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**SB-1164 Craft distillers.** (2017-2018)

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**Senate Bill No. 1164**

**CHAPTER 695**

An act to amend Sections 23363.1, 23502, 23504, 23771, 25173, 25503.3, 25503.5, 25503.56, and 25503.9 of the Business and Professions Code, relating to alcoholic beverages.

[ Approved by Governor September 22, 2018. Filed with Secretary of State September 22, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1164, Skinner. Craft distillers.

(1) 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 prohibits a person without the appropriate license from exercising a privilege or performing any act for which the license is required, and a violation of this prohibition is a misdemeanor or a felony, as specified. Existing law authorizes the department to issue a craft distiller's license that authorizes the manufacture of distilled spirits, subject to specified conditions, including that the licensee manufacture no more than 100,000 gallons of distilled spirits per fiscal year, excluding brandy the craft distiller manufactures or has manufactured for it. Existing law prohibits the department from issuing a craft distiller's license to any person that manufactures or has manufactured for them more than 100,000 gallons of distilled spirits per year, or to any officer, director, employee, or agent of that person, or to any person who is affiliated with that person. A craft distiller is also authorized to sell up to 2.25 liters of prepackaged containers of the licensee's spirits per day per consumer to a person attending these tastings.

This bill would increase the maximum amount of distilled spirits that a craft distiller is permitted to manufacture to 150,000 gallons. The bill would prohibit the department from issuing a craft distiller's license to any person that manufactures or has manufactured for it more than 150,000 gallons of distilled spirits per year, as described above. The bill would also eliminate the requirement that the prepackaged containers of the licensee's spirits described above, be sold only to a person attending these tastings. The bill would make a conforming change in connection with tastings.

(2) Existing law makes it a crime for various alcoholic beverage licensees to deliver undenatured ethyl alcohol or other distilled spirits in packages of more than one gallon for use in the trades, professions, or industries, unless the package is plainly labeled, as specified.

This bill would apply these provisions to craft distillers.

(3) Existing law authorizes various alcoholic beverage licensees, including distilled spirits manufacturers, to serve and provide food, beverages, and entertainment at conventions and trade shows of bona fide trade associations and to advertise in regular publications of specified trade associations, among other things. Existing law authorizes various alcoholic beverage licensees, including distilled spirits manufacturers, to provide instruction and to conduct courses on their respective beverages for licensees and to provide beverages in this context. Existing law provides a similar authorization to provide instructional tasting events to

consumers and prescribes a variety of limits and conditions in this regard, including restrictions on the number and size of tastings, who may serve them, and how often they may be conducted.

This bill would extend the authorizations described above to craft distillers.

(4) Existing law provides that the Alcoholic Beverage Control Act does not prohibit various alcoholic beverage licensees, including distilled spirits manufacturers, from giving or selling beverages, as specified, to certain charities and prescribes conditions in this regard.

This bill would apply these provisions to craft distillers.

This bill would also make technical and conforming changes.

(5) This bill would incorporate additional changes to Section 25503.56 of the Business and Professions Code proposed by AB 2452 to be operative only if this bill and AB 2452 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 25503.9 of the Business and Professions Code proposed by AB 1986 to be operative only if this bill and AB 1986 are enacted and this bill is enacted last.

(6) By expanding the definition of a crime, this bill would impose a state-mandated local program.

(7) 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

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

### **SECTION 1.** The Legislature finds and declares the following:

(a) It is necessary and proper to require a separation among 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.

(b) The exceptions established by this section to the general prohibition against tied interests are to be limited to their express terms, so as not to undermine the general prohibition, and this section shall be construed accordingly.

(c) It is the intent of the Legislature, in enacting this act, to clarify existing law that encourages the development of the craft distilling industry within the state through the enactment of various limited exemptions to the general provisions of the three-tier system, while also continuing to uphold and support the three-tier system as the appropriate mechanism for regulating and licensing the sale of distilled spirits in California.

### **SEC. 2.** Section 23363.1 of the Business and Professions Code is amended to read:

**23363.1.** (a) A distilled spirits manufacturer's license or a craft distiller's license authorizes the licensee to conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee, on or off the licensee's premises.

