



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

**AB-3264 Alcoholic beverages: licensees.** (2017-2018)

SHARE THIS:  

Date Published: 09/24/2018 09:00 PM

**Assembly Bill No. 3264**

**CHAPTER 727**

An act to add Section 25503.51 to, and to amend Sections 24049.5 and 25600 of, the Business and Professions Code, relating to alcoholic beverages.

[ Approved by Governor September 23, 2018. Filed with Secretary of State September 23, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 3264, Committee on Governmental Organization. Alcoholic beverages: licensees.

(1) The Alcoholic Beverage Control Act permits a winegrower, beer manufacturer, beer and wine wholesaler, distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits general rectifier, or distilled spirits general importer to instruct licensees and their employees, or to conduct courses of instruction for licensees and their employees, on the subject of wine, beer, or distilled spirits, including, but not limited to, the history, nature, values, and characteristics of those beverages and the methods of presenting and serving those beverages.

This bill would additionally allow a distilled spirits wholesaler and a craft distiller to instruct or conduct courses of instruction on distilled spirits, including, but not limited to, the history, nature, values, characteristics, and related terminology and the methods of handling, presenting, and serving those beverages for licensees and their employees.

(2) The Alcoholic Beverage Control Act, with respect to distilled spirits and wines, authorizes a licensee to furnish, give rent, loan, or sell advertising specialties to a retailer, provided those items bear conspicuous advertising required of a sign and the total value of all retailer advertising specialties furnished do not exceed \$50.

This bill would prohibit the Department of Alcoholic Beverage Control from approving, by rule or decision, glassware as an authorized retailer advertising specialty for distilled spirits or wine.

(3) Existing law authorizes specified state agencies to seize and sell the license of an off-sale or on-sale general licensee that, upon termination of business, is delinquent in the payment of taxes due under the Sales and Use Tax Law, Personal Income Tax Law, or Corporation Tax Law, respectively.

This bill would make nonsubstantive changes to this provision.

(4) This bill would incorporate additional changes to Section 25600 of the Business and Professions Code proposed by SB 973 to be operative only if this bill and SB 973 are enacted and this bill is enacted last.

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

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

**SECTION 1.** Section 24049.5 of the Business and Professions Code is amended to read:

**24049.5.** (a) The State Board of Equalization or the Franchise Tax Board may seize and sell the license of an off-sale or on-sale general licensee that, upon termination of business, is delinquent in the payment of taxes due under the Sales and Use Tax Law, Personal Income Tax Law, or Corporation Tax Law, respectively. In order for a seizure and sale of a license to be accomplished under this section, the licensee shall have either surrendered the license to the department or failed to pay the annual renewal fee to the department. Immediately upon seizure the State Board of Equalization or Franchise Tax Board shall give written notice by first-class mail to the department and to the licensee of the seizure and of the intention of the board to sell the license. The seizure and sale shall be in accordance with the provisions of Article 6 (commencing with Section 6796) of Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation Code or Article 4 (commencing with Section 19251) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code, respectively, and with the provisions of this division. Nothing within these provisions shall be construed to permit the State Board of Equalization or Franchise Tax Board to sell alcoholic beverages.

(b) For the purposes of this section, "termination of business" means the licensee has ceased business operations and has either surrendered the license to the department or the license has expired pursuant to Section 24048.

(c) The licensee may redeem the license at any time before the date of sale of the license by the board or the appropriate reinstatement deadline, whichever occurs first, by conforming to the requirements for reinstatement of a license pursuant to subdivision (f) of Section 24048.

The person who purchases the license at the sale may reinstate the license by paying the applicable fees, but the transfer shall be effective only on approval of the department after the purchaser has complied with the requirements for transfer provided in this division.

(d) Paragraph (1) of subdivision (a) of Section 699.720 of the Code of Civil Procedure shall not be construed to limit the authority of the State Board of Equalization or the Franchise Tax Board to seize and sell licenses pursuant to this section.

**SEC. 2.** Section 25503.51 is added to the Business and Professions Code, to read:

**25503.51.** (a) A distilled spirits wholesaler or craft distiller may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, on the subject of distilled spirits, including, but not limited to, the history, nature, values, characteristics, and related terminology of distilled spirits, and the methods of handling, presenting, and serving distilled spirits. The distilled spirits manufacturer or distilled spirits manufacturer's agent may furnish distilled spirits and the equipment, materials, and utensils that may be required for use in connection with the instruction or courses of instruction.

(b) The instruction or courses of instruction, authorized in subdivision (a), may be given at the premises of the distilled spirits wholesaler or craft distiller, or of a licensee, including an on-sale retail licensee, or elsewhere.

**SEC. 3.** Section 25600 of the Business and Professions Code is amended to read:

**25600.** (a) (1) No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided by rules that shall be adopted by the department to implement this section or as authorized by this division.

