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AB-1295 Craft distillers: licenses. (2015-2016)

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Assembly Bill No. 1295

CHAPTER 640

An act to amend Sections 23363.1, 23771, and 23772 of, and to add Article 6 (commencing with Section 23500) to Chapter 3 of Division 9 of, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 08, 2015. Filed with Secretary of State October 08, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, Levine. Craft distillers: licenses.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law provides for various annual fees for the issuance of alcoholic beverage licenses, depending upon the type of license issued.

This bill, the Craft Distillers Act of 2015, would authorize the department to issue a craft distiller's license to manufacture distilled spirits, subject to specified conditions, including that the licensee manufacture no more than 100,000 gallons of distilled spirits per fiscal year, excluding brandy the craft distiller manufactures or has manufactured for them. The bill would allow the craft distiller's licensee to sell distilled spirits to specified consumers, to own interests in on-sale retail licenses, and to sell beer, wines, brandies, and distilled spirits to consumers for consumption on the premises of a bona fide eating place, as provided. The bill would impose an original fee and an annual renewal fee for the license, which would be deposited in the Alcohol Beverage Control Fund.

The Alcoholic Beverage Control Act authorizes a licensed distilled spirits manufacturer to conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee, on the licensed premises, under specified conditions, including that tasting not be given in the form of a cocktail or mixed drink.

This bill would extend that authorization to a licensed craft distiller and would revise the tasting conditions by allowing a tasting to be given in the form of a cocktail or mixed drink.

Existing law prohibits a distilled spirits manufacturer's or distilled spirits manufacturer's agent's license from being held by a person that holds any ownership or interest in any distilled spirits wholesaler's, rectifier's, or retailer's license, as specified.

This bill would additionally prohibit a distilled spirits manufacturer's or distilled spirits manufacturer's agent's license from being held by a person that holds any ownership or interest in a craft distiller's license.

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

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

SECTION 1. Section 23363.1 of the Business and Professions Code is amended to read:

23363.1. (a) A distilled spirits manufacturer's license or a craft distiller's license authorizes the licensee to conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee, on or off the licensee's premises.

(b) (1) Distilled spirits tastings may be conducted by the licensee off the licensee's premises only for an event sponsored by a nonprofit organization. A distilled spirits manufacturer shall not sell or solicit sales of distilled spirits at an event. The sponsoring organization shall first obtain a permit from the department.

(2) For purposes of this subdivision, "nonprofit organization" does not include any community college or other institution of higher learning, as defined in the Education Code, nor does it include any officially recognized club, fraternity, or sorority, whether or not that entity is located on or off the institution's campus.

(c) Tastings on the licensee's premises shall be subject to the following conditions:

(1) The total volume of tastings of distilled spirits shall not exceed one and one-half ounces per individual per day.

(2) Tastings shall only include the products that are authorized to be produced or bottled by or for the licensee.

(3) A person under 21 years of age shall not serve tastes of distilled spirits.

(d) Notwithstanding Section 25600, the licensee may provide distilled spirits without charge for any tastings conducted pursuant to this section. The licensee may charge for tastings conducted by the licensee on its licensed premises.

(e) This section shall not relieve the holder of a distilled spirits manufacturer's license of any civil or criminal liability arising out of a violation of Section 25602.

SEC. 2. Article 6 (commencing with Section 23500) is added to Chapter 3 of Division 9 of the Business and Professions Code, to read:

Article 6. Craft Distiller's Licenses

23500. This act shall be known, and may be referenced as, the Craft Distillers Act of 2015.

23501. The Legislature hereby finds and declares all of the following:

(a) The regulation and licensing of the sale of alcoholic beverages in this state has operated for over 80 years under what is commonly referred to as the "three-tier system," which generally prohibits vertical integration within the distilled spirits industry. This system has helped in protecting against undue marketing influences within the distilled spirits industry and assisted the goals of promoting temperance and reasonable regulation of the sale of distilled spirits within the state. In addition, this system has helped create thousands of jobs and billions of dollars in economic development within California.

(b) Small craft distillers have begun to operate in this state, and these craft distillers have begun to increase employment and provide jobs and economic development in various locations within the state.

(c) It is the intent of the Legislature, in enacting this act, to encourage the development of the craft distilling industry within the state by enacting various limited exemptions to the general provisions of the three-tier system, while also continuing to uphold and support the three-tier system as the appropriate mechanism for regulating and licensing the sale of distilled spirits in California.

23502. (a) The department may issue a craft distiller's license to a person that has facilities and equipment for the purposes of, and is engaged in, the commercial manufacture of distilled spirits. The craft distiller's license authorizes the licensee to do all of the following:

(1) Manufacture distilled spirits. A licensed craft distiller may manufacture up to 100,000 gallons of distilled spirits per fiscal year (July 1 through June 30), excluding brandy the craft distiller manufactures or has manufactured for them pursuant to a brandy manufacturer license, as reported to the department in the manner prescribed by the department for the fiscal year prior to the date of submitting an application for the license.

(2) Package, rectify, mix, flavor, color, label, and export only those distilled spirits manufactured by the licensee.

(3) Only sell distilled spirits that are manufactured and packaged by the licensee solely to a wholesaler, manufacturer, winegrower, manufacturer's agent, or rectifier that holds a license authorizing the sale of distilled spirits or to persons that take delivery of those distilled spirits within this state for delivery or use without the state.

(4) Deal in warehouse receipts.

(b) A craft distiller's license shall not be issued to any person, any officer, director, employee, or agent of such person, or any person who is affiliated with, directly or indirectly, a person that manufactures or has manufactured for them more than 100,000 gallons of distilled spirits per year within or without the state, excluding brandy it manufactures or has manufactured for them pursuant to a brandy manufacturer license, or to any person that is affiliated with, directly or indirectly, a wholesaler.

