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AB-2301 Alcoholic beverage sales: beer manufacturers: licensed premises. (2021-2022)

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Assembly Bill No. 2301

CHAPTER 961

An act to amend Section 25503.28 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, Wood. Alcoholic beverage sales: beer manufacturers: licensed premises.

Existing law, the Alcoholic Beverage Control Act, prohibits a beer manufacturer, regardless of the number of beer manufacturer licenses that are held by the beer manufacturer, as specified, from exercising any combination of specified retail privileges that would result in that beer manufacturer exercising retail privileges at more than 6 locations. Existing law prohibits an on-sale retailer that is a beer manufacturer, as specified, from purchasing alcoholic beverages for sale in this state other than from specified persons, but excepts from this prohibition the purchase of any alcoholic beverages manufactured by the beer manufacturer at a single location contiguous or adjacent to the premises of the on-sale retailer.

This bill would revise the exception to the prohibition described above that requires the single location to be contiguous or adjacent to the premises of the on-sale retailer to authorize, instead, the purchase of any alcoholic beverages from a licensed beer manufacturer whose premises of production are located no more than 5 miles from the licensed on-sale premises.

This bill would incorporate additional changes to Section 25503.28 of the Business and Professions Code proposed by AB 2307 to be operative only if this bill and AB 2307 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 25503.28 of the Business and Professions Code is amended to read:

25503.28. (a) Notwithstanding any other provision of this division, the holder of no more than six on-sale licenses, or any officer, director, employee, or agent of that licensee, may own a licensed beer manufacturer holding a license pursuant to Section 23357, and may serve on the board of directors and as an officer or employee of a licensed beer manufacturer. A beer manufacturer, regardless of how many beer manufacturer licenses are held by the beer manufacturer alone, under common ownership with any other licensed beer manufacturer, or under common ownership with any officer, director, employee, or agent of that beer manufacturer licensee who is operating as an on-sale retailer pursuant to this section, shall be prohibited from exercising alone or in common any combination of retail privileges authorized under this section and Section 23389(c) that would result in that beer manufacturer exercising retail privileges at more than six locations regardless of whether the retail privileges are exercised pursuant to this section alone, pursuant to Section 23389(c) alone, or pursuant to any combination of the retail privileges

authorized under both of these sections. This section shall not limit the number of licensed beer manufacturer locations or the exercise of retail privileges at those licensed beer manufacturer locations as authorized pursuant to Section 23357.

(b) An on-sale licensee specified in subdivision (a) shall purchase no alcoholic beverages for sale in this state other than from a wholesale or winegrower licensee, except for any alcoholic beverages manufactured by the licensed beer manufacturer whose premises of production are located no more than five miles from the licensed on-sale premises.

(c) 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 expressed terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

SEC. 1.5. Section 25503.28 of the Business and Professions Code is amended to read:

25503.28. (a) Notwithstanding any other provision of this division, the holder of no more than six on-sale licenses, or any officer, director, employee, or agent of that licensee, may own a licensed beer manufacturer holding a license pursuant to Section 23357, and may serve on the board of directors and as an officer or employee of a licensed beer manufacturer. A beer manufacturer, regardless of how many beer manufacturer licenses are held by the beer manufacturer alone, under common ownership with any other licensed beer manufacturer, or under common ownership with any officer, director, employee, or agent of that beer manufacturer licensee who is operating as an on-sale retailer pursuant to this section, shall be prohibited from exercising alone or in common any combination of retail privileges authorized under this section and subdivision (c) of Section 23389 that would result in that beer manufacturer exercising retail privileges at more than eight locations, provided that, subject to the limitations of this section, no more than six of which may be on-sale licenses. This section shall not limit the number of licensed beer manufacturer locations or the exercise of retail privileges at those licensed beer manufacturer locations as authorized pursuant to Section 23357.

(b) An on-sale licensee specified in subdivision (a) shall purchase no alcoholic beverages for sale in this state other than from a wholesale or winegrower licensee, except for any alcoholic beverages manufactured by the licensed beer manufacturer whose premises of production are located no more than five miles from the licensed on-sale premises.

(c) 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 expressed terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 25503.28 of the Business and Professions Code proposed by both this bill and Assembly Bill 2307. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 25503.28 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 2307, in which case Section 1 of this bill shall not become operative.