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AB-1294 Tied-house restrictions: advertising exceptions: County of Kings. (2023-2024)

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Assembly Bill No. 1294

CHAPTER 471

An act to add Section 25503.62 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1294, Boerner. Tied-house restrictions: advertising exceptions: County of Kings.

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 specified licensees, or their officers, directors, or agents, from giving or lending money or a thing of value to a person operating, owning, or maintaining any on-sale premises where alcoholic beverages are sold. In this regard, existing law specifically prohibits paying a retailer for advertising. Existing law creates a variety of exceptions to this prohibition, as specified.

This bill would create an exception to tied-house restrictions that authorizes specified licensees to sponsor events promoted by, and purchase advertising space and time from or on behalf of, a company that owns a facility that includes a wave basin located in the County of Kings in connection with activities conducted on the premises of a permanent retail licensee located at a wave basin facility with a capacity of at least 9,000 individuals, subject to specified requirements.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Kings.

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

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

SECTION 1. Section 25503.62 is added to the Business and Professions Code, immediately following Section 25503.61, to read:

25503.62. (a) Notwithstanding any other provision of this chapter, an authorized licensee may sponsor events promoted by, and purchase advertising space and time from or on behalf of, a company that owns a facility that includes a wave basin located in the County of Kings in connection with activities conducted on the premises of a permanent retail licensee located at the wave basin facility, if all of the following conditions are met:

- (1) The premises of the permanent retail licensee includes a wave basin facility with a capacity of at least 9,000 individuals located in the County of Kings.

(2) The sponsorship or advertising space or time is purchased in connection with the sponsorship of activities that are held at the premises of a permanent retail licensee located at the wave basin facility.

(3) Any sponsorship or purchase of advertising space or time pursuant to this subdivision shall be accomplished by a written contract entered into by the authorized licensee and a company that owns a facility that includes a wave basin in the County of Kings.

(4) An agreement for advertising authorized by this subdivision shall not be contingent upon or otherwise require, directly or indirectly, implicitly or explicitly, the permanent retail licensee at the wave basin facility to purchase or sell any alcoholic beverages or other products produced, manufactured, imported, distributed, or otherwise represented by the event sponsor or purchaser of the advertising space and time.

(5) The permanent retail licensee at the wave basin facility shall offer for sale, in a bona fide manner, other brands of beer, distilled spirits, and wine distributed by a competing wholesaler or manufacturer in addition to any brand manufactured, distributed, or owned by the authorized licensee sponsoring an event or purchasing advertising space or time pursuant to this subdivision.

(b) For purposes of this section, the following definitions apply:

(1) "Authorized licensee" means a beer manufacturer, winegrower, rectifier, wine rectifier, distilled spirits manufacturer, craft distiller, distilled spirits manufacturer's agent, winegrower's agent, beer and wine importer, distilled spirits importer, distilled spirits importer general, beer and wine importer general, out-of-state distilled spirits shipper certificate holder, or out-of-state beer manufacturer certificate holder. "Authorized licensee" does not include any person who holds a distilled spirits importer license or distilled spirits importer general license together with a distilled spirits wholesaler's license, or any person who holds a beer and wine importer license or beer and wine importer general license together with a beer and wine wholesaler's license.

(2) "Wave basin" has the same meaning as defined in Section 115960.1 of the Health and Safety Code.

(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 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.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique conditions located in the County of Kings.