

AMENDED IN ASSEMBLY AUGUST 20, 2010

SENATE BILL

No. 192

Introduced by Senator ~~Negrete McLeod Hancock~~
(Principal coauthor: Assembly Member Brownley)

February 18, 2009

~~An act to amend Section 23104.2 of the Business and Professions Code, relating to alcoholic beverages. An act to amend Section 8153.5 of the Education Code, relating to career technical education.~~

LEGISLATIVE COUNSEL'S DIGEST

~~SB 192, as amended, ~~Negrete McLeod Hancock~~. ~~Alcoholic beverages: returns.~~ California Firefighter Joint Apprenticeship Program.~~

~~Existing law establishes the California Firefighter Joint Apprenticeship Program and prescribes requirements for classes of related and supplemental instruction in order to qualify for funding, including that the person providing instruction is qualified, by means of education or experience, as a journeyman, and shares the responsibility for supervision of the apprentices participating in the classes with the certified community college or adult education coordinator.~~

~~This bill would provide, for purposes of issuing credentials to instructors who are required to obtain a specified credential in order to provide instruction as part of the program, that completion of a specified training instructor course and certification as an EMT-I, EMT-II, or EMT-P meet certain of the requirements for that credential.~~

~~Under the Alcoholic Beverage Control Act, a seller may accept the return of beer from a retailer only if the beer is returned in exchange for the identical quantity and brand of beer. An exception to that~~

~~provision permits a seller to accept the return of beer from a seasonal or temporary licensee, as specified.~~

~~This bill would expand that exception to provide that an alcoholic beverage licensee may accept the return of unsold and unopened beer from organizations that obtain a particular license, as specified.~~

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

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

1 SECTION 1. *Section 8153.5 of the Education Code is amended*
2 *to read:*

3 8153.5. (a) For purposes of the California Firefighter Joint
4 Apprenticeship Program, classes of related and supplemental
5 instruction which qualify for funding pursuant to Sections 8152
6 and 8153, include, but are not limited to, classes which meet both
7 of the following requirements:

8 (a)

9 (1) The classes are conducted at the workplace.

10 (b)

11 (2) The person providing instruction is qualified, by means of
12 education or experience, as a journeyman and shares the
13 responsibility for supervision of the apprentices participating in
14 the classes with the certified community college or adult education
15 coordinator.

16 (b) *For purposes of issuing credentials to instructors who are*
17 *required to obtain a credential pursuant to Section 44260.3 in*
18 *order to provide instruction as part of the program, both of the*
19 *following shall apply:*

20 (1) *Completion of the training instructor course adopted by the*
21 *State Fire Marshal pursuant to subdivision (a) of Section 13159.8*
22 *of the Health and Safety Code meets the requirements of*
23 *subdivisions (c) and (f) of Section 44260.3.*

24 (2) *Certification as an Emergency Medical Technician-I*
25 *(EMT-I), an Emergency Medical Technician-II (EMT-II), or an*
26 *Emergency Medical Technician-Paramedic (EMT-P) pursuant to*
27 *Division 2.5 (commencing with Section 1797) of the Health and*
28 *Safety Code meets the requirements of subdivision (d) of Section*
29 *44260.3.*

1 SECTION 1. Section 23104.2 of the Business and Professions
2 Code is amended to read:

3 23104.2. (a) Subject to the exceptions specified in subdivision
4 (b), a retail licensee may return beer to the wholesaler or
5 manufacturer from whom the retail licensee purchased the beer,
6 or any successor thereto, and the wholesaler, manufacturer, or
7 successor thereto may accept that return if the beer is returned in
8 exchange for the identical quantity and brand of beer. No
9 wholesaler or manufacturer, or any successor thereto, shall accept
10 the return of any beer from a retail licensee except when the beer
11 delivered was not the brand or size container ordered by the retail
12 licensee or the amount delivered was other than the amount
13 ordered, in which case the order may be corrected by the wholesaler
14 or manufacturer who sold the beer, or any successor thereto. If a
15 package had been broken or otherwise damaged prior to or at the
16 time of actual delivery, a credit memorandum may be issued for
17 the returned package by the wholesaler or manufacturer who sold
18 the beer, or any successor thereto, in lieu of exchange for an
19 identical package when the return and corrections are completed
20 within 15 days from the date the beer was delivered to the retail
21 licensee.

