

AMENDED IN SENATE JULY 6, 2009

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 prohibit a beer manufacturer from requiring a beer wholesaler to fund the purchase of these consumer advertising specialties.*

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Section 25600 of the Business and Professions Code is amended to read:

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

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

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

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

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

(B) With respect to beer, a beer manufacturer may give consumer advertising specialties to the general public that do not exceed three dollars (\$3) per unit original cost to the beer manufacturer who purchased it. For purposes of this paragraph, "beer manufacturer" includes a holder of a beer manufacturer's

license, a holder of an out-of-state beer manufacturer's certificate, an out-of-state vendor that holds a certificate of compliance, or a holder of a beer and wine importer's general license. A licensee authorized to give consumer advertising specialties pursuant to this paragraph shall not be precluded from doing so on the basis of holding any other type of alcoholic beverage license.

(C) A beer manufacturer, as defined in subparagraph (B) of paragraph (2) shall not require a beer wholesaler to fund the purchase of consumer advertising specialties that beer manufacturers are permitted to give under paragraph (2).

~~(C)~~

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

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

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

Due to the economic recession, and the importance beer manufacturers are to California's economy, it is vital for beer

- 1 manufacturers to be able to promote their products and for this act
- 2 to take effect immediately.

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