(b) (1) Distilled spirits tastings may be conducted by the licensee off the licensee's premises only for an event sponsored by a nonprofit organization. A distilled spirits manufacturer shall not sell or solicit sales of distilled spirits at an event. The sponsoring organization shall first obtain a permit from the department.

(2) For purposes of this subdivision, "nonprofit organization" does not include any community college or other institution of higher learning, as defined in the Education Code, nor does it include any officially recognized club, fraternity, or sorority, whether or not that entity is located on or off the institution's campus.

(c) Tastings on the licensee's premises shall be subject to the following conditions:

(1) The total volume of tastings of distilled spirits shall not exceed one and one-half ounces per individual per day.

(2) Tastings shall only include the products that are authorized to be produced or bottled by or for the licensee.

(3) A person under 21 years of age shall not serve tastes of distilled spirits.

(d) Notwithstanding Section 25600, the licensee may provide distilled spirits without charge for any tastings conducted pursuant to this section. The licensee may charge for tastings conducted by the licensee on its licensed premises.

(e) This section shall not relieve the holder of a craft distiller's license or a distilled spirits manufacturer's license of any civil or criminal liability arising out of a violation of Section 25602.

**SEC. 3.** Section 23502 of the Business and Professions Code is amended to read:

**23502.** (a) The department may issue a craft distiller's license to a person that has facilities and equipment for the purposes of, and is engaged in, the commercial manufacture of distilled spirits. The craft distiller's license authorizes the licensee to do all of the following:

(1) Manufacture distilled spirits. For purposes of this article, "manufacture" means the actual distillation of distilled spirits from naturally fermented materials or the redistillation of distilled spirits obtained from another manufacturer of distilled spirits.

(2) Produce distilled spirits. For purposes of this article, "produce" means to mix, color, flavor, or blend distilled spirits, whether manufactured by the licensee or by another manufacturer of distilled spirits.

(3) Only sell distilled spirits that are manufactured or produced by the licensee solely to a wholesaler, manufacturer, winery, manufacturer's agent, or rectifier that holds a license authorizing the sale of distilled spirits or to persons that take delivery of those distilled spirits within this state for delivery or use without the state.

(4) Deal in warehouse receipts.

(5) Manufacture or produce up to 150,000 gallons of distilled spirits per fiscal year (July 1 through June 30), excluding brandy the craft distiller manufactures or has manufactured for it pursuant to a brandy manufacturer license, as reported to the department in the manner prescribed by the department for the fiscal year prior to the date of submitting an application for the license. At least 65 percent of the total volume of distilled spirits manufactured or produced shall be actually manufactured by the licensee. The volume of distilled spirits authorized by this paragraph shall be calculated by adding the volume of distilled spirits, less waste, drawn off the still with the volume of distilled spirits obtained by the licensee from any other source that is not redistilled by the licensee. For purposes of this paragraph, "volume" means the liquid volume and shall not be based on proof gallons or packaged goods.

(b) A craft distiller's license shall not be issued to any person, any officer, director, employee, or agent of such person, or any person who is affiliated with, directly or indirectly, a person that manufactures or has manufactured for them more than 150,000 gallons of distilled spirits per year within or without the state, excluding brandy it manufactures or has manufactured for them pursuant to a brandy manufacturer license, or to any person that is affiliated with, directly or indirectly, a wholesaler.

(c) (1) The fee for an original craft distiller's license issued pursuant to this section shall be consistent with the distilled spirits manufacturer's license and shall be adjusted pursuant to subdivisions (b) and (c) of Section 23320.

(2) The annual license fee for a craft distiller's license shall be consistent with the distilled spirits manufacturer's license and shall be adjusted pursuant to subdivisions (b) and (c) of Section 23320.

(3) All moneys collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(d) A licensed craft distiller shall report to the department, at the time of renewal in the manner prescribed by the department, the amount of distilled spirits manufactured or produced by the licensee specifying, as applicable, the respective amounts of distilled spirits the licensed craft distiller has manufactured itself, obtained from another manufacturer of distilled spirits, and imported, excluding brandy manufactured by or for the licensee pursuant to a brandy manufacturer license, during the previous fiscal year. If the report to the department establishes that the licensee no longer qualifies to hold a craft distiller's license because the licensee has either exceeded the 150,000 gallon manufacture or production limitation as specified in paragraph (5) of subdivision (a) or actually manufactured less than 65 percent of the total volume of distilled spirits as specified in paragraph (5) of subdivision (a), the department shall renew the license as a distilled spirits manufacturer's license.

