

AMENDED IN SENATE JULY 13, 2015

AMENDED IN SENATE JUNE 30, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1295

**Introduced by ~~Assembly Member Gray~~ *Assembly Members Dodd,
Gray, and Levine***

February 27, 2015

~~An act to amend Sections 19596.2 and 19604 of the Business and Professions Code, relating to horse racing. An act to amend Sections 23363.1, 23771, and 23772, of, and to add Article 6 (commencing with Section 23500) to Chapter 3 of Division 9 of, the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, as amended, ~~Gray Dodd. Horse racing: out-of-state thoroughbred races: advance deposit wagering. Craft distillers: licenses.~~

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law provides for various annual fees for the issuance of alcoholic beverage licenses, depending upon the type of license issued.

This bill, the Craft Distillers Act of 2015, would authorize the department to issue a craft distiller's license to manufacture or produce distilled spirits, subject to specified conditions, including that the licensee manufacture or produce no more than 100,000 gallons of distilled spirits per year, excluding brandy the craft distiller manufactures or has manufactured for them. The bill would allow the

craft distiller's licensee to sell distilled spirits to specified consumers, to own interests in on-sale retail licenses, and to sell beer, wines, brandies, and distilled spirits to consumers for consumption on the premises of a bona fide eating place, as provided. The bill would impose an original fee and an annual renewal fee for the license, which would be deposited in the Alcohol Beverage Control Fund.

The Alcoholic Beverage Control Act authorizes a licensed distilled spirits manufacturer to conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee, on the licensed premises, under specified conditions, including that tasting not be given in the form of a cocktail or mixed drink.

This bill would extend that authorization to a licensed craft distiller and would revise the tasting conditions by allowing a tasting to be given in the form of a cocktail or mixed drink.

Existing law prohibits a distilled spirits manufacturer's or distilled manufacturer's agent's license from being held by a person that holds any ownership or interest in any distilled spirits wholesaler's, rectifier's, or retailer's license, as specified.

This bill would additionally prohibit a distilled spirits manufacturer's or distilled manufacturer's agent's license from being held by a person that holds any ownership or interest in a craft distiller's license.

~~(1) The Horse Racing Law authorizes a thoroughbred racing association or fair to distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen and horsewomen participating in the race meeting and without regard to the amount of purses. Under that law, the total number of thoroughbred races imported by associations or fairs on a statewide basis under these provisions are required to not exceed 50 per day on days when live thoroughbred or fair racing is being conducted in the state, with the exception of prescribed races, including races imported into the combined central and southern zones when there is no live thoroughbred or fair racing being conducted in the combined central and southern zones.~~

This bill would additionally provide that the limitation of 50 imported races per day does not apply to races imported into the combined central and southern zones when there is live thoroughbred or fair racing being

conducted in those zones but no live thoroughbred or fair racing is being conducted in the northern zone.

~~(2) The Horse Racing Law authorizes advance deposit wagering to be conducted, with the approval of the California Horse Racing Board. That law requires the board to develop and adopt rules to license and regulate all phases of operation of advance deposit wagering for advance deposit wagering providers operating in California and authorizes a racing association, a fair, a satellite wagering facility, or a minisatellite wagering facility to enter into an agreement with an advance deposit wagering provider to accept and facilitate the placement of any wager at its facility that a California resident could make through that advance deposit wagering provider.~~

~~The Horse Racing Law also requires that amounts distributed under these advance deposit wagering provisions be proportionally reduced by an amount equal to 0.00295 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting, except for harness racing meetings, provided that the amount of this reduction not exceed \$2,000,000. That law requires that the method used to calculate the reduction in proportionate share be approved by the board and deducted and distributed in specified amounts, including 50% of the money to the board to establish and to administer jointly with the organization certified as the majority representative of California-licensed jockeys, a defined contribution retirement plan for California-licensed jockeys who retired from racing on or after January 1, 2009.~~

~~This bill would provide that a person becomes a participant in the retirement plan when he or she is licensed as a jockey in California.~~

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

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

- 1 SECTION 1. Section 23363.1 of the Business and Professions
- 2 Code is amended to read:
- 3 23363.1. (a) A distilled spirits manufacturer’s license *or a*
- 4 *craft distiller’s license* authorizes the licensee to conduct tastings
- 5 of distilled spirits produced or bottled by, or produced or bottled
- 6 for, the licensee, on or off the licensee’s premises.
- 7 (b) (1) Distilled spirits tastings may be conducted by the
- 8 licensee off the licensee’s premises only for an event sponsored

1 by a nonprofit organization. A distilled spirits manufacturer shall
2 not sell or solicit sales of distilled spirits at such event. The
3 sponsoring organization shall first obtain a permit from the
4 department.

