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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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|------|------------------|----------------|--------------|-----------------|------------------|--------------|

SB-1032 Alcoholic beverages: coupons. (2015-2016)

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Senate Bill No. 1032

CHAPTER 194

An act to amend Section 25600.3 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 25, 2016. Filed with Secretary of State August 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1032, Galgiani. Alcoholic beverages: coupons.

Existing law, the Alcoholic Beverage Control Act, prohibits a beer manufacturer or a beer wholesaler from offering, funding, producing, sponsoring, promoting, furnishing, or redeeming any type of coupon and a licensee authorized to sell alcoholic beverages at retail from accepting, redeeming, possessing, or utilizing any type of coupon that is funded, produced, sponsored, promoted, or furnished by a beer manufacturer or beer wholesaler. Existing law makes a violation of any of its provisions, for which another penalty or punishment is not specifically provided, a misdemeanor.

This bill would expand this provision to prohibit a nonretail licensee, as defined, from offering, funding, producing, sponsoring, promoting, furnishing, or redeeming any type of coupon and a licensee authorized to sell alcoholic beverages at retail from accepting, redeeming, possessing, or utilizing any type of coupon that is funded, produced, sponsored, promoted, or furnished by a nonretail licensee. The bill would revise the definition of "coupon" for these purposes. By imposing additional duties on a licensee under the act, and, thereby, expanding the definition of an existing crime, the bill 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 25600.3 of the Business and Professions Code is amended to read:

25600.3. (a) A nonretail licensee shall not offer, fund, produce, sponsor, promote, furnish, or redeem any type of coupon.

(b) A licensee authorized to sell alcoholic beverages at retail shall not accept, redeem, possess, or utilize any type of coupon that is funded, produced, sponsored, promoted, or furnished by a nonretail licensee.

(c) For purposes of this section:

(1) "Nonretail licensee" means any person who own or holds any interest, directly or indirectly, in any license, authorization, or permit issued pursuant to this division that authorizes the manufacture, production, rectification, importation, or wholesaling of alcoholic beverages, except for a brewpub restaurant license issued pursuant to Section 23396.3.

(2) "Cider" has the same meaning set forth in Section 4.21(e)(5) of the Code of Federal Regulations.

(3) "Perry" has the same meaning set forth in Section 4.21(e)(5) of the Code of Federal Regulations.

(4) "Coupon" means any method by which a consumer receives an instant discount at the time of a purchase of any item if an alcoholic beverage purchase is required in connection with such purchase that is funded, produced, sponsored, promoted, or furnished, either directly or indirectly, by a nonretail licensee, including, but not limited to, a paper coupon, a digital coupon, an instant redeemable coupon (IRC), or an electronic coupon commonly referred to as a scan or scanback. "Coupon" does not include:

(A) A mail-in rebate by which the consumer purchases an item and submits required information in order to receive a rebate or discount from the nonretail licensee.

(B) A discount that is offered and funded by a distilled spirits manufacturer, distilled manufacturer's agent, brandy manufacturer, brandy importer, distilled spirits rectifier general, holder of an out-of-state distilled spirits shipper certificate, distilled spirits importer general, distilled spirits importer, rectifier, brandy wholesaler, distilled spirits wholesaler, or a holder of a craft distiller's license, regardless of other licenses held, that offers a discount on the purchase of a distilled spirits product if beer, malt beverages, or wine products are not advertised in connection with the coupon.

(C) A discount that is offered and funded by a beer manufacturer on the purchase of beer, malt beverages, cider, or perry at the licensed premises of production or other licensed premises owned or leased and operated by the beer manufacturer.

(D) A discount that is offered and funded by a winegrower on the purchase of wine sold directly by the winegrower to a consumer at or from the licensed premises of production or other licensed premises owned or leased and operated by the winegrower or through the Internet where a consumer buys directly from a winegrower.

(E) A discount offered and funded by a beer and wine wholesaler, a beer and wine importer, a wine importer general, or a wine broker that offers a discount on the purchase of a nonalcoholic beverage item if beer, malt beverages, or wine products are not advertised in connection with the discount.

(d) Until and including March 31, 2017, a nonretail licensee may reimburse a licensee authorized to sell alcoholic beverages at retail for any coupon providing a consumer with an instant discount at the time of purchase of wine, if beer, malt beverages, cider, or perry are not advertised in connection with such coupon, that is otherwise prohibited by this section, that was received, accepted, or possessed by such licensee authorized to sell alcoholic beverages at retail on or before December 31, 2016.

(e) Nothing in this section is intended to preclude or prevent or otherwise restrict an on-sale or off-sale retail licensee that is not also a nonretail licensee from offering, funding, producing, sponsoring, promoting, furnishing, or redeeming a discount to consumers on the purchase of alcoholic beverages that is not otherwise prohibited by this section or any other provision of law.

SEC. 2. 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.