

**ASSEMBLY BILL**

**No. 1989**

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**Introduced by Assembly Member Chesbro**

February 20, 2014

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An act to amend Sections 25658 and 25662 of, and to add Section 25668 to, the Business and Professions Code, relating to alcoholic beverage control.

LEGISLATIVE COUNSEL'S DIGEST

AB 1989, as introduced, Chesbro. Underage drinkers: students in winemaking and brewery science programs.

The Alcoholic Beverage Control Act provides that any person under 21 years of age who purchases any alcoholic beverage, who consumes any alcoholic beverage in any on-sale premises, or who possesses any alcoholic beverage on any street or highway or in any public place or any place open to the public is guilty of a misdemeanor. The Alcoholic Beverage Control Act provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

This bill would allow a qualified student to taste an alcoholic beverage and exempt the student and the qualified academic institution in which the student is enrolled from criminal prosecution under the above-described provisions, as provided. The bill would define the terms "qualified academic institution," "qualified student," and "taste" for the purposes of this provision.

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 25658 of the Business and Professions  
2 Code is amended to read:

3 25658. (a) Except as otherwise provided in subdivision (c),  
4 every person who sells, furnishes, gives, or causes to be sold,  
5 furnished, or given away any alcoholic beverage to any person  
6 under 21 years of age is guilty of a misdemeanor.

7 (b) Except as provided in Section 25667 *or* 25668, any person  
8 under 21 years of age who purchases any alcoholic beverage, or  
9 any person under 21 years of age who consumes any alcoholic  
10 beverage in any on-sale premises, is guilty of a misdemeanor.

11 (c) Any person who violates subdivision (a) by purchasing any  
12 alcoholic beverage for, or furnishing, giving, or giving away any  
13 alcoholic beverage to, a person under 21 years of age, and the  
14 person under 21 years of age thereafter consumes the alcohol and  
15 thereby proximately causes great bodily injury or death to himself,  
16 herself, or any other person, is guilty of a misdemeanor.

17 (d) Any on-sale licensee who knowingly permits a person under  
18 21 years of age to consume any alcoholic beverage in the on-sale  
19 premises, whether or not the licensee has knowledge that the person  
20 is under 21 years of age, is guilty of a misdemeanor.

21 (e) (1) Except as otherwise provided in paragraph (2) or (3),  
22 or Section 25667 *or* 25668, any person who violates this section  
23 shall be punished by a fine of two hundred fifty dollars (\$250), no  
24 part of which shall be suspended, or the person shall be required  
25 to perform not less than 24 hours or more than 32 hours of  
26 community service during hours when the person is not employed  
27 and is not attending school, or a combination of a fine and  
28 community service as determined by the court. A second or  
29 subsequent violation of subdivision (b), where prosecution of the  
30 previous violation was not barred pursuant to Section 25667 *or*  
31 25668, shall be punished by a fine of not more than five hundred  
32 dollars (\$500), or the person shall be required to perform not less  
33 than 36 hours or more than 48 hours of community service during  
34 hours when the person is not employed and is not attending school,  
35 or a combination of a fine and community service as determined  
36 by the court. It is the intent of the Legislature that the community  
37 service requirements prescribed in this section require service at  
38 an alcohol or drug treatment program or facility or at a county

1 coroner's office, if available, in the area where the violation  
2 occurred or where the person resides.

3 (2) Except as provided in paragraph (3), any person who violates  
4 subdivision (a) by furnishing an alcoholic beverage, or causing an  
5 alcoholic beverage to be furnished, to a minor shall be punished  
6 by a fine of one thousand dollars (\$1,000), no part of which shall  
7 be suspended, and the person shall be required to perform not less  
8 than 24 hours of community service during hours when the person  
9 is not employed and is not attending school.

10 (3) Any person who violates subdivision (c) shall be punished  
11 by imprisonment in a county jail for a minimum term of six months  
12 not to exceed one year, by a fine of one thousand dollars (\$1,000),  
13 or by both imprisonment and fine.

14 (f) Persons under 21 years of age may be used by peace officers  
15 in the enforcement of this section to apprehend licensees, or  
16 employees or agents of licensees, or other persons who sell or  
17 furnish alcoholic beverages to minors. Notwithstanding subdivision  
18 (b), any person under 21 years of age who purchases or attempts  
19 to purchase any alcoholic beverage while under the direction of a  
20 peace officer is immune from prosecution for that purchase or  
21 attempt to purchase an alcoholic beverage. Guidelines with respect  
22 to the use of persons under 21 years of age as decoys shall be  
23 adopted and published by the department in accordance with the  
24 rulemaking portion of the Administrative Procedure Act (Chapter  
25 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
26 Title 2 of the Government Code). Law enforcement-initiated minor  
27 decoy programs in operation prior to the effective date of regulatory  
28 guidelines adopted by the department shall be authorized as long  
29 as the minor decoy displays to the seller of alcoholic beverages  
30 the appearance of a person under 21 years of age. This subdivision  
31 shall not be construed to prevent the department from taking  
32 disciplinary action against a licensee who sells alcoholic beverages  
33 to a minor decoy prior to the department's final adoption of  
34 regulatory guidelines. After the completion of every minor decoy  
35 program performed under this subdivision, the law enforcement  
36 agency using the decoy shall notify licensees within 72 hours of  
37 the results of the program. When the use of a minor decoy results  
38 in the issuance of a citation, the notification required shall be given  
39 to licensees and the department within 72 hours of the issuance of  
40 the citation. A law enforcement agency may comply with this

1 requirement by leaving a written notice at the licensed premises  
2 addressed to the licensee, or by mailing a notice addressed to the  
3 licensee.

