

AMENDED IN SENATE MAY 10, 1995

AMENDED IN SENATE APRIL 24, 1995

AMENDED IN SENATE APRIL 17, 1995

**SENATE BILL**

**No. 408**

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**Introduced by Senator Thompson**

February 15, 1995

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~~An act to amend Section 23377 of, to add Section 23356.35~~  
*An act to add Section 25503.20 to, and to add and repeal*  
Section 23817.7 of, the Business and Professions Code, relating  
to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 408, as amended, Thompson. Alcoholic beverages:  
licenses: ~~wine broker.~~

Existing law limits the ownership of a retail alcoholic  
beverage licensee by a manufacturer or producer of alcoholic  
beverages.

This bill would authorize a manufacturer, winegrower,  
manufacturer's agent, winegrower's agent, rectifier, distiller,  
bottler, importer, or wholesaler to hold an ownership interest  
in a retail licensee, to serve as an officer, director, employee,  
or agent of the retail licensee, and to sponsor or fund certain  
programs or projects, if the retail license is for a *nonprofit*  
school for professional chefs *located in Napa County*, and  
other requirements are met.

~~Existing law authorizes a person to whom a wine broker's  
license is issued to act as a wine broker, for a fee or  
commission, in the purchase of wine for or on behalf of a~~

~~person authorized to buy wine for resale and in the sale of wine for or on behalf of a person, other than a retail licensee, licensed to sell wine within the state. Existing law also prohibits a wine broker from engaging in certain conduct.~~

~~This bill would authorize a holder of a wine broker's license to perform or furnish, on behalf of a California winegrower who sells no more than 125,000 gallons of wine per year for distribution in this state under all brands or trade names owned by the winegrower and for whom the wine broker is an agent, specified services that the winegrower is authorized to perform or furnish under the Alcoholic Beverage Control Act.~~

Existing law prohibits applications for and issuance of original retail off-sale beer and wine licenses in certain cities and counties where the number of licenses exceeds certain limits. This restriction remains in effect until January 1, 1998.

This bill would permit the application for and issuance of those licenses if certain conditions are met. This provision would remain in effect until January 1, 1998, when it would be repealed.

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 23356.35 is added to the Business~~  
 2     ~~and Professions Code, to read:~~  
 3     ~~23356.35. Notwithstanding any other provision of this~~  
 4     ~~division, a manufacturer, winegrower, manufacturer's~~  
 5     ~~agent, California winegrower's agent, rectifier, distiller,~~  
 6     ~~bottler, importer, or wholesaler may hold the ownership~~  
 7     ~~of any interest, directly or indirectly in the premises or in~~  
 8     ~~the retail licensee, may serve as an officer, director,~~  
 9     ~~employee, or agent of that licensee, and may sponsor or~~  
 10    ~~fund educational programs, special fundraising and~~  
 11    ~~promotional events, improvements in capital projects,~~  
 12    ~~and the development of exhibits or facilities of and for the~~  
 13    ~~licensee, provided that each of the following conditions~~  
 14    ~~is met:~~



1 ~~(a) The retail license is for a school for professional~~  
2 ~~chefs which is operated in conjunction with a bona fide~~  
3 ~~eating place open to the public.~~

4 ~~(b) The school's educational program has been~~  
5 ~~accredited by the Board of Regents of the University of~~  
6 ~~California, the State Department of Education, or the~~  
7 ~~Council for Private Postsecondary and Vocational~~  
8 ~~Education or other state-authorized accrediting~~  
9 ~~commission.~~

10 ~~(c) The number of items of beer, wine, or distilled~~  
11 ~~spirits by brand offered for sale by the retail licensee,~~  
12 ~~which are produced, bottled, rectified, distilled,~~  
13 ~~processed, imported, or sold by the licensees holding an~~  
14 ~~interest in, serving as an officer or director of, or~~  
15 ~~sponsoring or funding the programs and projects of the~~  
16 ~~retail licensee, does not exceed 15 percent of the total~~  
17 ~~items of beer, wine, or distilled spirits by brand listed and~~  
18 ~~offered for sale in the bona fide public eating place.~~

19 ~~SEC. 2. Section 23377 of the Business and Professions~~  
20 ~~Code is amended to read:~~