(2) (A) Notwithstanding paragraph (1), for purposes of this section, a refund to, or exchange of products for, a dissatisfied consumer by a licensee authorized to sell to consumers shall not be deemed a premium, gift, or free goods given in connection with the sale or distribution of an alcoholic beverage.

(B) A winegrower may advertise or otherwise offer consumers a guarantee of product satisfaction only in newsletters or other publications of the winegrower or at the winegrower's premises. A winegrower may refund to a dissatisfied consumer the entire purchase price of wine produced by that winegrower and sold to that consumer, regardless of where the wine was purchased.

(b) (1) Except as provided in paragraph (2), no rule of the department may permit a licensee to give any premium, gift, or free goods of greater than inconsequential value in connection with the sale or distribution of beer. With respect to beer, premiums, gifts, or free goods, including advertising specialties that have no significant utilitarian value other than advertising, shall be deemed to have greater than inconsequential value if they cost more than twenty-five cents (\$0.25) per unit, or cost more than fifteen dollars (\$15) in the aggregate for all those items given by a single supplier to a single retail premises per calendar year.

(2) (A) No rule of the department may impose a dollar limit for consumer advertising specialties furnished by a beer manufacturer to the general public other than three dollars (\$3) per unit original cost to the beer manufacturer who purchased it.

(B) With respect to beer, a beer manufacturer may give consumer advertising specialties to the general public that do not exceed three dollars (\$3) per unit original cost to the beer manufacturer who purchased it. For purposes of this paragraph, "beer manufacturer" includes a holder of a beer manufacturer's license, a holder of an out-of-state beer manufacturer's certificate, an out-of-state vendor that holds a certificate of compliance, or a holder of a beer and wine importer's general license. A licensee authorized to give consumer advertising specialties pursuant to this paragraph shall not be precluded from doing so on the basis of holding any other type of alcoholic beverage license.

(C) A beer manufacturer, as defined in subparagraph (B) of paragraph (2) shall not require a beer wholesaler to fund the purchase of consumer advertising specialties that beer manufacturers are permitted to give under paragraph (2).

(D) Consumer advertising specialties furnished by a beer manufacturer are intended only for adults of legal drinking age. Coin banks, toys, balloons, magic tricks, miniature bottles or cans, confections, dolls, or other items that appeal to minors or underage drinkers may not be used in connection with the merchandising of beer.

(c) With respect to distilled spirits and wines, a licensee may furnish, give, rent, loan, or sell advertising specialties to a retailer, provided those items bear conspicuous advertising required of a sign and the total value of all retailer advertising specialties furnished by a supplier, directly or indirectly, to a retailer do not exceed fifty dollars (\$50) per brand in any one calendar year per retail premises. The value of a retailer advertising specialty is the actual cost of that item to the supplier who initially purchased it, excluding transportation and installation costs. The furnishing or giving of any retailer advertising specialty shall not be conditioned upon the purchase of the supplier's product. Retail advertising specialties given or furnished free of charge may not be sold by the retail licensee. No rule of the department may impose a dollar limit for consumer advertising specialties furnished by a distilled spirits supplier to a retailer or to the general public of less than five dollars (\$5) per unit original cost to the supplier who purchased it. A rule or decision of the department may not approve glassware as an authorized retailer advertising specialty for distilled spirits or wine under this section.

(d) Notwithstanding any other provision of this division, a beer manufacturer may provide directly to consumers free or discounted rides through taxicabs, transportation network companies, or any other ride service for the purpose of furthering public safety. The free or discounted rides may be provided by vouchers, codes, or any other method to deliver the free or discounted ride. A free or discounted ride, or the provision of a voucher, code, or other method of delivery, shall not be conditioned upon the purchase of an alcoholic beverage. A beer and wine wholesaler shall not directly or indirectly underwrite, share in, or contribute to, the costs of free or discounted rides or serve as an agent of a beer manufacturer to provide free or discounted rides to consumers. Nothing in this provision authorizes a beer manufacturer to provide a gift or anything of value directly or indirectly to a retail licensee. For purposes of this subdivision, "beer manufacturer" has the same meaning as defined in subparagraph (B) of paragraph (2) of subdivision (b).

(e) For purposes of this section, "glassware" means a single-service glass container or nonglass container capable of holding no more than 23 ounces of liquid volume or a decanter, chalice, infusion jar, or similar container of any size and made of any material.

**SEC. 3.5.** Section 25600 of the Business and Professions Code is amended to read:

**25600.** (a) (1) No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided by rules that shall be adopted by the department to implement this section or as authorized by this division.

(2) (A) Notwithstanding paragraph (1), for purposes of this section, a refund to, or exchange of products for, a dissatisfied consumer by a licensee authorized to sell to consumers shall not be deemed a premium, gift, or free goods given in connection with the sale or distribution of an alcoholic beverage.