**SEC. 4.** Section 23504 of the Business and Professions Code is amended to read:

**23504.** Notwithstanding any other provision, a licensed craft distiller may sell up to the equivalent of 2.25 liters in any combination of prepackaged containers per day per consumer of distilled spirits manufactured or produced by the licensee at its premises to a consumer.

**SEC. 5.** Section 23771 of the Business and Professions Code is amended to read:

**23771.** Except as provided in Section 23771.5, a distilled spirits license of any kind, except a distilled spirits manufacturer's, a craft distiller's, or a distilled spirits manufacturer's agent's license, shall not be issued to any person, or to any officer, director,

employee, or agent of any person that manufactures distilled spirits within or without this state.

**SEC. 6.** Section 25173 of the Business and Professions Code is amended to read:

**25173.** Any industrial alcohol dealer, distilled spirits manufacturer, craft distiller, brandy manufacturer, or rectifier who delivers undenatured ethyl alcohol or other distilled spirits in packages of more than one gallon for use in the trades, professions, or industries is guilty of a misdemeanor, unless the packages bear a label plainly stating the true and correct name and address of the industrial alcohol dealer, distilled spirits manufacturer, brandy manufacturer, or rectifier.

**SEC. 7.** Section 25503.3 of the Business and Professions Code is amended to read:

**25503.3.** (a) Notwithstanding any other provision of this division, any winegrower, beer manufacturer, brandy manufacturer, distilled spirits manufacturer, craft distiller, or distilled spirits manufacturer's agent may, at parties held, or in hospitality rooms maintained, in conjunction with meetings, conventions, or combined conventions and trade shows of bona fide trade associations of retail licensees, serve and provide free of charge, food, alcoholic and nonalcoholic beverages, entertainment, and recreational activities to the retail licensees and their guests while attending those meetings, conventions, or combined conventions and trade shows. Additionally, any person specified in this section may pay a fee to the bona fide trade association for the privilege of providing food, alcoholic or nonalcoholic beverages, entertainment, or recreational activities, or for display booth space, as long as the fee is at the same rate charged all suppliers.

(b) Any person specified in subdivision (a) may advertise in any regular publication of a bona fide trade association the members of which are food or alcoholic beverage retailers, if that publication does not advertise on behalf of, or directly benefit, any individual retail licensee. The advertising fee paid to the bona fide trade association or its agent shall be at the same rate charged all advertisers.

(c) Any person specified in subdivision (a) may pay membership dues to a bona fide trade association as long as the dues are at the same rate charged all nonretail members of the association.

(d) A licensed beer manufacturer or a brewpub-restaurant licensee may serve, for consumption on the premises, beer produced by the licensed beer manufacturer or brewpub-restaurant licensee to attendees at a meeting of a bona fide beer manufacturer trade association or brewers' guild held on the premises of a licensed beer manufacturer.

**SEC. 8.** Section 25503.5 of the Business and Professions Code is amended to read:

**25503.5.** (a) A winegrower, beer manufacturer, or a beer and wine wholesaler may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, on the subject of wine or beer, including, but not limited to, the history, nature, values, composition, and characteristics of wine or beer, the use of wine lists, and the methods of presenting and serving wine or beer. The winegrower, beer manufacturer, or beer and wine wholesaler may furnish wine or beer and the equipment, materials, and utensils that may be required for use in connection with the instruction or courses of instruction.

(b) A craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits general rectifier, or distilled spirits general importer 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, and characteristics of distilled spirits, and the methods of presenting and serving distilled spirits. The craft distiller, 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.

(c) The instruction or courses of instruction, authorized in subdivision (a) or (b), may be given at the premises of the winegrower, beer manufacturer, beer and wine wholesaler, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits general rectifier, distilled spirits general importer, or of a licensee, including an on-sale retail licensee, or elsewhere.

