

AMENDED IN SENATE JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1282

Introduced by Assembly Member Hall
(Principal coauthor: Assembly Member Anderson)
(Coauthor: Senator Florez)

February 27, 2009

An act to amend Section 25600 of the Business and Professions Code, relating to alcoholic beverages, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1282, as amended, Hall. Alcoholic beverages.

The Alcoholic Beverage Control Act prohibits any licensee from giving a premium, gift, or free goods in connection with the sale and distribution of any alcoholic beverage, except as provided.

This bill would provide that, with regard to beer, a beer manufacturer, as defined, may give consumer advertising specialties to the general public that do not exceed \$3 per unit original cost to the beer manufacturer who purchased it.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. 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 25600 of the Business and Professions
- 2 Code is amended to read:

1 25600. (a) (1) Except as provided in paragraph (2) of
2 subdivision (b), no licensee shall, directly or indirectly, give any
3 premium, gift, or free goods in connection with the sale or
4 distribution of any alcoholic beverage, except as provided by rules
5 that shall be adopted by the department to implement this section
6 or as authorized by this division.

7 (2) (A) Notwithstanding paragraph (1), for purposes of this
8 section, a refund to, or exchange of products for, a dissatisfied
9 consumer by a licensee authorized to sell to consumers shall not
10 be deemed a premium, gift, or free goods given in connection with
11 the sale or distribution of an alcoholic beverage.

12 (B) A winegrower may advertise or otherwise offer consumers
13 a guarantee of product satisfaction only in newsletters or other
14 publications of the winegrower or at the winegrower's premises.
15 A winegrower may refund to a dissatisfied consumer the entire
16 purchase price of wine produced by that winegrower and sold to
17 that consumer, regardless of where the wine was purchased.

18 (b) (1) Except as provided in paragraph (2), no rule of the
19 department may permit a licensee to give any premium, gift, or
20 free goods of greater than inconsequential value in connection
21 with the sale or distribution of beer. With respect to beer,
22 premiums, gifts, or free goods, including advertising specialties
23 that have no significant utilitarian value other than advertising,
24 shall be deemed to have greater than inconsequential value if they
25 cost more than twenty-five cents (\$0.25) per unit, or cost more
26 than fifteen dollars (\$15) in the aggregate for all those items given
27 by a single supplier to a single retail premises per calendar year.

28 (2) (A) No rule of the department may impose a dollar limit
29 for consumer advertising specialties furnished by a beer
30 manufacturer to the general public other than three dollars (\$3)
31 per unit original cost to the beer manufacturer who purchased it.

32 (B) With respect to beer, a beer manufacturer may give
33 consumer advertising specialties to the general public that do not
34 exceed three dollars (\$3) per unit original cost to the beer
35 manufacturer who purchased it. For purposes of this paragraph,
36 "beer manufacturer" includes a holder of a beer manufacturer's
37 license, a holder of an out-of-state beer manufacturer's certificate,
38 an out-of-state vendor that holds a certificate of compliance, or a
39 holder of a beer and wine importer's general license. A licensee
40 authorized to give consumer advertising specialties pursuant to

1 this paragraph shall not be precluded from doing so on the basis
2 of holding any other type of alcoholic beverage license.

3 (C) Consumer advertising specialties furnished by a beer
4 manufacturer are intended only for adults of legal drinking age.
5 Coin banks, toys, balloons, magic tricks, miniature bottles or cans,
6 confections, dolls, or other items that appeal to minors or underage
7 drinkers may not be used in connection with the merchandising
8 of beer.

9 (c) With respect to distilled spirits and wines, a licensee may
10 furnish, give, rent, loan, or sell advertising specialties to a retailer,
11 provided those items bear conspicuous advertising required of a
12 sign and the total value of all retailer advertising specialties
13 furnished by a supplier, directly or indirectly, to a retailer do not
14 exceed fifty dollars (\$50) per brand in any one calendar year per
15 retail premises. The value of a retailer advertising specialty is the
16 actual cost of that item to the supplier who initially purchased it,
17 excluding transportation and installation costs. The furnishing or
18 giving of any retailer advertising specialty shall not be conditioned
19 upon the purchase of the supplier's product. Retail advertising
20 specialties given or furnished free of charge may not be sold by
21 the retail licensee. No rule of the department may impose a dollar
22 limit for consumer advertising specialties furnished by a distilled
23 spirits supplier to a retailer or to the general public of less than
24 five dollars (\$5) per unit original cost to the supplier who purchased
25 it.

26 *SEC. 2. This act is an urgency statute necessary for the*
27 *immediate preservation of the public peace, health, or safety within*
28 *the meaning of Article IV of the Constitution and shall go into*
29 *immediate effect. The facts constituting the necessity are:*

30 *Due to the economic recession, and the importance beer*
31 *manufacturers are to California's economy, it is vital for beer*
32 *manufacturers to be able to promote their products and for this*
33 *act to take effect immediately.*