

Senate Bill No. 1647

CHAPTER 275

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 2004. Filed with Secretary of State August 23, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1647, Perata. Alcoholic beverages: licensees: advertising restrictions.

(1) Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a beer manufacturer's or winegrower's license, or a distilled spirits manufacturer or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent, assignee, or major tenant of a specified facility.

This bill would extend that exception to an on-sale licensee who is a distilled spirit rectifier, as provided, or the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of an outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Alameda County.

This bill would make findings regarding the need for special legislation.

(2) Existing law makes it a misdemeanor for licensees and other persons to violate existing provisions relating to the purchase of that advertising space or time.

This bill would impose a state-mandated local program by expanding the licensees subject to these criminal provisions.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

(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 within 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 within San Bernardino County.

(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 stadium or arena owned by the on-sale licensee.

(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 distilled spirits 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 distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and the on-sale licensee.

(c) Any beer manufacturer or holder of a winegrower's license, any distilled spirits 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 distilled spirits 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.

SEC. 2. The Legislature hereby 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 unique circumstances and concerns applicable to certain facilities in Alameda County.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. 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 Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that advertising space and time may be purchased with respect to events scheduled in 2004 from, or on behalf of, retail licensees who are authorized to sell alcoholic beverages, it is necessary for this act to take effect immediately.

