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SB-461 Alcoholic beverage control: tied house restrictions. (2017-2018)

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Senate Bill No. 461

CHAPTER 517

An act to amend Section 25503.16 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 461, Allen. Alcoholic beverage control: tied house restrictions.

Existing law creates the Department of Alcoholic Beverage Control, to which is committed the authority for the administration and enforcement of alcoholic beverage laws in the state in a strict and impartial manner. Existing law, commonly referred to as tied-house restrictions, generally prohibits a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler from having an ownership interest in an on-sale license, among other things, subject to a variety of exceptions. Existing law excepts from tied-house restrictions the issuance or transfer of a retail on-sale or off-sale license with respect to premises that are an integral part of the operations of a hotel or motel, notwithstanding that a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler has an interest in the premises, the retail license, or the retail licensee, provided certain conditions are met. In this regard, in the case of a hotel or motel, the hotel or motel must have not less than 100 guestrooms.

This bill, for the purpose of excepting a transfer of a retail on-sale or off-sale license from the tied-house restriction described above, would reduce the necessary number of guestrooms in a hotel or motel to 25. The bill would also specify that this exception applies notwithstanding the fact that an out-of-state distilled spirits shipper has an interest in the premises, the retail license, or the retail licensee.

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

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

SECTION 1. Section 25503.16 of the Business and Professions Code is amended to read:

25503.16. (a) Nothing in this division shall prohibit the issuance or transfer of any retail on-sale or off-sale license to any person with respect to premises which are an integral part of the operations of a hotel, motel, or marine park owned by, or operated by or on behalf of, the licensee notwithstanding that a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, wholesaler, or out-of-state distilled spirits shipper has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee, and notwithstanding that the issuance or transfer would otherwise result in a violation of subdivision (a) of Section 25500, subdivision (a) or (b) of Section 25501, or Section 25502, if each of the following conditions is met:

(1) In the case of a hotel or motel, the hotel or motel consists of not less than 25 guestroom accommodations.

(2) No more than one-quarter of the total gross annual revenues of the hotel, motel, or marine park is derived from the sale by the hotel, motel, or marine park of alcoholic beverages.

(3) (A) The retail licensee shall purchase no beer or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee, except as otherwise provided in subparagraph (B), shall purchase no alcoholic beverages for sale in this state from any wholesale licensee that has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee.

(B) Notwithstanding subparagraph (A), a marine park may purchase beer or malt beverages for sale in this state from a wholesale licensee regardless of whether the wholesale licensee has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee.

(4) The retail licensee serves other brands of beer, wine, and distilled spirits in addition to the brands manufactured by the beer or distilled spirits manufacturer or produced by the winegrower holding an interest in the retail license.

(5) No marine park shall sell or offer for sale any distilled spirits, except during private events or private functions held at the marine park.

(b) For purposes of this section, "hotel" and "motel" shall mean an establishment containing guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest; for purposes of this subdivision, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial.

(c) For purposes of this section, "marine park" means an establishment with not less than 125 contiguous acres, located in San Diego County, the predominant purpose of which is the education or entertainment of the public through the display of marine animals and related aquatic, food service, and amusement activities, which holds permits issued by state and federal regulatory agencies authorizing the keeping of marine animals or endangered species or both, and which has an annual paid attendance of at least 2,000,000 people.

(d) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests shall be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.