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**AB-1133 Beer: premiums, gifts, and free goods.** (2019-2020)

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**Assembly Bill No. 1133**

**CHAPTER 623**

An act to add and repeal Section 25600.05 of the Business and Professions Code, relating to alcoholic beverages.

[ Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1133, Low. Beer: premiums, gifts, and free goods.

The Alcoholic Beverage Control Act generally prohibits any licensee from giving any premiums, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as permitted by rules adopted by the Department of Alcoholic Beverage Control. The act prohibits the department from adopting a rule that permits a licensee to give any premium, gift, or free good of greater than inconsequential value, in connection with the sale or distribution of beer, except as specified. The act provides, with respect to beer, that premiums, gifts, or free goods, including specified advertising specialties, are deemed to have greater than inconsequential value if they cost more than \$0.25 per unit, or cost more than \$15 in the aggregate for all those items given by a single supplier to a single retail premises per calendar year.

This bill would authorize a beer manufacturer, without direct or indirect charge, to give up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year for use at the licensed location. The bill would permit an on-sale retail licensee to accept, without direct or indirect charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year for use at the licensed location. The bill would prohibit the on-sale retail licensee from selling the glassware, giving it away, or returning it to a manufacturer for cash, credit, or replacement, would prohibit the on-sale retail licensee from conditioning the purchase of a beer manufacturer's product or products on the giving of retail advertising glassware by that beer manufacturer, and would prohibit a beer wholesaler from contributing to specified costs associated with the glassware or serving as the agent of the beer manufacturer to deliver, stock, or store glassware for an on-sale retailer. The bill would require a beer manufacturer to file records relating to glassware with the Department of Alcoholic Beverage Control and would require both a beer manufacturer and an on-sale retail licensee to keep and maintain records for a 3-year period of all glassware given, purchased, or received pursuant to these provisions, as specified. The bill would prescribe definitions in this regard. The bill would repeal these provisions on January 1, 2023.

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

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

**SECTION 1.** Section 25600.05 is added to the Business and Professions Code, to read:

**25600.05.** (a) For purposes of this section:

(1) "Beer manufacturer" has the same meaning as that term is defined in subparagraph (B) of paragraph (2) of subdivision (b) of Section 25600.

(2) "Case" means a box containing up to 24 pieces of glassware.

(3) "Glassware" means a single-service glass container or nonglass container capable of holding no more than 23 ounces of liquid volume and which is intended for the service of beer.

(4) "Retail advertising glassware" means glassware that bears conspicuous advertising of beer required of a sign.

(b) Notwithstanding Section 25500, Section 25600, or any other law to the contrary:

(1) A beer manufacturer, without direct or indirect charge, may give up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year for use at the licensed location. The giving of retail advertising glassware shall not be conditioned, directly or indirectly, upon the purchase or sale of any product, including, without limitation, any beer manufactured, produced, imported, sold, marketed, or in any other way promoted or represented by the beer manufacturer giving the retail advertising glassware. Retail advertising glassware provided pursuant to this section shall only be delivered by the beer manufacturer providing it to the licensed premises of the retailer receiving the retail advertising glassware. No more than five cases of retail advertising glassware shall be delivered by the beer manufacturer to any single on-sale retail licensed premises.

(2) An on-sale retail licensee may accept, without direct or indirect charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year for use at the licensed location. The on-sale retail licensee shall not sell the retail advertising glassware, give it away, or return it to a manufacturer for cash, credit, or replacement. The on-sale retail licensee shall not condition the purchase of a beer manufacturer's product or products on the giving of retail advertising glassware by that beer manufacturer.

(c) A beer wholesaler shall not directly or indirectly underwrite, share in, or contribute to the costs of glassware or any costs of transportation or shipping or serve as the agent of the beer manufacturer to deliver, stock, or store glassware for an on-sale retailer.

(d) A licensee authorized to give retail advertising glassware pursuant to this section shall not be precluded from doing so on the basis of having an interest in any other type of alcoholic beverage license within or outside of the state.

(e) A beer manufacturer shall file with the department, in a manner prescribed by the department, records related to glassware provided to an on-sale retail licensee pursuant to this section within 30 days of the delivery of the glassware. In addition, a beer manufacturer shall keep and maintain records for a three-year period of all glassware given pursuant to this section.

(f) An on-sale retail licensee shall keep and maintain records for a three-year period of all glassware received pursuant to this section and of all other retail advertising glassware purchased or otherwise received. Such records shall be maintained by the on-sale retail licensee at the licensed premises to which the beer manufacturer delivers the glassware authorized by this section. The on-sale retail licensee shall produce records to the department promptly upon request.

(g) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.