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AB-1825 Alcoholic beverage control. (2019-2020)

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Assembly Bill No. 1825

CHAPTER 696

An act to amend Sections 25503.6 and 25607 of the Business and Professions Code, relating to alcoholic beverage control.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1825, Committee on Governmental Organization. Alcoholic beverage control.

(1) Existing law, the Alcoholic Beverage Control Act, generally prohibits a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising. The act creates a variety of exceptions from this prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant at a specified stadium and venue located in the City of Inglewood.

This bill would revise the authorization to allow advertising to be placed in areas within the retail, entertainment, commercial, and mixed-use development which includes the stadium and performance venue, provided that the advertising shall not be placed on or in, or otherwise promote, any permanently licensed retail premises other than the stadium or performance venue.

(2) Existing law, with exceptions, prohibits a licensee from having upon the licensed premises any alcoholic beverages other than the alcoholic beverage that the licensee is authorized to sell at the premises under their license, and makes a violation of this prohibition punishable as a misdemeanor.

This bill would, as an exception to that prohibition, authorize specified licensees that hold more than one of the specified licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises for purposes of production and storage, if the holder of the licenses maintains records of production and storage that identify the specific location of each alcoholic beverage product within the premises.

(3) This bill would incorporate additional changes to Section 25503.6 of the Business and Professions Code proposed by SB 717 to be operative only if this bill and SB 717 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County or Alameda County.

(B) (i) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.

(ii) An outdoor stadium of at least 70,000 seats located in Los Angeles County operated by a joint powers authority.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located in San Bernardino County.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(F) An outdoor stadium and a fully enclosed arena with fixed seating capacities in excess of 10,000 seats located in Fresno County.

(G) An athletic and entertainment complex of not less than 50 acres that includes within its boundaries an outdoor stadium with a fixed seating capacity of at least 8,000 seats and a second outdoor stadium with a fixed seating capacity of at least 3,500 seats located in Riverside County.

(H) An outdoor stadium with a fixed seating capacity in excess of 1,500 seats located in Tulare County.

(I) A motorsports entertainment complex of not less than 50 acres that includes within its boundaries an outdoor speedway with a fixed seating capacity of at least 50,000 seats, located in San Bernardino County.

(J) An exposition park, owned or operated by a bona fide nonprofit organization, of not less than 400 acres with facilities including a grandstand with a seating capacity of at least 8,000 people, at least one exhibition hall greater than 100,000 square feet, and at least four exhibition halls, each greater than 30,000 square feet, located in the City of Pomona or the City of La Verne in Los Angeles County.

(K) An outdoor soccer stadium with a fixed seating capacity of at least 25,000 seats, an outdoor tennis stadium with a fixed seating capacity of at least 7,000 seats, an outdoor track and field facility with a fixed seating capacity of at least 7,000 seats, and an indoor velodrome with a fixed seating capacity of at least 2,000 seats, all located within a sports and athletic complex built before January 1, 2005, in the City of Carson in Los Angeles County.

(L) An outdoor professional sports facility with a fixed seating capacity of at least 4,200 seats located in San Joaquin County.

(M) A fully enclosed arena with a fixed seating capacity in excess of 13,000 seats located in the City of Inglewood.

(N) (i) An outdoor stadium with a fixed seating capacity of at least 68,000 seats located in the City of Santa Clara.

(ii) A beer manufacturer, the holder of a winegrower's license, a rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, a major tenant of an outdoor stadium described in clause (i), provided the major tenant does not hold a retail license, and the advertising may include the placement of advertising in an on-sale licensed premises operated at the outdoor stadium.

(O) A complex of not more than 50 acres located on the campus of, and owned by, Sonoma State University dedicated to presenting live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances with venues that include a concert hall with a seating capacity of approximately 1,500 seats, a second concert hall with a seating capacity of up to 300 seats, an outdoor area with a seating capacity of up to 5,000 seats, and a further outdoor area with a seating capacity of up to 10,000 seats. With respect to this complex, advertising space and time may also be purchased from or on behalf of the owner of the complex, a long-term tenant or licensee of the venue, whether or not the owner, long-term tenant, or licensee holds an on-sale license.

