

AMENDED IN SENATE SEPTEMBER 10, 2009

AMENDED IN SENATE AUGUST 19, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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 amended, Smyth. Alcohol beverages: places of consumption.

Existing

(1) *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 community college-owned facility in which any grade from kindergarten to grade 12, inclusive, is schooled, if the event is held at a time when students are not present at the facility.

(2) *This bill would incorporate additional changes in Section 25608 proposed by AB 1448, to be operative only if AB 1448 and this bill are*

both enacted and become effective on or before January 1, 2010, both bills amend that section, and this bill is enacted after AB 1448.

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 25608 of the Business and Professions
2 Code is amended to read:
3 25608. (a) Every person who possesses, consumes, sells, gives,
4 or delivers to any other person, any alcoholic beverage in or on
5 any public schoolhouse or any of the grounds thereof, is guilty of
6 a misdemeanor. This section does not, however, make it unlawful
7 for any person to acquire, possess, or use any alcoholic beverage
8 in or on any public schoolhouse, or on any grounds thereof, if any
9 of the following applies:
10 (1) The alcoholic beverage possessed, consumed, or sold,
11 pursuant to a license obtained under this division, is wine that is
12 produced by a bonded winery owned or operated as part of an
13 instructional program in viticulture and enology.
14 (2) The alcoholic beverage is acquired, possessed, or used in
15 connection with a course of instruction given at the school and the
16 person has been authorized to acquire, possess, or use it by the
17 governing body or other administrative head of the school.
18 (3) The public schoolhouse is surplus school property and the
19 grounds of the schoolhouse are leased to a lessee that is a general
20 law city with a population of less than 50,000, or the public
21 schoolhouse is surplus school property and the grounds of the
22 schoolhouse are located in an unincorporated area and are leased
23 to a lessee that is a civic organization, and the property is to be
24 used for community center purposes and no public school education
25 is to be conducted on the property by either the lessor or the lessee
26 and the property is not being used by persons under the age of 21
27 years for recreational purposes at any time during which alcoholic
28 beverages are being sold or consumed on the premises.
29 (4) The alcoholic beverages are acquired, possessed, or used
30 during events at a college-owned or college-operated veterans
31 stadium with a capacity of over 12,000 people, located in a county
32 with a population of over six million people. As used in this
33 paragraph, "events" mean football games sponsored by a college,

1 other than a public community college, or other events sponsored
2 by noncollege groups.

3 (5) The alcoholic beverages are acquired, possessed, or used
4 during an event not sponsored by any college at a performing arts
5 facility built on property owned by a community college district
6 and leased to a nonprofit organization that is a public benefit
7 corporation formed under Part 2 (commencing with Section 5110)
8 of Division 2 of Title 1 of the Corporations Code. As used in this
9 paragraph, “performing arts facility” means an auditorium with
10 more than 300 permanent seats.

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

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

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

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

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

1 (11) The alcoholic beverages are possessed, consumed, or sold,
2 pursuant to a license obtained under this division, for an event
3 during the weekend or at other times when pupils are not on the
4 grounds of an overnight retreat facility owned and operated by a
5 county office of education in a county of the 18th class.

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

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

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

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

1 (16) The alcoholic beverages are acquired, possessed, or used
2 during an event at a community college-owned facility in which
3 any grade from kindergarten to grade 12, inclusive, is schooled,
4 if the event is held at a time when students in any grades from
5 kindergarten to grade 12, inclusive, are not present at the facility.
6 As used in this paragraph, “events” include fundraisers held to
7 benefit a nonprofit corporation that has obtained a license pursuant
8 to this division for the event.

9 (b) Any person convicted of a violation of this section shall, in
10 addition to the penalty imposed for the misdemeanor, be barred
11 from having or receiving any privilege of the use of public school
12 property which is accorded by Article 2 (commencing with Section
13 82537) of Chapter 8 of Part 49 of Division 7 of the Education
14 Code.

