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**AB-1323 Alcoholic beverage control: tied-house exceptions.** (2021-2022)

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Date Published: 09/14/2022 09:00 PM

**Assembly Bill No. 1323**

**CHAPTER 271**

An act to amend Section 25503.35 of the Business and Professions Code, relating to alcoholic beverages.

[ Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1323, Haney. Alcoholic beverage control: tied-house exceptions.

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. Existing law creates a variety of exceptions from this prohibition, including permitting specified alcoholic beverage licensees to purchase advertising space and time in connection with a special on-sale retail licensed premises that is a historic theater located in the City and County of San Francisco that meets specified conditions. Among those conditions is that the premises be configured with theatrical seating of at least 2,100 seats.

This bill would reduce the minimum required theatrical seating for purposes of this provision to 1,600.

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

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

**SECTION 1.** Section 25503.35 of the Business and Professions Code is amended to read:

**25503.35.** (a) Notwithstanding Sections 25500 and 25503, a beer manufacturer, winegrower, rectifier, distilled spirits manufacturer, craft distiller, or a distilled spirits manufacturer's agent may purchase advertising space and time in connection with a special on-sale retail licensed premises, if all of the following conditions are met:

- (1) The on-sale retail licensed premises is a for-profit theater licensed with a special on-sale general license pursuant to Section 24045.75.
- (2) The on-sale retail licensed premises is configured with theatrical seating of at least 1,600 seats but no more than 2,400 seats.
- (3) The on-sale retail licensed premises is a historic theater that is located in the City and County of San Francisco, that was built prior to 1927, and that is either within a historic district as designated by the National Register of Historic Places or is designated as a Landmark by the San Francisco Historic Preservation Commission.
- (4) All payments for the purchase of advertising space and time shall be made pursuant to a written contract with the owner of the theater, the licensee, or the long-term tenant, as appropriate.

(5) No agreement for advertising authorized by this section shall be contingent upon or otherwise require, directly or indirectly, implicitly or explicitly, the retail licensee to purchase or sell any alcoholic beverages or other products produced, manufactured, imported, distributed, or otherwise represented by the purchaser of the advertising space and time. The special on-sale general licensee shall offer for sale, in a bona fide manner, alcoholic beverages manufactured, produced, or distributed by competing licensed beer manufacturers, winegrowers, rectifiers, distilled spirits manufacturers, craft distillers, or distilled spirits manufacturer's agents.

(6) Advertising space and time purchased pursuant to this section may be included in printed programs for specific theatrical performances and in announcements made during the theatrical performances, as well as any internet, social media, or other media promotion of the specific theatrical performance. The advertising may also be placed on or in the special on-sale general licensed premises.

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