4 (g) The penalties imposed by this section do not preclude  
5 prosecution or the imposition of penalties under any other provision  
6 of law, including, but not limited to, Section 272 of the Penal Code  
7 and Section 13202.5 of the Vehicle Code.

8 SEC. 2. Section 25662 of the Business and Professions Code  
9 is amended to read:

10 25662. (a) Except as provided in Section 25667 or 25668, any  
11 person under ~~the age of 21 years~~ *21 years of age* who has any  
12 alcoholic beverage in his or her possession on any street or highway  
13 or in any public place or in any place open to the public is guilty  
14 of a misdemeanor and shall be punished by a fine of two hundred  
15 fifty dollars (\$250) or the person shall be required to perform not  
16 less than 24 hours or more than 32 hours of community service  
17 during hours when the person is not employed or is not attending  
18 school. A second or subsequent violation shall be punishable as a  
19 misdemeanor and the person shall be fined not more than five  
20 hundred dollars (\$500), or required to perform not less than 36  
21 hours or more than 48 hours of community service during hours  
22 when the person is not employed or is not attending school, or a  
23 combination of fine and community service as the court deems  
24 just. It is the intent of the Legislature that the community service  
25 requirements prescribed in this section require service at an alcohol  
26 or drug treatment program or facility or at a county coroner's  
27 office, if available, in the area where the violation occurred or  
28 where the person resides. This section does not apply to possession  
29 by a person under ~~the age of 21 years~~ *21 years of age* making a  
30 delivery of an alcoholic beverage in pursuance of the order of his  
31 or her parent, responsible adult relative, or any other adult  
32 designated by the parent or legal guardian, or in pursuance of his  
33 or her employment. That person shall have a complete defense if  
34 he or she was following, in a timely manner, the reasonable  
35 instructions of his or her parent, legal guardian, responsible adult  
36 relative, or adult designee relating to disposition of the alcoholic  
37 beverage.

38 (b) Unless otherwise provided by law, where a peace officer  
39 has lawfully entered the premises, the peace officer may seize any  
40 alcoholic beverage in plain view that is in the possession of, or

1 provided to, a person under ~~the age of 21 years~~ *21 years of age* at  
2 social gatherings, when those gatherings are open to the public,  
3 10 or more persons under ~~the age of 21 years~~ *21 years of age* are  
4 participating, persons under ~~the age of 21 years~~ *21 years of age*  
5 are consuming alcoholic beverages, and there is no supervision of  
6 the social gathering by a parent or guardian of one or more of the  
7 participants.

8 Where a peace officer has seized alcoholic beverages pursuant  
9 to this subdivision, the officer may destroy any alcoholic beverage  
10 contained in an opened container and in the possession of, or  
11 provided to, a person under ~~the age of 21 years~~ *21 years of age*,  
12 and, with respect to alcoholic beverages in unopened containers,  
13 the officer shall impound those beverages for a period not to exceed  
14 seven working days pending a request for the release of those  
15 beverages by a person 21 years of age or older who is the lawful  
16 owner or resident of the property upon which the alcoholic  
17 beverages were seized. If no one requests release of the seized  
18 alcoholic beverages within that period, those beverages may be  
19 destroyed.

20 (c) The penalties imposed by this section do not preclude  
21 prosecution or the imposition of penalties under any other provision  
22 of law, including, but not limited to, Section 13202.5 of the Vehicle  
23 Code.

24 SEC. 3. Section 25668 is added to the Business and Professions  
25 Code, to read:

26 25668. (a) A qualified student may taste an alcoholic beverage,  
27 and both the student and the qualified academic institution in which  
28 the student is enrolled shall not be subject to criminal prosecution  
29 under subdivision (a) of Section 25658 and subdivision (a) of  
30 Section 25662, if all of the following criteria are met:

31 (1) The qualified student tastes the alcoholic beverage while  
32 enrolled in a qualified academic institution.

33 (2) The qualified academic institution has established an  
34 Associate's degree or Bachelor's degree program in enology or  
35 brewing that is designed to train industry professionals in the  
36 production of wine or beer.

37 (3) The qualified student tastes the alcoholic beverage for  
38 educational purposes as part of the instruction in a course required  
39 for an Associate's degree or Bachelor's degree.

1 (4) The alcoholic beverage remains in the control of an  
2 authorized instructor of the qualified academic institution who is  
3 at least 21 years of age.

4 (b) Nothing in this section shall be construed to allow a student  
5 under 21 years of age to receive an alcoholic beverage unless it is  
6 delivered as part of the student’s curriculum requirements.

7 (c) For the purposes of this section, the following terms have  
8 the following meanings:

9 (1) “Qualified academic institution” means a public college or  
10 university accredited by a commission recognized by the United  
11 States Department of Education.

12 (2) “Qualified student” means a student enrolled in a qualified  
13 academic institution who is at least 18 years of age.

14 (3) “Taste” means to draw an alcoholic beverage into the mouth,  
15 but does not include swallowing or otherwise consuming the  
16 alcoholic beverage.