**SEC. 9.** Section 25503.56 of the Business and Professions Code is amended to read:

**25503.56.** (a) An authorized licensee, or a designated representative of an authorized licensee acting as an agent of the authorized licensee, may conduct, on the area specified by paragraph (1) of subdivision (c) of Section 23396.6, an instructional tasting event for consumers on the subject of wine, beer, or distilled spirits, including, but not limited to, the history, nature, values, and characteristics of wine, beer, or distilled spirits, and the methods of presenting and serving wine, beer, or distilled spirits.

(1) (A) Except as provided in subparagraph (B), the instructional tasting event may include the serving of alcoholic beverages to an attendee of legal drinking age. An instructional tasting event on the subject of wine or distilled spirits shall be limited to not

more than three tastings per person per day. A single tasting of distilled spirits shall not exceed one-fourth of one ounce and a single tasting of wine shall not exceed one ounce. An instructional tasting event on the subject of beer shall be limited to not more than the tasting of eight ounces of beer per person per day. The wine, beer, or distilled spirits tasted shall be limited to the products that are authorized to be sold by the authorized licensee and the licenseholder under its off-sale license.

(B) A beer and wine wholesaler may conduct an instructional tasting event but shall not serve tastes of beer unless the beer and wine wholesaler also holds a beer manufacturer's license, an out-of-state beer manufacturer's certificate, or more than six distilled spirits wholesaler's licenses.

(C) No charge of any sort shall be made for the tastings. Except for the purposes of Section 23985, the serving of tastings shall not be deemed a sale of products pursuant to this division.

(D) A person under 21 years of age shall not serve wine, beer, or distilled spirits at the instructional tasting event.

(E) All tastes shall be served by an employee of the authorized licensee, the designated representative of the authorized licensee, or by an employee of the designated representative of the authorized licensee.

(F) An authorized licensee, or a designated representative of an authorized licensee, shall either supply the wine or distilled spirits to be tasted during the instructional tasting event or purchase the wine or distilled spirits from the licenseholder at the original invoiced cost. An authorized licensee, or a designated representative of an authorized licensee, shall purchase beer to be tasted during the instructional tasting event from the licenseholder at the original invoiced cost.

(G) Any unused wine, beer, or distilled spirits remaining from the tasting shall be removed from the off-sale licensed premises by the authorized licensee or its designated representative.

(2) If the instructional tasting event is conducted by a designated representative of an authorized licensee, the designated representative shall not be owned, controlled, or employed directly or indirectly by the licenseholder on whose premises the instructional tasting event is held.

(3) An instructional tasting event shall be limited to a single type of alcoholic beverage. For purposes of this paragraph, "type of alcoholic beverage" means distilled spirits, wine, or beer.

(b) For purposes of this section:

(1) "Authorized licensee" means a winegrower, California winegrower's agent, beer and wine importer general, beer and wine wholesaler, wine rectifier, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits importer general, distilled spirits rectifier, distilled spirits general rectifier, rectifier, out-of-state distilled spirits shipper's certificate holder, distilled spirits wholesaler, brandy manufacturer, brandy importer, California brandy wholesaler, beer manufacturer, or an out-of-state beer manufacturer certificate holder. "Authorized licensee" shall not include an entity that solely holds a combination of a beer and wine wholesale license and an off-sale beer and wine retail license or holds those licenses solely in combination with any license not listed in this paragraph, or holds a limited off-sale retail wine license.

(2) "Licenseholder" means an off-sale retail licensee issued an instructional tasting license pursuant to Section 23396.6.

(3) "Location" means the total contiguous area encompassed by the off-sale and on-sale licenses.

(c) Notwithstanding subparagraph (E) of paragraph (1) of subdivision (a), a licenseholder may conduct an instructional tasting event that includes the serving of tastings only when an authorized licensee or its designated representative are unable to conduct an instructional tasting event previously advertised pursuant to this section and scheduled by the authorized licensee or its designated representative, provided that the licenseholder supplies the wine, beer, or distilled spirits used in the instructional tasting event and provides or pays for a person to serve the wine, beer, or distilled spirits. Instructional tasting events conducted by a licenseholder pursuant to this subdivision are subject to the provisions of this section and Section 23396.6.

(d) No more than one authorized licensee, or its designated representative, may conduct an instructional tasting event that includes the serving of tastes of wine, beer, or distilled spirits at any one individual licensed premises of a licenseholder per day.