(c) (1) The fee for an original craft distiller's license issued pursuant to this section shall be consistent with the distilled spirits manufacturer's license and shall be adjusted pursuant to subdivisions (b) and (c) of Section 23320.

(2) The annual license fee for a craft distiller's license shall be consistent with the distilled spirits manufacturer's license and shall be adjusted pursuant to subdivisions (b) and (c) of Section 23320.

(3) All moneys collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(d) A licensed craft distiller shall report to the department, at the time of renewal in the manner prescribed by the department, the amount of distilled spirits manufactured, excluding brandy manufactured by or for the licensee pursuant to a brandy manufacturer license, during the previous fiscal year. If the report to the department establishes that the licensee no longer qualifies to hold a craft distiller's license, the department shall renew the license as a distilled spirits manufacturer's license.

23504. Notwithstanding any other provision, a licensed craft distiller may sell up to the equivalent of 2.25 liters in any combination of prepackaged containers per day per consumer of distilled spirits manufactured by the licensee at its premises to a consumer attending an instructional tasting conducted by the licensee on its licensed premises pursuant to subdivision (c) of Section 23363.1.

23506. (a) Notwithstanding any other provision of this division, a licensed craft distiller or one or more of its direct or indirect subsidiaries of which the licensed craft distiller owns not less than a 51-percent interest, who manufactures or produces, bottles, processes, imports, or sells distilled spirits under a craft distiller's license or any other license issued pursuant to this division, or any officer or director of, or any person holding any interest in, those persons may serve as an officer or director of, and may hold the ownership of any interest or any financial or representative relationship in, any on-sale license, or the business conducted under that license, provided that, except in the case of a holder of on-sale general licenses for airplanes and duplicate on-sale general licenses for air common carriers, all of the following conditions are met:

(1) The on-sale licensee purchases all alcoholic beverages sold and served only from California wholesale licensees.

(2) The number of distilled spirits items by brand offered for sale by the on-sale licensee that are manufactured, produced, bottled, processed, imported, or sold by the licensed craft distiller or by the subsidiary of which the licensed craft distiller owns not less than 51 percent, or by any officer or director of, or by any person holding any interest in, those persons does not exceed 15 percent of the total distilled spirits items by brand listed and offered for sale by the on-sale licensee selling and serving that distilled spirit. Notwithstanding paragraph (1), distilled spirits sold pursuant to this provision may be purchased from a California licensed craft distiller so long as the distilled spirits purchased are produced or bottled by, or produced and packaged for, the same licensed craft distiller that holds an interest in the on-sale license and such direct sales do not involve more than two on-sale licenses in which the licensed craft distiller or any person holding an interest in the licensed craft distiller holds any interest, directly or indirectly, either individually or in combination or together with each other in the aggregate.

(3) None of the persons specified in this section may have any of the interests specified in this section in more than two on-sale licenses.

(b) Notwithstanding any other provision of this division, a licensed craft distiller that has an interest in one or more on-sale retail licenses pursuant to this section may continue to hold that interest in the event the licensee no longer qualifies as a craft distiller, provided that the interest was first obtained at a time when the licensee did hold a craft distiller's license pursuant to Section 23502.

(c) A craft distiller licensee may sell all beers, wines, brandies, or distilled spirits to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038, which is located on the licensed premises or on premises owned by the licensee that are contiguous licensed premises and which is operated by and for the licensee, provided that any alcoholic beverage products not manufactured or produced by the licensee must be purchased from a licensed wholesaler. Beer, wine, and brandy may be used in the preparation of food and beverages in the bona fide public eating place for consumption on the premises.

23508. (a) A licensed craft distiller may also have upon its licensed premises all beers, wines, and distilled spirits, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic

beverage products sold at the premises that are not manufactured or produced and bottled by, or manufactured or produced and packaged for, the licensed craft distiller shall be purchased by the licensed craft distiller only from a licensed wholesaler.

(b) Notwithstanding any other provision of this division, in the event that the licensee no longer qualifies as a craft distiller due to the amount of distilled spirits reported pursuant to Section 23502, the licensee may continue to hold the privileges granted by this section.

SEC. 3. Section 23771 of the Business and Professions Code is amended to read:

23771. A distilled spirits license of any kind, except a distilled spirits manufacturer's, a craft distiller's, or a distilled spirits manufacturer's agent's license, shall not be issued to any person, or to any officer, director, employee, or agent of any person that manufactures distilled spirits within or without this state.

SEC. 4. Section 23772 of the Business and Professions Code is amended to read:

23772. (a) A distilled spirits manufacturer's or distilled spirits manufacturer's agent's license shall not be held by any person that holds any ownership or interest, directly or indirectly, by stock ownership, interlocking directors, trusteeship, loan, mortgage, or lien on any personal or real property, or otherwise, in any craft distiller's, distilled spirits wholesaler's, rectifier's, or retailer's license.

(b) The provisions of this section shall not apply to the financial or representative relationship between a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of that person, and a person holding only one of the following types of licenses:

(1) On-sale general license for a bona fide club.

(2) Club license (issued under Article 4 (commencing at Section 23425) of Chapter 3).

(3) Veterans' club license (issued under Article 5 (commencing at Section 23450) of Chapter 3).

(4) On-sale license for boats, trains, sleeping cars, or airplanes where the alcoholic beverages produced or sold by the manufacturer, winegrower, manufacturer's agent, rectifier, bottler, importer, or wholesaler or any officer, director, or agent of that person are not sold, furnished, or given, directly or indirectly, to the on-sale licensee.