

ASSEMBLY BILL

No. 172

Introduced by Assembly Member Smyth

January 29, 2009

An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 172, as introduced, Smyth. Alcohol beverages: places of consumption.

Existing law generally prohibits the sale or consumption of alcoholic beverages at a public schoolhouse or any grounds thereof. Existing law provides that this prohibition does not apply if the alcoholic beverage is acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility, but specifies that the exemption does not apply to any public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled.

This bill would provide that the prohibition against the sale or consumption of alcoholic beverages on the grounds of a public schoolhouse does not apply if the alcoholic beverages are acquired, possessed, or used during events at a public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled, if the event is held at a time when children are not present at the stadium or other facility.

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

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

SECTION 1. Section 25608 of the Business and Professions Code is amended to read:

25608. (a) Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds thereof, if any of the following applies:

(1) The alcoholic beverage possessed, consumed, or sold, pursuant to a license obtained under this division, is wine that is produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.

(2) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(3) The public schoolhouse is surplus school property and the grounds ~~thereof of the schoolhouse~~ are leased to a lessee ~~which that~~ is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds ~~thereof of the schoolhouse~~ are located in an unincorporated area and are leased to a lessee ~~which that~~ is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted ~~thereon on the property~~ by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(4) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over six million people. As used in this ~~subdivision~~ *paragraph*, “events” mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

(5) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts

1 facility built on property owned by a community college district
2 and leased to a nonprofit organization ~~which~~ *that* is a public benefit
3 corporation formed under Part 2 (commencing with Section 5110)
4 of Division 2 of Title 1 of the Corporations Code. As used in this
5 ~~subdivision~~ *paragraph*, “performing arts facility” means an
6 auditorium with more than 300 permanent seats.

7 (6) The alcoholic beverage is wine for sacramental or other
8 religious purposes and is used only during authorized religious
9 services held on or before January 1, 1995.

10 (7) The alcoholic beverages are acquired, possessed, or used
11 during an event at a community center owned by a community
12 services district and the event is not held at a time when students
13 are attending a public school-sponsored activity at the center.

14 (8) The alcoholic beverage is wine ~~which~~ *that* is acquired,
15 possessed, or used during an event sponsored by a community
16 college district or an organization operated for the benefit of the
17 community college district where the college district maintains
18 both an instructional program in viticulture on no less than five
19 acres of land owned by the district and an instructional program
20 in enology, which includes sales and marketing.

21 (9) The alcoholic beverage is acquired, possessed, or used at a
22 professional minor league baseball game conducted at the stadium
23 of a community college located in a county with a population of
24 less than 250,000 inhabitants, and the baseball game is conducted
25 pursuant to a contract between the community college district and
26 a professional sports organization.

27 (10) The alcoholic beverages are acquired, possessed, or used
28 during events at a college-owned or college-operated stadium or
29 other facility. As used in this ~~subdivision~~ *paragraph*, “events”
30 means fundraisers held to benefit a nonprofit corporation that has
31 obtained a license pursuant to this division for the event. “Events”
32 does not include football games or other athletic contests sponsored
33 by any college or public community college. This ~~subdivision~~
34 *paragraph* shall ~~not~~ *also* apply to any public education facility in
35 which any grade from kindergarten to grade 12, inclusive, is
36 schooled, *if the event is held at a time when children are not*
37 *present at the stadium or other facility.*

38 (11) The alcoholic beverages are possessed, consumed, or sold,
39 pursuant to a license obtained under this division, for an event
40 during the weekend or at other times when pupils are not on the

1 grounds of an overnight retreat facility owned and operated by a
2 county office of education in a county of the 18th class.

3 (12) The grounds of the public schoolhouse on which the
4 alcoholic beverage is acquired, possessed, used, or consumed is
5 property that has been developed and is used for residential
6 facilities or housing that is offered for rent, lease, or sale
7 exclusively to faculty or staff of a public school or community
8 college.

9 (13) The grounds of a public schoolhouse on which the alcoholic
10 beverage is acquired, possessed, used, or consumed is property of
11 a community college that is leased, licensed, or otherwise provided
12 for use as a water conservation demonstration garden and
13 community passive recreation resource by a joint powers agency
14 comprised of public agencies, including the community college,
15 and the event at which the alcoholic beverage is acquired,
16 possessed, used, or consumed is conducted pursuant to a written
17 policy adopted by the governing body of the joint powers agency
18 and no public funds are used for the purchase or provision of the
19 alcoholic beverage.

20 (14) The alcoholic beverage is beer or wine acquired, possessed,
21 used, sold, or consumed only in connection with a course of
22 instruction, sponsored dinner, or meal demonstration given as part
23 of a culinary arts program at a campus of a California community
24 college and the person has been authorized to acquire, possess,
25 use, sell, or consume the beer or wine by the governing body or
26 other administrative head of the school.

27 (15) The alcoholic beverages are possessed, consumed, or sold,
28 pursuant to a license or permit obtained under this division for
29 special events held at the facilities of a public community college,
30 located in a county of the first class or a county of the fourth class,
31 during the special event. As used in this ~~subdivision~~ *paragraph*,
32 “special event” means festivals, shows, private parties, concerts,
33 theatrical productions, and other events held on the premises of
34 the public community college, pursuant to a license or permit, and
35 for which the principal attendees are members of the general public
36 or invited guests and not students of the public community college.

37 (b) Any person convicted of a violation of this section shall, in
38 addition to the penalty imposed for the misdemeanor, be barred
39 from having or receiving any privilege of the use of public school

- 1 property which is accorded by Article 2 (commencing with Section
- 2 82537) of Chapter 8 of Part 49 of *Division 7 of* the Education Code.

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