(e) A licenseholder that also holds an on-sale beer and wine license, an on-sale beer and wine eating place license, or an on-sale general license shall not allow an authorized licensee, or its designated representative, to conduct an instructional tasting event on the same day and at the same location as any instructional tasting event held pursuant to subdivision (b) of Section 23386, Section 25503.4, subdivision (c) of Section 25503.5, or Section 25503.55.

(f) A licenseholder shall not condition the allowance of an instructional tasting event upon the use of a particular designated representative of an authorized licensee.

(g) (1) In addition to any point-of-sale advertising or other advertising items allowed under this division or under rules of the department, an authorized licensee or its designated representative, in his or her absolute discretion and with permission of the licenseholder upon whose premises the instructional tasting event will be held, may list in an advertisement to the general public the name and address of the licenseholder, the names of the alcoholic beverages being featured at the instructional tasting event, and the time, date, and location of, and other information about, the instructional tasting event, provided that both of the following apply:

(A) The advertisement does not contain the retail price of the alcoholic beverages.

(B) The listing of the licenseholder's name and address is the only reference to the licenseholder in the advertisement.

(2) Pictures or illustrations of the licenseholder's licensed premises and laudatory references to the licenseholder in these advertisements are not authorized. Nothing in this section shall authorize an authorized licensee or its designated representative to share in the costs, if any, of the licenseholder.

(h) A licenseholder may advertise an instructional tasting event to the general public. The costs of this advertising shall be borne solely by the licenseholder. Advertising permitted by this subdivision includes flyers, newspaper ads, Internet communications, and interior signage.

(i) Except as otherwise provided in this division or rules of the department, no premium, gift, free goods, or other thing of value shall be given away by an authorized licensee or its designated representative in connection with an instructional tasting event that includes tastings of an alcoholic beverage.

(j) The licenseholder or the authorized licensee or its designated representative is authorized to perform setup and breakdown of the instructional tasting event area. The authorized licensee or its designated representative may provide, free of charge to the licenseholder, the equipment, materials, and utensils as may be required for use in connection with the instructional tasting event.

(k) (1) A licenseholder shall not require, or enter into a collusive scheme with, an authorized licensee or its designated representative to conduct one or more instructional tasting events as a condition of the licenseholder's carrying or continuing to carry a brand or brands of the authorized licensee or as a condition for display or other merchandising plan which is based on an agreement to provide shelf space. An authorized licensee or its designated representative shall not require any preferential treatment or benefit from, or enter into a collusive scheme with, a licenseholder as a condition of conducting one or more instructional tasting events, require a licenseholder to carry or continue to carry a brand or brands of the authorized licensee as a condition of conducting one or more instructional tasting events, or condition display or other merchandising plans that are based on agreements for the provision of shelf space on the conducting of one or more instructional tasting events. Any agreement, whether written or oral, entered into by and between a licenseholder and an authorized licensee or its designated representative that precludes the conducting of instructional tasting events on the premises of the licenseholder by any other authorized licensee is prohibited. A licenseholder or authorized licensee, or its designated representative, shall not use an instructional tasting event to circumvent any other requirements of this division.

(2) In addition to any other remedies available under this division, upon a finding by the department of a failure to comply with this subdivision, the department shall suspend the instructional tasting license of the licenseholder and the privilege of the authorized licensee to conduct instructional events for not less than six months but for no more than one year.

(l) 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 must be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

**SEC. 9.5.** Section 25503.56 of the Business and Professions Code is amended to read:

**25503.56.** (a) An authorized licensee, or a designated representative of an authorized licensee acting as an agent of the authorized licensee, may conduct, on the area specified by paragraph (1) of subdivision (c) of Section 23396.6, an instructional tasting event for consumers on the subject of wine, beer, or distilled spirits, including, but not limited to, the history, nature, values, and characteristics of wine, beer, or distilled spirits, and the methods of presenting and serving wine, beer, or distilled spirits.

(1) (A) Except as provided in subparagraph (B), the instructional tasting event may include the serving of alcoholic beverages to an attendee of legal drinking age. An instructional tasting event on the subject of wine or distilled spirits shall be limited to not more than three tastings per person per day. A single tasting of distilled spirits shall not exceed one-fourth of one ounce and a single tasting of wine shall not exceed one ounce. An instructional tasting event on the subject of beer shall be limited to not

more than the tasting of eight ounces of beer per person per day. The wine, beer, or distilled spirits tasted shall be limited to the products that are authorized to be sold by the authorized licensee and the licenseholder under its off-sale license.

