

## Senate Bill No. 452

### CHAPTER 273

An act to amend Section 23104.2 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 10, 1998. Filed with  
Secretary of State August 10, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 452, Maddy. Alcoholic beverages: return to seller.

The Alcoholic Beverage Control Act, except as otherwise provided with respect to, among others, an annual licensee operating on a temporary basis, authorizes a seller of beer to accept the return of beer from a retailer only if the beer is returned in exchange for the identical quantity and brand of beer. It also specifies that an annual licensee is considered to be operating on a temporary basis if he or she operates at, among other venues, certain types of sporting or entertainment facilities.

This bill would substitute the term "wholesaler or manufacturer, or any successor thereto," for the term "seller," and would substitute the term "retail licensee" for the term "retailer." It would also include convention centers among those types of sporting or entertainment facilities, the operation at which by an annual licensee may determine whether that licensee is operating on a temporary basis. It also would, subject to certain conditions, authorize a wholesaler or manufacturer of beer, or any successor thereto, to accept the return of quantities of discontinued or seasonal brands of beer from a retail licensee, provided that the returned beer is exchanged for a quantity of beer of a brand produced or sold by the same manufacturer with a value not greater than the original sales price to the retail licensee of the returned beer.

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

SECTION 1. Section 23104.2 of the Business and Professions Code is amended to read:

23104.2. (a) Subject to the exceptions specified in subdivision (b), a retail licensee may return beer to the wholesaler or manufacturer from whom the retail licensee purchased the beer, or any successor thereto, and the wholesaler, manufacturer, or successor thereto may accept that return if the beer is returned in exchange for the identical quantity and brand of beer. No wholesaler or manufacturer, or any successor thereto, shall accept the return of any beer from a retail licensee except when the beer delivered was

not the brand or size container ordered by the retail licensee, or the amount delivered was other than the amount ordered, in which case the order may be corrected by the wholesaler or manufacturer who sold the beer, or any successor thereto. If a package had been broken or otherwise damaged prior to or at the time of actual delivery, a credit memorandum may be issued for the returned package by the wholesaler or manufacturer who sold the beer, or any successor thereto, in lieu of exchange for an identical package when the return and corrections are completed within 15 days from the date the beer was delivered to the retail licensee.

(b) Notwithstanding subdivision (a), a wholesaler or manufacturer, or any successor thereto, may accept the return of beer purchased from that wholesaler, manufacturer, or successor thereto, as follows:

(1) (A) From a seasonal or temporary licensee if at the termination of the period of the license the seasonal or temporary licensee has beer remaining unsold, or from an annual licensee operating on a temporary basis if at the termination of the temporary period the annual licensee has beer remaining unsold.

(B) For purposes of this subparagraph (A), an annual licensee shall be considered to be operating on a temporary basis if he or she operates at seasonal resorts, including summer and winter resorts, or at sporting or entertainment facilities, including racetracks, arenas, concert halls, and convention centers. Temporary status shall be deemed terminated when operations cease for 15 days or more. No wholesaler or manufacturer, or successor thereto, shall accept the return of beer from an annual licensee considered to be operating on a temporary basis, unless the licensee notifies that wholesaler or manufacturer, or successor thereto within 15 days of the date the licensee's operations ceased.

(2) (A) Subject to subparagraph (B), a wholesaler or manufacturer, or any successor thereto, may, with department approval, accept the return of a brand of beer discontinued in a California market area or a seasonal brand of beer from a retail licensee, provided that the beer is exchanged for a quantity of beer of a brand produced or sold by the same manufacturer with a value no greater than the original sales price to the retail licensee of the returned beer. For purposes of this subparagraph, "seasonal brand of beer" means a brand of beer, as defined in Section 23006, that is brewed by a manufacturer to commemorate a specific holiday season and is so identified by appropriate product packaging and labeling.

(B) A discontinued brand of beer may not be reintroduced for a period of 12 months in the same California market area in which a return and exchange of that beer as described in subparagraph (A) has taken place. A seasonal brand of beer may not be reintroduced for a period of six months in the same California market area in which



a return and exchange of that beer as described in subparagraph (A) has taken place.

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