5 (2) For purposes of this subdivision, “nonprofit organization”
6 does not include any community college or other institution of
7 higher learning, as defined in the Education Code, nor does it
8 include any officially recognized club, fraternity, or sorority,
9 whether or not that entity is located on or off the institution’s
10 campus.

11 (c) Tastings on the licensee’s premises shall be subject to the
12 following conditions:

13 (1) ~~Tastings~~*The total volume of tastings of* distilled spirits shall
14 not exceed ~~one-fourth of one ounce and shall be limited to no more~~
15 ~~than six tastes~~ *one-half ounces* per individual per day.

16 (2) Tastings shall only include the products that are authorized
17 to be produced or bottled by or for the licensee.

18 (3) A person under 21 years of age shall not serve tastes of
19 distilled spirits.

20 (4) ~~Tastings of distilled spirits shall not be given in the form of~~
21 ~~a cocktail or a mixed drink.~~

22 (d) Notwithstanding Section 25600, the licensee may provide
23 distilled spirits without charge for any tastings conducted pursuant
24 to this section. The licensee may charge for tastings conducted by
25 the licensee on its licensed premises.

26 (e) This section shall not relieve the holder of a distilled spirits
27 manufacturer’s license of any civil or criminal liability arising out
28 of a violation of Section 25602.

29 *SEC. 2. Article 6 (commencing with Section 23500) is added*
30 *to Chapter 3 of Division 9 of the Business and Professions Code,*
31 *to read:*

32
33 *Article 6. Craft Distiller’s Licenses*

34
35 *23500. This act shall be known, and may be referenced as, the*
36 *Craft Distillers Act of 2015.*

37 *23501. The Legislature hereby finds and declares all of the*
38 *following:*

39 *(a) The regulation and licensing of the sale of alcoholic*
40 *beverages in this state has operated for over 80 years under what*

1 *is commonly referred to as the “three-tier system,” which generally*
2 *prohibits vertical integration within the distilled spirits industry.*
3 *This system has helped in protecting against undue marketing*
4 *influences within the distilled spirits industry and assisted the*
5 *goals of promoting temperance and reasonable regulation of the*
6 *sale of distilled spirits within the state. In addition, this system has*
7 *helped create thousands of jobs and billions of dollars in economic*
8 *development within California.*

9 *(b) Small craft distillers have begun to operate in this state, and*
10 *these craft distillers have begun to increase employment and*
11 *provide jobs and economic development in various locations within*
12 *the state.*

13 *(c) It is the intent of the Legislature, in enacting this act, to*
14 *encourage the development of the craft distilling industry within*
15 *the state by enacting various limited exemptions to the general*
16 *provisions of the three-tier system, while also continuing to uphold*
17 *and support the three-tier system as the appropriate mechanism*
18 *for regulating and licensing the sale of distilled spirits in*
19 *California.*

20 *23502. (a) The department may issue a craft distiller’s license*
21 *to a person that has facilities and equipment for the purposes of,*
22 *and is engaged in, the commercial manufacture of distilled spirits.*
23 *The craft distiller’s license authorizes the licensee to do all of the*
24 *following:*

25 *(1) Manufacture or produce distilled spirits. A licensed craft*
26 *distiller may manufacture, or have manufactured for them, up to*
27 *100,000 gallons of distilled spirits per year, excluding brandy the*
28 *craft distiller manufactures or has manufactured for them pursuant*
29 *to a brandy manufacturer license.*

30 *(2) Package, rectify, mix, flavor, color, label, and export distilled*
31 *spirits, whether manufactured or produced by the licensee or any*
32 *other person.*