(P) A fairgrounds with a horse racetrack and equestrian and sports facilities located in San Diego County.

(Q) (i) A stadium with a fixed seating capacity of at least 70,000 seats located in the City of Inglewood and a performance venue with a seating capacity of at least 5,000 seats adjacent to the stadium.

(ii) Advertising authorized by this subparagraph may be placed in areas within the retail, entertainment, commercial, and mixed-use development which includes the stadium and performance venue, provided that the advertising shall not be placed on or in, or otherwise promote, any permanently licensed retail premises other than the stadium or performance venue.

(R) An outdoor stadium with a fixed seating capacity of at least 40,000 seats located in the City and County of San Francisco.

(S) An indoor arena with a fixed seating capacity of at least 13,000 seats located in the City and County of San Francisco.

(T) An outdoor stadium with a fixed seating capacity in excess of 20,000 seats located in the City of Los Angeles.

(U) An outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego.

(V) An outdoor professional sports stadium with a fixed seating capacity of at least 3,000 seats located in the City of San Jose.

(W) An outdoor professional sports stadium with a fixed seating capacity of at least 15,000 seats located in the City of San Jose.

(X) A fully enclosed arena with a fixed seating capacity in excess of 15,000 seats located in the City of San Jose.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the exposition park, stadium, or arena owned by the on-sale licensee. With respect to an exposition park as described in subparagraph (J) of paragraph (1) that includes at least one hotel, the advertising space or time shall not be displayed on or in any hotel located in the exposition park, or purchased in connection with the operation of any hotel located in the exposition park. With respect to the complex described in subparagraph (O) of paragraph (1), the advertising space or time shall be purchased only in connection with live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances to be held on the premises of the complex. With respect to a fully enclosed arena described in subparagraph (X) of paragraph (1), advertising space or time shall be purchased only for interior advertising in connection with events conducted within the arena.

(4) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent that purchased the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and any of the following:

(1) The on-sale licensee.

(2) With respect to clause (ii) of subparagraph (N) of paragraph (1) of subdivision (a), the major tenant of the outdoor stadium.

(3) With respect to subparagraphs (O), (Q), (R), and (T) of paragraph (1) of subdivision (a), the owner, a long-term tenant of the complex, or licensee of the complex, whether or not the owner, long-term tenant, or licensee holds an on-sale license.

(c) Any beer manufacturer or holder of a winegrower's license, any rectifier, any distilled spirits manufacturer, or any distilled spirits manufacturer's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill all or part of those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space, time, or costs involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, a holder of a winegrower's license, a rectifier, a distilled spirits manufacturer,

or a distilled spirits manufacturer's agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) For the purposes of this section, "beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.

(f) The Legislature finds that 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. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and intends that this section be construed accordingly.

SEC. 1.5. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a rectifier, a craft distiller, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County or Alameda County.

(B) (i) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.

(ii) An outdoor stadium of at least 70,000 seats located in Los Angeles County operated by a joint powers authority.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located in San Bernardino County.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(F) An outdoor stadium and a fully enclosed arena with fixed seating capacities in excess of 10,000 seats located in Fresno County.

(G) An athletic and entertainment complex of not less than 50 acres that includes within its boundaries an outdoor stadium with a fixed seating capacity of at least 8,000 seats and a second outdoor stadium with a fixed seating capacity of at least 3,500 seats located in Riverside County.

(H) An outdoor stadium with a fixed seating capacity in excess of 1,500 seats located in Tulare County.

(I) A motorsports entertainment complex of not less than 50 acres that includes within its boundaries an outdoor speedway with a fixed seating capacity of at least 50,000 seats, located in San Bernardino County.

