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AB-1217 Alcoholic beverage licenses: historic cemetery. (2017-2018)

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Assembly Bill No. 1217

CHAPTER 474

An act to amend Section 23039 of, and to add Section 24045.76 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 18, 2018. Filed with Secretary of State September 18, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1217, Santiago. Alcoholic beverage licenses: historic cemetery.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. Existing law establishes specified types of alcoholic beverage licenses and prescribes the rights and duties of the respective licensees. Existing law authorizes the department to issue various special on-sale licenses, including to nonprofit theater companies and symphony associations. Certain violations of the Alcoholic Beverage Control Act are crimes.

This bill would authorize the department to issue a special on-sale general license to the operator of a for-profit cemetery with specified characteristics, including that it be more than 100 years old, be located in, and designated a Historic-Cultural Monument by, the City of Los Angeles, and have an endowment care fund and a memorial care fund that are exempt from the payment of income taxes, as specified. The bill would prescribe requirements for issuing the license and the provision of beverages pursuant to it. By expanding the definition of a crime, this bill would impose a state-mandated local program. The bill would also make conforming and technical changes.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Los Angeles.

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 23039 of the Business and Professions Code is amended to read:

23039. (a) "Public premises" means:

(1) Premises licensed with any type of license other than an on-sale beer license, and maintained and operated for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food shall not be sold or served to the public as in a bona fide public eating place, but upon which premises food products may be sold or served incidentally to the sale or service of alcoholic beverages, in accordance with rules prescribed by the department.

(2) Premises licensed with an on-sale beer license, in which food shall not be sold or served to the public as in a bona fide public eating place, and in which sandwiches, salads, desserts, and similar short orders shall not be sold and served, in accordance with rules prescribed by the department.

(b) "Public premises" does not include any of the following:

(1) Railroad dining or club cars, passenger ships, airplanes, or bona fide clubs after the clubs have been lawfully operated for not less than one year.

(2) Historic units of the state park system.

(3) Premises being operated under a temporary on-sale beer license other than permitted pursuant to Section 24045.5, or on-sale beer licensed stadia, auditoria, fairgrounds, or racetracks.

(4) Nonprofit theater companies licensed pursuant to Section 24045.7.

(5) Theaters licensed pursuant to Section 24045.75.

(6) Cemeteries licensed pursuant to Section 24045.76.

(7) Winegrowers' premises.

SEC. 2. Section 24045.76 is added to the Business and Professions Code, to read:

24045.76. (a) The department may issue a special on-sale general license to the operator of any for-profit cemetery that is more than 100 years old, on the National Register of Historic Places, is located in, and designated an Historic-Cultural Monument by, the City of Los Angeles, and holds both an endowment care fund and a memorial care fund that are exempt from the payment of income taxes under Section 501(c)(13) of the Internal Revenue Code.

(b) The special on-sale general license shall permit sales, service, and consumption of beer, wine, and distilled spirits on the licensed premises. Any special on-sale general license issued pursuant to this section shall not be subject to the limitations provided by Section 23816 and shall not be required to be operated as a bona fide public eating place.

(c) A special on-sale general license described by this section shall not be issued until any existing licenses issued by the department to the operator for the premises of the for-profit cemetery are canceled.

(d) (1) The fee for the original special on-sale general license shall be the same as that specified in Section 23954.5 for an original on-sale general license.

(2) The annual license fee for the special on-sale general license shall be the same of that for an on-sale general license.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique nature of the cemetery as promoting the long-term preservation of the premises as a hub of social, cultural, and community activity in the City of Los Angeles.

SEC. 4. 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.