33 *(3) Only sell distilled spirits that are packaged by or for the*
34 *licensee solely to a wholesaler, manufacturer, winegrower,*
35 *manufacturer’s agent, or rectifier that holds a license authorizing*
36 *the sale of distilled spirits or to persons that take delivery of those*
37 *distilled spirits within this state for delivery or use without the*
38 *state.*

39 *(4) Deal in warehouse receipts.*

1 (b) A craft distiller's license shall not be issued to any person,
2 any officer, director, employee, or agent of such person, or any
3 person who is affiliated with, directly or indirectly, a person that
4 manufactures or has manufactured for them more than 100,000
5 gallons of distilled spirits per year within or without the state,
6 excluding brandy it manufactures or has manufactured for them
7 pursuant to a brandy manufacturer license, or to any person that
8 is affiliated with, directly or indirectly, a wholesaler.

9 (c) (1) The fee for an original craft distiller's license issued
10 pursuant to this section shall be six hundred dollars (\$600) and
11 shall be adjusted pursuant to subdivisions (b) and (c) of Section
12 23320.

13 (2) The annual license fee for a craft distiller's license shall be
14 three hundred dollars (\$300) and shall be adjusted pursuant to
15 subdivisions (b) and (c) of Section 23320.

16 (3) All moneys collected as fees pursuant to this section shall
17 be deposited in the Alcohol Beverage Control Fund as provided
18 in Section 25761.

19 (d) A licensed craft distiller shall report to the department at
20 the end of each fiscal year, at the time and in the manner
21 prescribed by the department, the amount of distilled spirits
22 produced by or for the licensee, excluding brandy produced by or
23 for the licensee pursuant to a brandy manufacturer license, during
24 the previous fiscal year.

25 23504. Notwithstanding any other provision, a licensed craft
26 distiller may sell up to the equivalent of three 750-ml bottles per
27 day of distilled spirits manufactured by the licensee at its premises
28 to a consumer attending an instructional tasting conducted by the
29 licensee on its licensed premises pursuant to subdivision (c) of
30 Section 23363.1.

31 23506. (a) Notwithstanding any other provision of this division,
32 a licensed craft distiller or one or more of its direct or indirect
33 subsidiaries of which the licensed craft distiller owns not less than
34 a 51-percent interest, who manufactures or produces, bottles,
35 processes, imports, or sells distilled spirits under a craft distiller's
36 license or any other license issued pursuant to this division, or
37 any officer or director of, or any person holding any interest in,
38 those persons may serve as an officer or director of, and may hold
39 the ownership of any interest or any financial or representative
40 relationship in, any on-sale license, or the business conducted

1 *under that license, provided that, except in the case of a holder of*
2 *on-sale general licenses for airplanes and duplicate on-sale*
3 *general licenses for air common carriers, all of the following*
4 *conditions are met:*

5 *(1) The on-sale licensee purchases all alcoholic beverages sold*
6 *and served only from California wholesale licensees.*

7 *(2) The number of distilled spirits items by brand offered for*
8 *sale by the on-sale licensee that are manufactured, produced,*
9 *bottled, processed, imported, or sold by the licensed craft distiller*
10 *or by the subsidiary of which the licensed craft distiller owns not*
11 *less than 51 percent, or by any officer or director of, or by any*
12 *person holding any interest in, those persons does not exceed 15*
13 *percent of the total distilled spirits items by brand listed and offered*
14 *for sale by the on-sale licensee selling and serving that distilled*
15 *spirit. Notwithstanding paragraph (1), distilled spirits sold*
16 *pursuant to this provision may be purchased from a California*
17 *licensed craft distiller so long as the distilled spirits purchased*
18 *are produced or bottled by, or produced and packaged for, the*
19 *same licensed craft distiller that holds an interest in the on-sale*
20 *license and such direct sales do not involve more than two on-sale*
21 *licenses in which the licensed craft distiller or any person holding*
22 *an interest in the licensed craft distiller holds any interest, directly*
23 *or indirectly, either individually or in combination or together*
24 *with each other in the aggregate.*