21 ~~23377. (a) A wine broker's license authorizes the~~  
22 ~~person to whom issued to act as a wine broker, for a fee~~  
23 ~~or commission, in the purchase of wine for or on behalf~~  
24 ~~of a person within or without this state authorized to buy~~  
25 ~~wine for purposes of resale and in the sale of wine for or~~  
26 ~~on behalf of a person, other than a retail licensee, licensed~~  
27 ~~to sell wine within the state. A wine broker shall not buy~~  
28 ~~or sell any wine for his or her own account, take or deliver~~  
29 ~~title to wine, or receive or store any wine in his or her own~~  
30 ~~name in this state. A wine broker shall not offer to sell,~~  
31 ~~agree to offer to sell, or sell any wine unless he or she first~~  
32 ~~has a bona fide authorization to do so from a person, other~~  
33 ~~than a retail licensee, licensed to sell wine in this state. A~~  
34 ~~wine broker shall not offer to buy, agree to buy, agree to~~  
35 ~~offer to buy, or buy any wine unless he or she first has a~~  
36 ~~bona fide authorization to do so from a person within or~~  
37 ~~without this state authorized to buy wine for purposes of~~  
38 ~~resale. The exercise of the privileges granted by the wine~~  
39 ~~broker's license are subject to those rules and conditions~~  
40 ~~as the department deems necessary and proper.~~



1 ~~(b) A wine broker's license authorizes a wine broker,~~  
 2 ~~on behalf of a California winegrower who sells no more~~  
 3 ~~than 125,000 gallons of wine per year for distribution in~~  
 4 ~~this state under all brands or trade names owned by the~~  
 5 ~~winegrower and for whom the wine broker is an agent,~~  
 6 ~~to perform or furnish services that the winegrower is~~  
 7 ~~authorized to perform or furnish under the provisions of~~  
 8 ~~Section 23356.1, 23386, 25503.4, or 25503.5.~~

9 ~~SEC. 3.~~

10 *SECTION 1.* Section 23817.7 is added to the Business  
11 and Professions Code, to read:

12 23817.7. (a) Notwithstanding the moratorium  
13 provision of Section 23817.5, the department may  
14 approve an application for an off-sale beer and wine  
15 license in areas covered by the moratorium provided for  
16 in Section 23817.5, if the applicant shows that public  
17 convenience or necessity would be served by the  
18 issuance, and where all of the following conditions are  
19 found to exist:

20 (1) The applicant premises are located in a crime  
21 reporting district that is below that specified pursuant to  
22 paragraph (1) of subdivision (a) of Section 23958.4.

23 (2) The applicant premises are located in an area that  
24 falls below the concentration level provided in paragraph  
25 (3) of subdivision (a) of Section 23958.4.

26 (3) The local governing body of the area in which the  
27 applicant premises are located determines that public  
28 convenience or necessity would be served by the  
29 issuance.

30 (b) The department may impose reasonable  
31 conditions on a licensee as may be needed in the interest  
32 of the public health, safety, and welfare regarding  
33 signing, training for responsible beverage sales and hours,  
34 and mode of sale.

35 (c) This section shall remain in effect only until  
36 January 1, 1998, and as of that date is repealed, unless a  
37 later enacted statute, that is enacted before January 1,  
38 1998, deletes or extends that date.

39 *SEC. 2.* Section 25503.20 is added to the Business and  
40 Professions Code, to read:



1 25503.20. Notwithstanding any other provision of this  
2 division, a manufacturer, winegrower, manufacturer's  
3 agent, California winegrower's agent, rectifier, distiller,  
4 bottler, importer, or wholesaler may hold the ownership  
5 of any interest, directly or indirectly in the premises or in  
6 the retail licensee, may serve as an officer, director,  
7 employee, or agent of that licensee, and may sponsor or  
8 fund educational programs, special fundraising and  
9 promotional events, improvements in capital projects,  
10 and the development of exhibits or facilities of and for the  
11 licensee, provided that each of the following conditions  
12 is met:

13 (a) The retail license is for a nonprofit school for  
14 professional chefs located in Napa County which is  
15 operated in conjunction with a bona fide eating place  
16 open to the public.

17 (b) The school's educational program has been  
18 accredited by the Board of Regents of the University of  
19 California, the State Department of Education, or the  
20 Council for Private Postsecondary and Vocational  
21 Education or other state-authorized accrediting  
22 commission.

23 (c) The number of items of beer, wine, or distilled  
24 spirits by brand offered for sale by the retail licensee,  
25 which are produced, bottled, rectified, distilled,  
26 processed, imported, or sold by the licensees holding an  
27 interest in, serving as an officer or director of, or  
28 sponsoring or funding the programs and projects of the  
29 retail licensee, does not exceed 15 percent of the total  
30 items of beer, wine, or distilled spirits by brand listed and  
31 offered for sale in the bona fide public eating place.

32 SEC. 3. With respect to Section 2 of this act, the  
33 Legislature finds and declares that a special law is  
34 necessary and that a general law cannot be made  
35 applicable within the meaning of Section 16 of Article IV  
36 of the California Constitution because a unique situation  
37 beneficial to the public will exist in that a nonprofit school  
38 for professional chefs which is a retail licensee is to be  
39 located in Napa County, and may be owned by, supported  
40 and sponsored by, managed by, or directed by persons



- 1 *who are manufacturers, winegrowers, manufacturers'*
- 2 *agents, winegrowers' agents, rectifiers, distillers, bottlers,*
- 3 *importers, or wholesalers.*

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