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AB-1149 Alcoholic beverages: tied-house restrictions. (2021-2022)

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Assembly Bill No. 1149

CHAPTER 271

An act to amend Section 25503.2 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 2021. Filed with Secretary of State September 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1149, Villapudua. Alcoholic beverages: tied-house restrictions.

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, known as tied-house restrictions, generally prohibits a manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, and wholesaler, and any officer, director, or agent of any of those licensees, from giving or lending money or a thing of value to a person operating, owning, or maintaining premises where alcoholic beverages are sold. Existing law creates various exceptions to tied-house restrictions, including permitting a licensee to perform services for off-sale licensees by rotating the brand or brands that are owned or sold by the licensee performing the service on shelves and in refrigerated boxes, as specified. Existing law limits this exception by not authorizing removal of brands, except beer. Existing law also creates a tied-house restriction exception for rearranging brands, including on floor displays, among other actions, as specified, but limits this exception by not authorizing stocking permanent shelves and fixtures for regular inventory replacement, except beer.

This bill, in connection with the exceptions to tied-house restrictions described above, would extend the exceptions to limitations that are provided to beer to apply also to brands of distilled spirits and wine in single-serve containers, as defined, that are intended to be consumed without mixing. The bill would also make technical and conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 25503.2 of the Business and Professions Code is amended to read:

25503.2. (a) Notwithstanding any other provision in this division, any winegrower, wine blender, beer manufacturer, brandy manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, rectifier, distilled spirits wholesaler, and beer and wine wholesaler, or the authorized agent or agents or representative or representatives of that licensee, may perform any of the following services for off-sale retail licensees at or on the licensed premises of the off-sale retail licensee where the licensee sells alcoholic beverages with the retail licensee's permission:

(1) Stack or arrange cases of the brand or brands of alcoholic beverages owned or sold by the licensee performing the service in the storeroom or warehouse where the off-sale retail licensee stores the brand or brands.

(2) Rotate the brand or brands owned or sold by the licensee performing the service on shelves and in refrigerated boxes, and rearrange bottles or packages of the brand or brands by moving the bottles or packages horizontally or vertically from shelf to shelf in the space and shelves allocated to the brand or brands. This paragraph does not permit the removal of any brand or brands of alcoholic beverages, except beer, and brands of distilled spirits in single-serve containers, and wine in single-serve containers, which are owned or sold by the licensee performing the service, from the storeroom or other place belonging to an off-sale retailer for the purpose of replacing alcoholic beverages on or restocking shelves or refrigerated boxes.

(3) Take an inventory of an off-sale retailer's stock of a brand or brands of alcoholic beverages which are owned or sold by the licensee performing the service and which are in the stockroom or other place belonging to the off-sale retailer.

(4) Service the brand or brands of alcoholic beverages owned or sold by the licensee performing the service which are on shelves, fixtures, or other display pieces at the off-sale retail premises, including, but not limited to, dusting bottles and shelves and refrigerated boxes allocated to the brand or brands at the retail premises. The licensees authorized to render services by this section and their agents and representatives shall not price-mark individual containers of the brand of alcoholic beverages, except beer, owned or sold by the licensee performing the service, except for individual bottles and packages used on floor displays.

(5) Rotate or rearrange the brand or brands of wine or distilled spirits owned or sold by the licensee on, in, or among permanent shelves, permanent fixtures, refrigerated boxes, or floor or other displays or display pieces; stock the brand or brands onto or into floor or other displays or display pieces; and stock the brand or brands onto or into permanent shelves, permanent fixtures, or refrigerated boxes for the sole purposes of the introduction of new products, the resetting or rearrangement of existing products, or the setting or arranging of new stores. Incidental touching or rearrangement of the brand or brands of another licensee by a licensee performing any of the services authorized by this paragraph for the sole purpose of accessing permanent shelves, permanent fixtures, and other spaces allocated to the licensee performing the service shall not be deemed to be a violation of any provision of this division provided the other licensee's brands are not removed from spaces allocated to that licensee. Nothing in this paragraph permits stocking permanent shelves, permanent fixtures, or refrigerated boxes for regular inventory replenishment, except beer, and brands of distilled spirits in single-serve containers, and wine in single-serve containers.

(b) Notwithstanding any other provision in this division, any beer manufacturer or beer and wine wholesaler, or the authorized agent or agents or representative or representatives of that licensee, may perform any of the services specified in paragraphs (1) to (4), inclusive, of subdivision (a), with respect to beer, for on-sale retail licensees at or on the premises of the on-sale retail licensee with the retail licensee's permission.

(c) For purposes of this section, "single-serve containers" means containers that have a standard of fill between 50 milliliters and 355 milliliters that is authorized for distilled spirits under Section 5.47a of Title 27 of the Code of Federal Regulations or a standard of fill between 187 milliliters and 355 milliliters that is authorized for wine under Section 4.72 of Title 27 of the Code of Federal Regulations, either individually or in multiple container packaging, and are intended to be consumed without mixing with any other substance.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow alcoholic beverages to be stocked and serviced in the most effective and compliant manner that preserves the public health and safety during the current economic crisis brought on by the COVID-19 pandemic, it is necessary that this bill take effect immediately.