives  
 28 an instant discount at the time of a purchase of any item if an  
 29 alcoholic beverage purchase is required in connection with such  
 30 purchase that is funded, produced, sponsored, promoted, or

1 furnished, either directly or indirectly, by a nonretail licensee,  
2 including, but not limited to, a paper coupon, a digital coupon, an  
3 instant redeemable coupon (IRC), or an electronic coupon  
4 commonly referred to as a scan or scanback. “Coupon” does not  
5 include:

6 (A) A mail-in rebate by which the consumer purchases an item  
7 and submits required information in order to receive a rebate or  
8 discount from the nonretail licensee.

9 (B) A discount that is offered and funded by a distilled spirits  
10 manufacturer, distilled manufacturer’s agent, brandy manufacturer,  
11 brandy importer, distilled spirits rectifier general, holder of an  
12 out-of-state distilled spirits shipper certificate, distilled spirits  
13 importer general, distilled spirits importer, rectifier, brandy  
14 wholesaler, distilled spirits wholesaler, or a holder of a craft  
15 distiller’s license, regardless of other licenses held, that offers a  
16 discount on the purchase of a distilled spirits product if beer, malt  
17 beverages, or wine products are not advertised in connection with  
18 the coupon.

19 (C) A discount that is offered and funded by a beer manufacturer  
20 on the purchase of beer, malt beverages, cider, or perry at the  
21 licensed premises of production or other licensed premises owned  
22 or leased and operated by the beer manufacturer.

23 (D) A discount that is offered and funded by a winegrower on  
24 the purchase of wine sold directly by the winegrower to a consumer  
25 at or from the licensed premises of production or other licensed  
26 premises owned or leased and operated by the winegrower or  
27 through the Internet where a consumer buys directly from a  
28 winegrower.

29 (E) A discount offered and funded by a beer and wine  
30 wholesaler, a beer and wine importer, a wine importer general, or  
31 a wine broker that offers a discount on the purchase of a  
32 nonalcoholic beverage item if beer, malt beverages, or wine  
33 products are not advertised in connection with the discount.

34 ~~(F) A discount, refund, or rebate funded, produced, sponsored,~~  
35 ~~promoted, and furnished exclusively by an off-sale licensee~~  
36 ~~authorized to sell alcoholic beverages at retail.~~

37 ~~(d) A nonretail licensee may offer, fund, produce, sponsor,~~  
38 ~~promote, or furnish a coupon until December 31, 2016.~~

1 ~~(e) A nonretail licensee may redeem a coupon submitted by an~~  
2 ~~off-sale licensee authorized to sell alcoholic beverages at retail~~  
3 ~~prior to March 31, 2017.~~

4 *(d) Until and including March 31, 2017, a nonretail licensee*  
5 *may reimburse a licensee authorized to sell alcoholic beverages*  
6 *at retail for any coupon providing a consumer with an instant*  
7 *discount at the time of purchase of wine, if beer, malt beverages,*  
8 *cider, or perry are not advertised in connection with such coupon,*  
9 *that is otherwise prohibited by this section, that was received,*  
10 *accepted, or possessed by such licensee authorized to sell alcoholic*  
11 *beverages at retail on or before December 31, 2016.*

12 *(e) Nothing in this section is intended to preclude or prevent or*  
13 *otherwise restrict an on-sale or off-sale retail licensee that is not*  
14 *also a nonretail licensee from offering, funding, producing,*  
15 *sponsoring, promoting, furnishing, or redeeming a discount to*  
16 *consumers on the purchase of alcoholic beverages that is not*  
17 *otherwise prohibited by this section or any other provision of law.*

18 SEC. 2. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.