22 (b) Notwithstanding subdivision (a), a wholesaler or
23 manufacturer, or any successor thereto, may accept the return of
24 beer purchased from that wholesaler, manufacturer, or successor
25 thereto, as follows:

26 (1) (A) From a seasonal or temporary licensee if at the
27 termination of the period of the license the seasonal or temporary
28 licensee has beer remaining unsold, or from an annual licensee
29 operating on a temporary basis if at the termination of the
30 temporary period the annual licensee has beer remaining unsold.

31 (B) For purposes of subparagraph (A), an annual licensee shall
32 be considered to be operating on a temporary basis if he or she
33 operates at seasonal resorts, including summer and winter resorts,
34 or at sporting or entertainment facilities, including racetracks,
35 arenas, concert halls, and convention centers. Temporary status
36 shall be deemed terminated when operations cease for 15 days or
37 more. No wholesaler or manufacturer, or successor thereto, shall
38 accept the return of beer from an annual licensee considered to be
39 operating on a temporary basis unless the licensee notifies that

1 wholesaler or manufacturer, or successor thereto, within 15 days
2 of the date the licensee's operations ceased.

3 ~~(2) (A) Subject to subparagraph (B), a wholesaler or~~
4 ~~manufacturer, or any successor thereto, may, with department~~
5 ~~approval, accept the return of a brand of beer discontinued in a~~
6 ~~California market area or a seasonal brand of beer from a retail~~
7 ~~licensee, provided that the beer is exchanged for a quantity of beer~~
8 ~~of a brand produced or sold by the same manufacturer with a value~~
9 ~~no greater than the original sales price to the retail licensee of the~~
10 ~~returned beer. For purposes of this subparagraph, "seasonal brand~~
11 ~~of beer" means a brand of beer, as defined in Section 23006, that~~
12 ~~is brewed by a manufacturer to commemorate a specific holiday~~
13 ~~season and is so identified by appropriate product packaging and~~
14 ~~labeling.~~

15 ~~(B) A discontinued brand of beer shall not be reintroduced for~~
16 ~~a period of 12 months in the same California market area in which~~
17 ~~a return and exchange of that beer as described in subparagraph~~
18 ~~(A) has taken place. A seasonal brand of beer shall not be~~
19 ~~reintroduced for a period of six months in the same California~~
20 ~~market area in which a return and exchange of that beer as~~
21 ~~described in subparagraph (A) has taken place.~~

22 ~~(c) Notwithstanding subdivision (a), a wholesaler or~~
23 ~~manufacturer, or any successor thereto, may accept the return of~~
24 ~~beer purchased from that wholesaler or manufacturer, or any~~
25 ~~successor thereto, by the holder of a retail license following the~~
26 ~~revocation of, suspension of, voluntary surrender of, or failure to~~
27 ~~renew the retail license.~~

28 ~~(d) A wholesaler or manufacturer, or any successor thereto, may~~
29 ~~credit the account of the retailer identified in subdivision (c) in an~~
30 ~~amount not to exceed the original sales price to the retailer of the~~
31 ~~returned beer, provided that the beer has been paid for in full.~~

32 ~~(e) Notwithstanding the 15-day time limit for the return of beer~~
33 ~~described in subdivision (a), beer that is recalled for health or~~
34 ~~safety issues may be accepted for return at anytime from a retailer~~
35 ~~and be picked up by the seller of beer. The seller of beer may~~
36 ~~exchange the returned beer for identical product, if safe inventory~~
37 ~~is available, issue a deferred exchange memorandum showing the~~
38 ~~beer was picked up and is to be replaced when inventory is~~
39 ~~available, or issue a credit memorandum to the retailer for the~~
40 ~~returned beer.~~

1 ~~(f) Notwithstanding subdivision (a), a licensee may accept the~~
2 ~~return of unsold and unopened beer from an organization that~~
3 ~~obtained a temporary license pursuant to Section 24045 or 24045.1.~~
4 ~~The licensee may credit the account of the organization in an~~
5 ~~amount not to exceed the original sales price of the returned beer,~~
6 ~~provided that the beer has been paid for in full.~~

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