(B) A beer and wine wholesaler may conduct an instructional tasting event but shall not serve tastes of beer unless the beer and wine wholesaler also holds a beer manufacturer's license, an out-of-state beer manufacturer's certificate, or more than six distilled spirits wholesaler's licenses.

(C) No charge of any sort shall be made for the tastings. Except for the purposes of Section 23985, the serving of tastings shall not be deemed a sale of products pursuant to this division.

(D) A person under 21 years of age shall not serve wine, beer, or distilled spirits at the instructional tasting event.

(E) All tastes shall be served by an employee of the authorized licensee, the designated representative of the authorized licensee, or by an employee of the designated representative of the authorized licensee.

(F) An authorized licensee, or a designated representative of an authorized licensee, shall either supply the wine or distilled spirits to be tasted during the instructional tasting event or purchase the wine or distilled spirits from the licenseholder at the original invoiced cost. An authorized licensee, or a designated representative of an authorized licensee, shall purchase beer to be tasted during the instructional tasting event from the licenseholder at the original invoiced cost.

(G) Any unused wine, beer, or distilled spirits remaining from the tasting shall be removed from the off-sale licensed premises by the authorized licensee or its designated representative.

(2) If the instructional tasting event is conducted by a designated representative of an authorized licensee, the designated representative shall not be owned, controlled, or employed directly or indirectly by the licenseholder on whose premises the instructional tasting event is held.

(3) An instructional tasting event shall be limited to a single type of alcoholic beverage. For purposes of this paragraph, "type of alcoholic beverage" means distilled spirits, wine, or beer.

(b) For purposes of this section:

(1) "Authorized licensee" means a winegrower, California winegrower's agent, beer and wine importer general, beer and wine wholesaler, wine rectifier, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits importer general, distilled spirits rectifier, distilled spirits general rectifier, rectifier, out-of-state distilled spirits shipper's certificate holder, distilled spirits wholesaler, brandy manufacturer, brandy importer, California brandy wholesaler, beer manufacturer, or an out-of-state beer manufacturer certificate holder. "Authorized licensee" shall not include an entity that solely holds a combination of a beer and wine wholesale license and an off-sale beer and wine retail license or holds those licenses solely in combination with any license not listed in this paragraph, or holds a limited off-sale retail wine license.

(2) "Licenseholder" means an off-sale retail licensee issued an instructional tasting license pursuant to Section 23396.6.

(3) "Location" means the total contiguous area encompassed by the off-sale and on-sale licenses.

(c) Notwithstanding subparagraph (E) of paragraph (1) of subdivision (a), a licenseholder may conduct an instructional tasting event that includes the serving of tastings only when an authorized licensee or its designated representative are unable to conduct an instructional tasting event previously advertised pursuant to this section and scheduled by the authorized licensee or its designated representative, provided that the licenseholder supplies the wine, beer, or distilled spirits used in the instructional tasting event and provides or pays for a person to serve the wine, beer, or distilled spirits. Instructional tasting events conducted by a licenseholder pursuant to this subdivision are subject to the provisions of this section and Section 23396.6.

(d) No more than one authorized licensee, or its designated representative, may conduct an instructional tasting event that includes the serving of tastes of wine, beer, or distilled spirits at any one individual licensed premises of a licenseholder per day.

(e) A licenseholder that also holds an on-sale beer and wine license, an on-sale beer and wine eating place license, or an on-sale general license shall not allow an authorized licensee, or its designated representative, to conduct an instructional tasting event on the same day and at the same location as any instructional tasting event held pursuant to subdivision (b) of Section 23386, Section 25503.4, subdivision (c) of Section 25503.5, or Section 25503.55.

(f) A licenseholder shall not condition the allowance of an instructional tasting event upon the use of a particular designated representative of an authorized licensee.

