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AB-1722 Alcoholic beverage licensees: restrictions: coupons. (2017-2018)

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Assembly Bill No. 1722

CHAPTER 419

An act to amend Section 25600.3 of, and to repeal Section 23792 of, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 02, 2017. Filed with Secretary of State October 02, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1722, Committee on Governmental Organization. Alcoholic beverage licensees: restrictions: coupons.

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 prohibits the issuance of a license, other than an on-sale beer license, for premises situated more than one mile outside the limits of an incorporated city and within 2 miles of any camp or establishment of men or women, numbering 25 or more, engaged upon or in connection with the construction, repair, or operation of any work, improvement, or utility of a public or quasi-public character.

This bill would repeal that prohibition, thus authorizing the department to issue any type of license for premises situated in the above-described location.

The Alcoholic Beverage Control Act prohibits 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. Existing law defines "coupon," for the above purposes, as 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, as provided. Existing law provides that a "coupon" does not include various rebates and discounts, including a discount that is offered and funded by specified licensees, 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. The Alcoholic Beverage Control Act makes a violation of any of its provisions, for which another penalty or punishment is not specifically provided, a misdemeanor.

This bill would revise the definition of "coupon" for the above purposes to remove the requirement that the discount be instantly provided and that an alcoholic beverage be purchased, and would include a mail-in rebate or mail-in discount as a "coupon." The bill would revise the "coupon" exception for mail-in rebates, include electronic or digital rebates in this exception, revise the definition of "nonretail licensee" for purposes of this exception, and would make various revisions to some of the discount exceptions to the definition of a "coupon." 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 23792 of the Business and Professions Code is repealed.

SEC. 2. 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 a discount on the purchase of any item 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 a mail-in rebate or mail-in discount, except as otherwise provided, or an electronic coupon commonly referred to as a scan or scanback. "Coupon" does not include:

(A) (i) A mail-in rebate or electronic or digital rebate where all of the following apply:

(I) The consumer must submit a request for the rebate to the nonretail licensee or its vendor after the purchase of a qualifying product.

(II) The rebate is paid to the consumer after the purchase of the qualifying product and receipt of the consumer's request with any required information.

(III) The rebate is paid and funded by the nonretail licensee.

(ii) A retail licensee shall not act as the vendor or intermediary for the nonretail licensee or the consumer.

(iii) For purposes of this subparagraph, "nonretail license" and "vendor" shall not include an importer or wholesaler that holds only wholesaler or importer licenses, or both, that primarily sells beer, nonalcoholic beer, malt beverages, cider, or perry to retail licensees.

(B) A discount or rebate that is offered, funded, produced, sponsored, promoted, or furnished 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 or rebate on the purchase of any item so long as no nonalcoholic beer, beer, malt beverages, or wine products are advertised or promoted by these licensees in connection with the discount or rebate.

(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.

(d) 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. 3. 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.