(B) A winegrower may advertise or otherwise offer consumers a guarantee of product satisfaction only in newsletters or other publications of the winegrower or at the winegrower's premises. A winegrower may refund to a dissatisfied consumer the entire purchase price of wine produced by that winegrower and sold to that consumer, regardless of where the wine was purchased.

(b) (1) Except as provided in paragraph (2), no rule of the department may permit a licensee to give any premium, gift, or free goods of greater than inconsequential value in connection with the sale or distribution of beer. With respect to beer, premiums, gifts, or free goods, including advertising specialties that have no significant utilitarian value other than advertising, shall be deemed to have greater than inconsequential value if they cost more than twenty-five cents (\$0.25) per unit, or cost more than fifteen dollars (\$15) in the aggregate for all those items given by a single supplier to a single retail premises per calendar year.

(2) (A) No rule of the department may impose a dollar limit for consumer advertising specialties furnished by a beer manufacturer to the general public other than three dollars (\$3) per unit original cost to the beer manufacturer who purchased it.

(B) With respect to beer, a beer manufacturer may give consumer advertising specialties to the general public that do not exceed three dollars (\$3) per unit original cost to the beer manufacturer who purchased it. For purposes of this paragraph, "beer manufacturer" includes a holder of a beer manufacturer's license, a holder of an out-of-state beer manufacturer's certificate, an out-of-state vendor that holds a certificate of compliance, or a holder of a beer and wine importer's general license. A licensee authorized to give consumer advertising specialties pursuant to this paragraph shall not be precluded from doing so on the basis of holding any other type of alcoholic beverage license.

(C) A beer manufacturer, as defined in subparagraph (B) of paragraph (2) shall not require a beer wholesaler to fund the purchase of consumer advertising specialties that beer manufacturers are permitted to give under paragraph (2).

(D) Consumer advertising specialties furnished by a beer manufacturer are intended only for adults of legal drinking age. Coin banks, toys, balloons, magic tricks, miniature bottles or cans, confections, dolls, or other items that appeal to minors or underage drinkers may not be used in connection with the merchandising of beer.

(c) With respect to distilled spirits and wines, a licensee may furnish, give, rent, loan, or sell advertising specialties to a retailer, provided those items bear conspicuous advertising required of a sign and the total value of all retailer advertising specialties furnished by a supplier, directly or indirectly, to a retailer do not exceed fifty dollars (\$50) per brand in any one calendar year per retail premises. The value of a retailer advertising specialty is the actual cost of that item to the supplier who initially purchased it, excluding transportation and installation costs. The furnishing or giving of any retailer advertising specialty shall not be conditioned upon the purchase of the supplier's product. Retail advertising specialties given or furnished free of charge may not be sold by the retail licensee. No rule of the department may impose a dollar limit for consumer advertising specialties furnished by a distilled spirits supplier to a retailer or to the general public of less than five dollars (\$5) per unit original cost to the supplier who purchased it. A rule or decision of the department may not approve glassware as an authorized retailer advertising specialty for distilled spirits or wine under this section.

(d) (1) Notwithstanding any other provision of this division, a beer manufacturer or distilled spirits manufacturer may provide directly to consumers free or discounted rides through taxicabs, transportation network companies, or any other ride service for the purpose of furthering public safety. The free or discounted rides may be provided by vouchers, codes, or any other method to deliver the free or discounted ride. A free or discounted ride, or the provision of a voucher, code, or other method of delivery, shall not be conditioned upon the purchase of an alcoholic beverage. A beer and wine wholesaler or distilled spirits importer general that holds a wholesaler's or retailer's license only as an additional license shall not directly or indirectly underwrite, share in, or contribute to, the costs of free or discounted rides or serve as an agent of a beer manufacturer or distilled spirits manufacturer to provide free or discounted rides to consumers. Nothing in this provision authorizes a beer manufacturer or distilled spirits manufacturer to provide a gift or anything of value directly or indirectly to a retail licensee.

(2) For purposes of this section:

(A) "Beer manufacturer" has the same meaning as defined in subparagraph (B) of paragraph (2) of subdivision (b).

(B) "Distilled spirits manufacturer" means a distilled spirits manufacturer, holder of a distilled spirits rectifier's general license, distilled spirits manufacturer's agent, brandy manufacturer, holder of an out-of-state distilled spirits shipper's certificate, holder of a distilled spirits importer general's license, or craft distiller.

(C) "Glassware" means a single-service glass container or nonglass container capable of holding no more than 23 ounces of liquid volume or a decanter, chalice, infusion jar, or similar container of any size and made of any material.

**SEC. 4.** Section 3.5 of this bill incorporates amendments to Section 25600 of the Business and Professions Code proposed by both this bill and Senate Bill 973. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 25600 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 973, in which case Section 3 of this bill shall not become operative.