15 *SEC. 1.5. Section 25608 of the Business and Professions Code*
16 *is amended to read:*

17 25608. (a) Every person who possesses, consumes, sells, gives,
18 or delivers to any other person, any alcoholic beverage in or on
19 any public schoolhouse or any of the grounds thereof, is guilty of
20 a misdemeanor. This section does not, however, make it unlawful
21 for any person to acquire, possess, or use any alcoholic beverage
22 in or on any public schoolhouse, or on any grounds thereof, if any
23 of the following applies:

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

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

32 (3) The public schoolhouse is surplus school property and the
33 grounds ~~thereof of the schoolhouse~~ are leased to a lessee ~~which~~
34 ~~that~~ is a general law city with a population of less than 50,000, or
35 the public schoolhouse is surplus school property and the grounds
36 ~~thereof of the schoolhouse~~ are located in an unincorporated area
37 and are leased to a lessee ~~which that~~ is a civic organization, and
38 the property is to be used for community center purposes and no
39 public school education is to be conducted ~~thereon on the property~~
40 by either the lessor or the lessee and the property is not being used

1 by persons under the age of 21 years for recreational purposes at
2 any time during which alcoholic beverages are being sold or
3 consumed on the premises.

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

11 (5) The alcoholic beverages are acquired, possessed, or used
12 during an event not sponsored by any college at a performing arts
13 facility built on property owned by a community college district
14 and leased to a nonprofit organization ~~which~~ *that* is a public benefit
15 corporation formed under Part 2 (commencing with Section 5110)
16 of Division 2 of Title 1 of the Corporations Code. As used in this
17 ~~subdivision~~ *paragraph*, “performing arts facility” means an
18 auditorium with more than 300 permanent seats.

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

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

26 (8) The alcoholic beverage is wine ~~which~~ *that* is acquired,
27 possessed, or used during an event sponsored by a community
28 college district or an organization operated for the benefit of the
29 community college district where the college district maintains
30 both an instructional program in viticulture on no less than five
31 acres of land owned by the district and an instructional program
32 in enology, which includes sales and marketing.

33 (9) The alcoholic beverage is acquired, possessed, or used at a
34 professional minor league baseball game conducted at the stadium
35 of a community college located in a county with a population of
36 less than 250,000 inhabitants, and the baseball game is conducted
37 pursuant to a contract between the community college district and
38 a professional sports organization.

39 (10) The alcoholic beverages are acquired, possessed, or used
40 during events at a college-owned or college-operated stadium or

other facility. As used in this ~~subdivision~~ *paragraph*, “events” means fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event. “Events” does not include football games or other athletic contests sponsored by any college or public community college. This ~~subdivision~~ *paragraph* shall not apply to any public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled.

(11) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license obtained under this division, for an event during the weekend or at other times when pupils are not on the grounds of an overnight retreat facility owned and operated by a county office of education in a county of the 18th *or* 20th class.

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

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

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

(15) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license or permit obtained under this division for special events held at the facilities of a public community college, located in a county of the first class or a county of the fourth class,

1 during the special event. As used in this ~~subdivision~~ *paragraph*,
2 “special event” means festivals, shows, private parties, concerts,
3 theatrical productions, and other events held on the premises of
4 the public community college, pursuant to a license or permit, and
5 for which the principal attendees are members of the general public
6 or invited guests and not students of the public community college.

7 *(16) The alcoholic beverages are acquired, possessed, or used*
8 *during an event at a community college-owned facility in which*
9 *any grade from kindergarten to grade 12, inclusive, is schooled,*
10 *if the event is held at a time when students in any grades from*
11 *kindergarten to grade 12, inclusive, are not present at the facility.*
12 *As used in this paragraph, “events” include fundraisers held to*
13 *benefit a nonprofit corporation that has obtained a license pursuant*
14 *to this division for the event.*

15 (b) Any person convicted of a violation of this section shall, in
16 addition to the penalty imposed for the misdemeanor, be barred
17 from having or receiving any privilege of the use of public school
18 property which is accorded by Article 2 (commencing with Section
19 82537) of Chapter 8 of Part 49 of Division 7 of the Education Code.

20 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
21 *Section 25608 of the Business and Professions Code proposed by*
22 *both this bill and AB 1448. It shall only become operative if (1)*
23 *both bills are enacted and become effective on or before January*
24 *1, 2010, (2) each bill amends Section 25608 of the Business and*
25 *Professions Code, and (3) this bill is enacted after AB 1448, in*
26 *which case Section 1 of this bill shall not become operative.*