(J) An exposition park, owned or operated by a bona fide nonprofit organization, of not less than 400 acres with facilities including a grandstand with a seating capacity of at least 8,000 people, at least one exhibition hall greater than 100,000 square feet, and at least four exhibition halls, each greater than 30,000 square feet, located in the City of Pomona or the City of La Verne in Los Angeles County.

(K) An outdoor soccer stadium with a fixed seating capacity of at least 25,000 seats, an outdoor tennis stadium with a fixed seating capacity of at least 7,000 seats, an outdoor track and field facility with a fixed seating capacity of at least 7,000 seats, and an indoor velodrome with a fixed seating capacity of at least 2,000 seats, all located within a sports and athletic complex built before January 1, 2005, in the City of Carson in Los Angeles County.

(L) An outdoor professional sports facility with a fixed seating capacity of at least 4,200 seats located in San Joaquin County.

(M) A fully enclosed arena with a fixed seating capacity in excess of 13,000 seats located in the City of Inglewood.

(N) (i) An outdoor stadium with a fixed seating capacity of at least 68,000 seats located in the City of Santa Clara.

(ii) A beer manufacturer, the holder of a winegrower's license, a rectifier, a craft distiller, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, a major tenant of an outdoor stadium described in clause (i), provided the major tenant does not hold a retail license, and the advertising may include the placement of advertising in an on-sale licensed premises operated at the outdoor stadium.

(O) A complex of not more than 50 acres located on the campus of, and owned by, Sonoma State University dedicated to presenting live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances with venues that include a concert hall with a seating capacity of approximately 1,500 seats, a second concert hall with a seating capacity of up to 300 seats, an outdoor area with a seating capacity of up to 5,000 seats, and a further outdoor area with a seating capacity of up to 10,000 seats. With respect to this complex, advertising space and time may also be purchased from or on behalf of the owner of the complex, a long-term tenant or licensee of the venue, whether or not the owner, long-term tenant, or licensee holds an on-sale license.

(P) A fairgrounds with a horse racetrack and equestrian and sports facilities located in San Diego County.

(Q) (i) A stadium with a fixed seating capacity of at least 70,000 seats located in the City of Inglewood and a performance venue with a seating capacity of at least 5,000 seats adjacent to the stadium.

(ii) Advertising authorized by this subparagraph may be placed in areas within the retail, entertainment, commercial, and mixed-use development which includes the stadium and performance venue, provided that the advertising shall not be placed on or in, or otherwise promote, any permanently licensed retail premises other than the stadium or performance venue.

(R) An outdoor stadium with a fixed seating capacity of at least 40,000 seats located in the City and County of San Francisco.

(S) An indoor arena with a fixed seating capacity of at least 13,000 seats located in the City and County of San Francisco.

(T) An outdoor stadium with a fixed seating capacity in excess of 20,000 seats located in the City of Los Angeles.

(U) An outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego.

(V) An outdoor professional sports stadium with a fixed seating capacity of at least 3,000 seats located in the City of San Jose.

(W) An outdoor professional sports stadium with a fixed seating capacity of at least 15,000 seats located in the City of San Jose.

(X) A fully enclosed arena with a fixed seating capacity in excess of 15,000 seats located in the City of San Jose.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the exposition park, stadium, or arena owned by the on-sale licensee. With respect to an exposition park as described in subparagraph (J) of paragraph (1) that includes at least one hotel, the advertising space or time shall not be displayed on or in any hotel located in the exposition park, or purchased in connection with the operation of any hotel located in the exposition park. With respect to the complex described in subparagraph (O) of paragraph (1), the advertising space or time shall be purchased only in connection with live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances to be held on the premises of the complex. With respect to a fully enclosed arena described in subparagraph (X) of paragraph (1), advertising space or time shall be purchased only for interior advertising in connection with events conducted within the arena.