(g) (1) In addition to any point-of-sale advertising or other advertising items allowed under this division or under rules of the department, an authorized licensee or its designated representative, in his or her absolute discretion and with permission of the licenseholder upon whose premises the instructional tasting event will be held, may list in any advertisement to the general public

for the instructional tasting event the name, address, telephone number, email address, Internet Web site address, and any other electronic media of the licenseholder, the names of the alcoholic beverages being featured at the instructional tasting event, pictures, illustrations, and depictions of the retailer's premises, personnel, and customers, and the time, date, and location of, and other information about, the instructional tasting event, provided that both of the following apply:

(A) The advertisement does not contain the retail price of the alcoholic beverages.

(B) The listing of the licenseholder's name, address, telephone number, email address, Internet Web site address, and any other electronic media in the advertisement is relatively inconspicuous in relation to the advertisement as a whole.

(2) Laudatory references to the licenseholder in these advertisements are not authorized. The reposting of social media posts, including posts by the retailer, is permitted provided that the reposting complies with all the requirements of this section. Nothing in this section shall authorize an authorized licensee or its designated representative to share in the costs, if any, of the licenseholder.

(h) A licenseholder may advertise an instructional tasting event to the general public. The costs of this advertising shall be borne solely by the licenseholder. Advertising permitted by this subdivision includes flyers, newspaper ads, Internet communications, and interior signage.

(i) Except as otherwise provided in this division or rules of the department, no premium, gift, free goods, or other thing of value shall be given away by an authorized licensee or its designated representative in connection with an instructional tasting event that includes tastings of an alcoholic beverage.

(j) The licenseholder or the authorized licensee or its designated representative is authorized to perform setup and breakdown of the instructional tasting event area. The authorized licensee or its designated representative may provide, free of charge to the licenseholder, the equipment, materials, and utensils as may be required for use in connection with the instructional tasting event.

(k) (1) A licenseholder shall not require, or enter into a collusive scheme with, an authorized licensee or its designated representative to conduct one or more instructional tasting events as a condition of the licenseholder's carrying or continuing to carry a brand or brands of the authorized licensee or as a condition for display or other merchandising plan which is based on an agreement to provide shelf space. An authorized licensee or its designated representative shall not require any preferential treatment or benefit from, or enter into a collusive scheme with, a licenseholder as a condition of conducting one or more instructional tasting events, require a licenseholder to carry or continue to carry a brand or brands of the authorized licensee as a condition of conducting one or more instructional tasting events, or condition display or other merchandising plans that are based on agreements for the provision of shelf space on the conducting of one or more instructional tasting events. Any agreement, whether written or oral, entered into by and between a licenseholder and an authorized licensee or its designated representative that precludes the conducting of instructional tasting events on the premises of the licenseholder by any other authorized licensee is prohibited. A licenseholder or authorized licensee, or its designated representative, shall not use an instructional tasting event to circumvent any other requirements of this division.

(2) In addition to any other remedies available under this division, upon a finding by the department of a failure to comply with this subdivision, the department shall suspend the instructional tasting license of the licenseholder and the privilege of the authorized licensee to conduct instructional events for not less than six months but for no more than one year.

(l) 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 must be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

**SEC. 10.** Section 25503.9 of the Business and Professions Code is amended to read:

**25503.9.** (a) Nothing in this division prohibits a winegrower, a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine, or the holder of a limited off-sale retail wine license from giving or selling wine, a beer manufacturer from giving or selling beer, a craft distiller, a distilled spirits manufacturer, rectifier, or a distilled spirits manufacturer's agent from giving or selling distilled spirits, or an importer general licensee from giving or selling beer, wine, or distilled spirits at prices other than those contained in schedules filed with the department, to any of the following:

(1) A nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.



(2) A nonprofit incorporated trade association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code, and the members of which trade association are licensed under this division. However, the wine, beer, and distilled spirits shall be used solely for a convention or meeting of the nonprofit incorporated trade association.

(3) A nonprofit corporation or association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and is defined as a tax exempt organization under Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r, or 23701w of the Revenue and Taxation Code. Wine, beer, and distilled spirits given or sold by a winegrower, beer manufacturer, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, or importer general licensee pursuant to this subdivision may be furnished only in connection with public service or fundraising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, or similar events.

