

Assembly Bill No. 172

CHAPTER 398

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

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

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

(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.

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

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

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

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

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

(10) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility. As used in this 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 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 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, during the special event. As used in this paragraph, “special event” means festivals, shows, private parties, concerts, theatrical productions, and other events held on the premises of the public community college, pursuant to a license or permit, and for which the principal attendees are members of the general public or invited guests and not students of the public community college.

(16) The alcoholic beverages are acquired, possessed, or used during an event 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 in any grades from kindergarten to grade 12, inclusive, are not present at the facility. As used in this paragraph, “events” include

fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event.

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

SEC. 1.5. 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 of the schoolhouse are leased to a lessee 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 of the schoolhouse are located in an unincorporated area and are leased to a lessee 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 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 6,000,000 people. As used in this 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 facility built on property owned by a community college district and leased to a nonprofit organization that is a public benefit corporation formed under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. As used in this paragraph, "performing arts facility" means an auditorium with more than 300 permanent seats.

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

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

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

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

(10) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility. As used in this 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 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, during the special event. As used in this paragraph, “special event” means festivals, shows, private parties, concerts, theatrical productions, and other events held on the premises of the public community college, pursuant to a license or permit, and for which the principal attendees are members of the general public or invited guests and not students of the public community college.

(16) The alcoholic beverages are acquired, possessed, or used during an event 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 in any grades from kindergarten to grade 12, inclusive, are not present at the facility. As used in this paragraph, “events” include fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event.

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

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