(4) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the rectifier, the craft distiller, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent that purchased the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the rectifier, the craft distiller, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and any of the following:

(1) The on-sale licensee.

(2) With respect to clause (ii) of subparagraph (N) of paragraph (1) of subdivision (a), the major tenant of the outdoor stadium.

(3) With respect to subparagraphs (O), (Q), (R), and (T) of paragraph (1) of subdivision (a), the owner, a long-term tenant of the complex, or licensee of the complex, whether or not the owner, long-term tenant, or licensee holds an on-sale license.

(c) Any beer manufacturer or holder of a winegrower's license, any rectifier, any craft distiller, any distilled spirits manufacturer, or any distilled spirits manufacturer's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill all or part of those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space, time, or costs involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, a holder of a winegrower's license, a rectifier, a craft distiller, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) For the purposes of this section, "beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.

(f) The Legislature finds that 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. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and intends that this section be construed accordingly.

SEC. 2. Section 25607 of the Business and Professions Code is amended to read:

25607. (a) Except as provided in subdivisions (b), (c), and (d), it is unlawful for any person or licensee to have upon any premises for which a license has been issued any alcoholic beverages other than the alcoholic beverage which the licensee is authorized to sell at the premises under their license. It shall be presumed that all alcoholic beverages found or located upon premises for which licenses have been issued belong to the person or persons to whom the licenses were issued. Every person violating the provisions of this section is guilty of a misdemeanor. The department may seize any alcoholic beverages found in violation of this section.

(b) Except as provided in subdivision (c), a bona fide public eating place for which an on-sale beer and wine license has been issued may have upon the premises brandy, rum, or liqueurs for use solely for cooking purposes.

(c) (1) A licensed winegrower, licensed beer manufacturer that holds a small beer manufacturer's license, and a licensed craft distiller, in any combination, whose licensed premises of production are immediately adjacent to each other and which are not branch offices, may, with the approval of the department and under such conditions as the department may require, share a common licensed area in which the consumption of alcoholic beverages is permitted, only under all of the following circumstances:

(A) The shared common licensed area is adjacent and contiguous to the licensed premises of the licensees.

(B) The licensed premises of the licensees are not branch offices.

(C) The shared common licensed area shall be readily accessible from the premises of the licensees without the necessity of using a public street, alley, or sidewalk.

(D) Except as otherwise authorized by this division, the alcoholic beverages that may be consumed in the shared common licensed area shall be purchased by the consumer only from the licensed winegrower, the licensed beer manufacturer, or the licensed craft distiller.

(E) The licensed winegrower, the licensed beer manufacturer, and the licensed craft distiller shall be jointly responsible for compliance with the provisions of this division and for any violations that may occur within the shared common licensed

area.

(2) Nothing in this subdivision is intended to authorize the licensed winegrower, the licensed beer manufacturer, or the licensed craft distiller to sell, furnish, give, or have upon their respective licensed premises any alcoholic beverages, or to engage in any other activity, not otherwise authorized by this division, including, without limitation, the consumption on the premises of any distilled spirits purchased by consumers for consumption off the premises pursuant to Section 23504 or the consumption of distilled spirits other than as permitted by Section 23363.1.

(d) The holder of a beer manufacturer's license, winegrower's license, brandy manufacturer's license, distilled spirits manufacturer's license, craft distiller's license, any rectifier's license, any importer's license, or any wholesaler's license, that holds more than one of those licenses for a single premises, may have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises for purposes of production and storage, if the holder of the licenses maintains records of production and storage that identify the specific location of each alcoholic beverage product within the premises. Nothing in this subdivision is intended to allow a licensee to hold licenses, alone or in combination, or to exercise any license privileges, not otherwise provided for or authorized by this division.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 25503.6 of the Business and Professions Code proposed by both this bill and Senate Bill 717. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 25503.6 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 717, in which case Section 1 of this bill shall not become operative.