

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2893

Introduced by Assembly Member Hancock

February 22, 2008

An act to amend ~~Section 23356~~ *Sections 23800 and 23801* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2893, as amended, Hancock. Alcoholic beverages: ~~licenses.~~
license transfers: conditions.

The Alcoholic Beverage Control Act authorizes the Department of Alcoholic Beverage Control to impose reasonable conditions on the exercise of retail privileges under the act. The department may impose conditions on certain license transfers at the request of a local governing body in whose jurisdiction a license is located.

This bill would authorize the department to also impose conditions that it determines reasonable on license transfers regarding the presence of the license transferor on the licensed premises, if that license transferor was cited with multiple violations of the Alcoholic Beverage Control Act when in possession of the license.

The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is a misdemeanor.

This bill, by including provisions that would be subject to those existing criminal sanctions, would impose a state-mandated local program.

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.

~~The Alcoholic Beverage Control Act authorizes the holder of a manufacturer's or a winegrower's license to, among other things, become a manufacturer or producer of the alcoholic beverage specified in the license.~~

~~This bill would make technical, nonsubstantive changes to those provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23800 of the Business and Professions
2 Code is amended to read:

3 23800. The department may place reasonable conditions upon
4 retail licensees or upon any licensee in the exercise of retail
5 privileges in the following situations:

6 (a) If grounds exist for the denial of an application for a license
7 or where a protest against the issuance of a license is filed and if
8 the department finds that those grounds may be removed by the
9 imposition of those conditions.

10 (b) Where findings are made by the department which would
11 justify a suspension or revocation of a license, and where the
12 imposition of a condition is reasonably related to those findings.
13 In the case of a suspension, the conditions may be in lieu of or in
14 addition to the suspension.

15 (c) Where the department issues an order suspending or revoking
16 only a portion of the privileges to be exercised under the license.

17 (d) Where findings are made by the department that the licensee
18 has failed to correct objectionable conditions within a reasonable
19 time after receipt of notice to make corrections given pursuant to
20 subdivision (e) of Section 24200, or subdivision (a) or (b) of
21 Section 24200.1.

22 (e) (1) At the time of transfer of a license pursuant to Section
23 24071.1, 24071.2, or 24072 and upon written notice to the licensee,
24 the department may adopt conditions that the department
25 determines are reasonable pursuant to its investigation or that are

1 requested by the local governing body, or its designated subordinate
2 officer or agency, in whose jurisdiction the license is located. The
3 request for conditions shall be supported by substantial evidence
4 that the problems either on the premises or in the immediate
5 vicinity identified by the local governing body or its designated
6 subordinate officer or agency will be mitigated by the conditions.
7 Upon receipt of the request for conditions, the department shall
8 either adopt the conditions requested or notify the local governing
9 body, or its designated subordinate officer or agency, in writing
10 of its determination that there is not substantial evidence that the
11 problem exists or that the conditions would not mitigate the
12 problems identified. The department may adopt conditions only
13 when the request is filed. Any request for conditions from the local
14 governing body or its designated subordinate officer or agency
15 pursuant to this provision shall be filed with the department within
16 the time authorized for a local law enforcement agency to file a
17 protest or proposed conditions pursuant to Section 23987.

18 (2) If the license to be transferred subject to paragraph (1) is
19 located in an area of undue concentration as defined in Section
20 23958.4, the period within which the local governing body or its
21 designated subordinate officer or agency may submit a written
22 request for conditions shall be 40 days after the mailing of the
23 notices required by Section 23987. For purposes of this provision
24 only, undue concentration shall be established when the
25 requirements of both paragraph (1) of subdivision (a) and either
26 paragraph (2) or paragraph (3) of subdivision (a) of Section 23958.4
27 exist. Pursuant to Section 23987, the department may extend the
28 40-day period for a period not to exceed an additional 20 days
29 upon the written request of any local law enforcement agency or
30 local government entity with jurisdiction. Nothing in this paragraph
31 is intended to reduce the burden of the local governing body or its
32 designated subordinate officer or agency to support any request
33 for conditions as required by paragraph (1). Notwithstanding
34 Section 23987, the department may not transfer any license subject
35 to this paragraph until after the time period permitted to request
36 conditions as specified in this paragraph.

37 (f) *At the time of a transfer of a license pursuant to Article 5*
38 *(commencing with Section 24070) of Chapter 6.*

39 *SEC. 2. Section 23801 of the Business and Professions Code*
40 *is amended to read:*

1 23801. The conditions authorized by Section 23800 may cover
2 any matter relating to the privileges to be exercised under the
3 license, the personal qualifications of the licensee, the conduct of
4 the business or the condition of the premises, which will protect
5 the public welfare and morals, including, but not limited to, the
6 following:

- 7 (a) Restrictions as to hours of sale.
- 8 (b) Display of signs.
- 9 (c) Employment of designated persons.
- 10 (d) Types and strengths of alcoholic beverages to be served
- 11 where such types or strengths are otherwise limited by law.
- 12 (e) In cases under ~~Section 23800~~ *subdivision (c) of Section*
13 *23800*, the portion of the privileges to be exercised under the
14 license.
- 15 (f) The personal conduct of the licensee.
- 16 (g) *In cases under subdivision (f) of Section 23800, restrictions*
17 *on the presence of the license transferor on the licensed premises*
18 *if that license transferor was cited with multiple violations of this*
19 *division when in possession of the license.*

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

29 ~~SECTION 1. Section 23356 of the Business and Professions~~
30 ~~Code is amended to read:~~

31 ~~23356. Any manufacturer's or winegrower's license authorizes~~
32 ~~the person to whom it is issued to become a manufacturer or~~
33 ~~producer of the alcoholic beverage specified in the license, and to~~
34 ~~do any of the following:~~

- 35 ~~(a) Whether the alcoholic beverage is manufactured or produced~~
36 ~~by him or her or any other person, to package, rectify, mix, flavor,~~
37 ~~color, label, and export the alcoholic beverage specified in the~~
38 ~~license.~~
- 39 ~~(b) To sell only those alcoholic beverages that are packaged by~~
40 ~~or for him or her only to persons holding wholesaler's,~~

1 manufacturer's, winegrower's, manufacturer's agent's, or rectifier's
2 licenses authorizing the sale of those alcoholic beverages and to
3 persons who take delivery of those alcoholic beverages within this
4 state for delivery or use without the state.
5 (e) To deal in warehouse receipts for the alcoholic beverage
6 specified in the license.