(b) Nothing in this division prohibits a winegrower, a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine, or the holder of a limited off-sale retail wine license from giving or selling wine, a beer manufacturer from giving or selling beer, a craft distiller, distilled spirits manufacturer, rectifier, or a distilled spirits manufacturer's agent from giving or selling distilled spirits, or a beer and wine wholesaler that also holds an importer's license from giving or selling beer, wine, or distilled spirits at prices other than those contained in schedules filed with the department, to any of the following:

(1) A nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.

(2) A nonprofit incorporated trade association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code, and the members of which trade association are licensed under this division. However, the wine, beer, and distilled spirits shall be used solely for a convention or meeting of the nonprofit incorporated trade association.

(3) A nonprofit corporation or association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and is defined as a tax exempt organization under Section 23701a, 23701d, 23701e, 23701f, or 23701r of the Revenue and Taxation Code. Wine, beer, and distilled spirits given or sold by a winegrower, beer manufacturer, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, or licensed importer pursuant to this subdivision may be furnished only in connection with public service or fundraising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, or similar events.

**SEC. 10.5.** Section 25503.9 of the Business and Professions Code is amended to read:

**25503.9.** (a) Nothing in this division prohibits a winegrower, a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine, or the holder of a limited off-sale retail wine license from giving or selling wine, a beer manufacturer from giving or selling beer, a craft distiller, a distilled spirits manufacturer, rectifier, or a distilled spirits manufacturer's agent from giving or selling distilled spirits, or an importer general licensee from giving or selling beer, wine, or distilled spirits at prices other than those contained in schedules filed with the department, to any of the following:

(1) A nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.

(2) A nonprofit incorporated trade association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code, and the members of which trade association are licensed under this division. However, the wine, beer, and distilled spirits shall be used solely for a convention or meeting of the nonprofit incorporated trade association.

(3) A nonprofit corporation or association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and is defined as a tax exempt organization under Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r, or 23701w of the Revenue and Taxation Code. Wine, beer, and distilled spirits given or sold by a winegrower, beer manufacturer, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, or importer general licensee pursuant to this subdivision may be furnished only in connection with public service or fundraising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, or similar events.

(b) Nothing in this division prohibits a winegrower, a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine, or the holder of a limited off-sale retail wine license from giving or selling wine, a beer manufacturer from giving or selling beer, a craft distiller, distilled spirits manufacturer, rectifier, or a distilled spirits manufacturer's agent from

giving or selling distilled spirits, or a beer and wine wholesaler that also holds an importer's license from giving or selling beer, wine, or distilled spirits at prices other than those contained in schedules filed with the department, to any of the following:

(1) A nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.

(2) A nonprofit incorporated trade association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code, and the members of which trade association are licensed under this division. However, the wine, beer, and distilled spirits shall be used solely for a convention or meeting of the nonprofit incorporated trade association.

(3) A nonprofit corporation or association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of the United States and is defined as a tax exempt organization under Section 23701a, 23701d, 23701e, 23701f, or 23701r of the Revenue and Taxation Code. Wine, beer, and distilled spirits given or sold by a winegrower, beer manufacturer, craft distiller, distilled spirits manufacturer, distilled spirits manufacturer's agent, or licensed importer pursuant to this subdivision may be furnished only in connection with public service or fundraising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, or similar events.

(c) A nonprofit corporation, organization, or association that is authorized to purchase or accept donations of alcoholic beverages pursuant to this section, and that also holds a permanent retail license issued pursuant to this division, shall not use any alcoholic beverage so purchased or donated in the exercise of any privileges or business under its permanent retail license.

(d) A licensee authorized to donate or sell alcoholic beverages to a nonprofit corporation, organization, or association pursuant to this section, except for a beer and wine wholesaler that also holds an importer's license, may also provide services to and otherwise assist the corporation, organization, or association in connection with an event conducted under a temporary license issued by the department.

**SEC. 11.** Section 9.5 of this bill incorporates amendments to Section 25503.56 of the Business and Professions Code proposed by both this bill and Assembly Bill 2452. 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 25503.56 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 2452, in which case Section 9 of this bill shall not become operative.

**SEC. 12.** Section 10.5 of this bill incorporates amendments to Section 25503.9 of the Business and Professions Code proposed by both this bill and Assembly Bill 1986. 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 25503.9 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1986, in which case Section 10 of this bill shall not become operative.

**SEC. 13.** 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.