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AB-893 Beer: labels. (2015-2016)

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Assembly Bill No. 893

CHAPTER 410

An act to add Section 25201 to, to repeal Section 25204 of, and to repeal and add Section 25200 of, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 01, 2015. Filed with Secretary of State October 01, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 893, Mark Stone. Beer: labels.

The Alcoholic Beverage Control Act imposes various requirements relating to the labels and containers of alcoholic beverages sold within the state, including a requirement that every manufacturer or bottler of beer whose beer is sold within the state file with the Department of Alcoholic Beverage Control the brand name or names under which the beer is sold or labeled, as provided. The act provides that a violation of its provisions is a misdemeanor if not otherwise specified.

This bill would require a manufacturer, before the first sale of a brand of beer in this state, to register the brand with the department, as specified, and would make the manufacturer responsible for compliance with labeling and registration requirements. The bill, if beer is sold or offered for sale in this state without first complying with these provisions or other provisions of the act, would authorize the department to take action it deems reasonable and necessary including, but not limited to, ordering that the beer not be sold, or allowing it to be sold for a reasonable time, until these requirements are met.

This bill, by expanding the scope of an existing crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25200 of the Business and Professions Code is repealed.

SEC. 2. Section 25200 is added to the Business and Professions Code, to read:

25200. (a) A package or sealed container of beer shall not be sold in this state without having a label affixed to such package or container. The label shall meet the requirements of federal malt beverage labeling regulations contained in Parts 7 and 16 of Title

27 of the Code of Federal Regulations, regardless of whether the label is subject to approval by the federal Alcohol and Tobacco Tax and Trade Bureau or any successor agency.

(b) (1) In addition to label requirements pursuant to subdivision (a), if not already included, the following information shall appear on the label:

(A) The brand, and class or type, of beer.

(B) The true and correct name and address of the manufacturer of the beer. For purposes of this provision, if multiple beer manufacturers are involved in the production of the beer pursuant to a joint venture or other collaborative arrangement, each of those manufacturers may be identified on the label.

(C) The true and correct name of the bottler of the beer, if other than the manufacturer.

(D) A statement of alcoholic content if the beer contains more than 5.7 percent alcohol by volume.

(2) For purposes of this subdivision, the true and correct name of a manufacturer, bottler, or packager shall be deemed to include a fictitious business name for which the manufacturer, bottler, or packager has duly filed a fictitious business name statement pursuant to Section 17900.

(c) Prior to the first sale of a brand of beer in this state, the manufacturer of that beer shall register the brand with the department. Upon the filing of the registration with the department, the brand may be sold in this state without further action by the department. The registration shall include the following:

(1) The true name and address of the actual manufacturer of the beer.

(2) Any fictitious business name of the manufacturer under which the beer is manufactured.

(3) The class or type of beer and all brand names under which the beer is to be sold in this state.

(4) If manufactured under contract for another beer manufacturer or other person, the true name of such other beer manufacturer or person.

(5) If manufactured pursuant to a joint venture or other collaborative arrangement, the name and address of all manufacturers involved in the joint venture or other collaborative arrangement.

(d) The manufacturer of the beer shall be responsible for compliance with the requirements of this section. In the case of beer manufactured pursuant to a joint venture or other collaborative arrangement, only the actual manufacturer of the beer need comply.

(e) If beer is sold or offered for sale in this state without first complying with the provisions of this section, or violates any other provision of this division, the department may take such action as it deems reasonable and necessary, including, but not limited to, ordering that the beer no longer be sold or offered for sale until such time as the requirements of this section are complied with. Nothing in this section shall be deemed to prohibit the department from permitting beer that is sold or offered for sale in this state that does not comply with the requirements of this section to continue to be sold or offered for sale for a reasonable period of time to allow the manufacturer to meet the requirements of this section.

SEC. 3. Section 25201 is added to the Business and Professions Code, to read:

25201. (a) A manufacturer, importer, or wholesaler of beer shall not use a container or carton as a package or container of a beer other than the beer as is manufactured by the manufacturer whose name or brand of beer appears upon the container or carton, or use as a package or container of a beer a container or carton which bears the name of a manufacturer of beer or the brand of any beer other than those of the manufacturer of the beer contained in the container or carton.

(b) A beer manufacturer that refills any container supplied by a consumer shall affix a label that complies with this section on the container prior to its resale to the consumer. Any information concerning any beer previously packaged in the container, including, but not limited to, information regarding the manufacturer and bottler of the beer, or any associated brands or trademarks, shall be removed or completely obscured in a manner not readily removable by the consumer prior to the resale of the container to the consumer. This subdivision does not authorize a beer manufacturer to refill a container supplied by a consumer with a capacity of five liquid gallons or more.

SEC. 4. Section 25204 of the Business and Professions Code is repealed.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.