25 *(3) None of the persons specified in this section may have any*
26 *of the interests specified in this section in more than two on-sale*
27 *licenses.*

28 *(b) A licensed craft distiller that has an interest in one or more*
29 *on-sale retail licenses pursuant to this section may continue to*
30 *hold that interest in the event the licensee no longer qualifies as*
31 *a craft distiller, provided that the interest was first obtained at a*
32 *time when the licensee did hold a craft distiller's license pursuant*
33 *to Section 23502.*

34 *(c) A craft distiller licensee may sell all beers, wines, brandies,*
35 *or distilled spirits to consumers for consumption on the premises*
36 *in a bona fide eating place as defined in Section 23038, which is*
37 *located on the licensed premises or on premises owned by the*
38 *licensee that are contiguous licensed premises and which is*
39 *operated by and for the licensee, provided that any alcoholic*
40 *beverage products not manufactured or produced by the licensee*

1 *must be purchased from a licensed wholesaler. Beer, wine, and*
 2 *brandy may be used in the preparation of food and beverages in*
 3 *the bona fide public eating place for consumption on the premises.*

4 23508. *A licensed craft distiller may also have upon its licensed*
 5 *premises all beers, wines, and distilled spirits, regardless of source,*
 6 *for sale or service only to guests during private events or private*
 7 *functions not open to the general public. Alcoholic beverage*
 8 *products sold at the premises that are not manufactured or*
 9 *produced and bottled by, or manufactured or produced and*
 10 *packaged for, the licensed craft distiller shall be purchased by the*
 11 *licensed craft distiller only from a licensed wholesaler.*

12 SEC. 3. *Section 23771 of the Business and Professions Code*
 13 *is amended to read:*

14 23771. ~~No~~ *A distilled spirits license of any kind, except a*
 15 *distilled spirits manufacturer's manufacturer's, a craft distiller's,*
 16 *or a distilled spirits manufacturer's agent's license, shall not be*
 17 *issued to any person, or to any officer, director, employee, or agent*
 18 *of any person, who person that manufactures distilled spirits within*
 19 *or without this State. state.*

20 SEC. 4. *Section 23772 of the Business and Professions Code*
 21 *is amended to read:*

22 23772. ~~No~~ *(a) A distilled spirits manufacturer's or distilled*
 23 *spirits manufacturer's agent's license shall not be held by any*
 24 *person who that holds any ownership or interest, directly or*
 25 *indirectly, by stock ownership, interlocking directors, trusteeship,*
 26 *loan, mortgage, or lien on any personal or real property, or*
 27 *otherwise, in any craft distiller's, distilled spirits wholesaler's,*
 28 *rectifier's, wholesaler's, rectifier's, or retailer's license.*

29 ~~The~~

30 *(b) The provisions of this section shall not apply to the financial*
 31 *or representative relationship between a manufacturer, wine grower,*
 32 *winegrower; manufacturer's agent, rectifier, distiller, bottler,*
 33 *importer, or wholesaler, or any officer, director, or agent of such*
 34 *that person, and a person holding only one of the following types*
 35 *of licenses:*

36 ~~(a)~~

37 *(1) On-sale general license for a bona fide club.*

38 ~~(b)~~

39 *(2) Club license (issued under Article 4 (commencing at Section*
 40 *23425) of Chapter 3 of this division): 3).*

1 (e)
2 (3) Veterans' club license (issued under Article 5 (commencing
3 at Section 23450) of Chapter ~~3 of this division~~). 3).
4 (~~e~~)
5 (4) On-sale license for boats, trains, sleeping-cars *cars*, or
6 airplanes where the alcoholic beverages produced or sold by ~~such~~
7 *the* manufacturer, ~~wine grower~~, *winegrower*, manufacturer's agent,
8 rectifier, bottler, importer, or wholesaler or any officer, director,
9 or agent of ~~such that~~ person are not sold, ~~furnished~~ *furnished*, or
10 given, directly or ~~indirectly~~ *indirectly*, to the on-sale licensee.
11

12
13 **All matter omitted in this version of the bill**
14 **appears in the bill as amended in the**
15 **Senate, June 30, 2015. (JR11)**
16