

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 1767 (Bigelow) – As Amended March 17, 2016

SUBJECT: Alcoholic beverages: tied-house restrictions: advertising

SUMMARY: Would permit designated alcohol licensees to purchase advertising space or time, on the premises of an exposition, park, stadium, or arena leased by the on-sale licensee, as defined.

EXISTING LAW:

- 1) The enactment of the 21st Amendment to the U.S. Constitution in 1933 repealed the 18th Amendment and ended the era of Prohibition. Accordingly, states were granted the authority to establish alcoholic beverage laws and administrative structures to regulate the sale and distribution of alcoholic beverages.
- 2) Establishes Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the Alcoholic Beverage Control Act (ABC Act) in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation and sale of alcoholic beverages in this state and the collection of license fees or occupation taxes for this purpose.
- 3) Existing law, known as the "Tied-house" law or "three-tier" system, separates the alcoholic beverage industry into three component parts of manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). The original policy rationale for this body of law was to prohibit the vertical integration of the alcohol industry and to protect the public from predatory marketing practices.
- 4) Tied-house laws generally prohibit suppliers and retailers from sharing common owners and legally restrict alcohol beverage suppliers' ability to gain control over retailers through indirect means. Generally, other than exemptions granted by the Legislature, the holder of one type of license is not permitted to do business as another type of licensee within the "three-tier" system.
- 5) Prohibits an alcoholic beverage supplier from paying money, or giving or furnishing anything of value, for the privilege of placing or painting a sign or advertisement, or window display, on or in premises selling alcoholic beverages at retail.
- 6) Prohibits paid advertising by winegrowers, beer manufacturers and distilled spirits producers in cases where a retail licensee also owns a sports or entertainment venue. Over the years numerous exceptions to this prohibition have been added to the ABC Act (e.g., Sleep Train Arena in Sacramento, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Event Center in San Bernardino, California Speedway in Fontana, Grizzly Stadium in downtown Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, the Home Depot Center in the City of Carson and other venues).

7) Defines an "On-sale" license as authorizing the sale of all types of alcoholic beverages namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar).

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the author's office, this bill would expand existing tied-house exceptions to circumstances in which the on-sale licensee is not actually the owner of the venue (stadium or arena) in which the paid-for advertising is permitted.

Due to the evolving ownership structures of larger sports and entertainment venues, it is rare that the on-sale licensee is the owner of the venue. However, this measure would ensure that existing tied-house exceptions are able to continue in effect even if the ownership of the venue changes.

Tied-house law: As noted above, existing tied-house laws prohibit an alcoholic beverage supplier, or any officer, director or agent of an alcoholic beverage supplier, from providing anything of value to an on-sale retailer licensee, be it free goods, money, services or advertising.

Tied-house Law refers to the statutory scheme restricting any cross-ownership among the three independent tiers of the alcohol industry: a) manufacturers; b) distributors/wholesalers; and, c) retailers. The term "Tied-house" refers to a practice which was common in this country prior to prohibition, and is still occurring in England today, where a bar or "public house" is tied to the products of a particular manufacturer.

Over the years, numerous exceptions to this prohibition have been added to the ABC Act encompassing various venues throughout the state. Generally, the business community is interested in removing unnecessary business regulations and creating conditions that facilitate investment and expansion opportunities for companies that have some degree of ownership in multiple segments of the industry.

Related legislation: AB 2096 (Low) of 2016. Adds leased premises to a specified condition in law that allows designated licensees to purchase advertising space or time from, or on behalf of, an on-sale retail licensee in connection with events which are held on the premises of an exposition park, stadium, or arena owned by the on-sale licensee. (Pending in Assembly G.O. Committee)

Prior legislation: SB 557 (Hall), Chapter 420, Statutes of 2015. Extended an existing Tied-house exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a fairgrounds with a horse racetrack and equestrian and sports facilities (Del Mar Fairgrounds) in San Diego County.

AB 527 (Dodd), Chapter 517, Statutes of 2015. Created a new tied-house exception in the ABC Act that authorizes certain alcoholic beverage licensees to sponsor a limited number of events promoted by or to purchase advertising space and time from, or on behalf of, a live entertainment marketing company that conducts live artistic, musical, sports, food, beverage, culinary, or other cultural entertainment events at venues located solely in the County of Napa, under specified conditions.

SB 600 (Bonta), Chapter 139, Statutes of 2014. Extends an existing "Tied-house" exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 68,000 seats located in the City of Santa Clara (Levi's Stadium – San Francisco 49ers new stadium).

SB 324 (Wright), Chapter 164, Statutes of 2013. Provided a "Tied-house" exception to the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees and the Los Angeles Forum in the City of Inglewood.

AB 776 (Aghazarian), Chapter 221, Statutes of 2007. Created a new "Tied-house" exception by authorizing a beer manufacturer to sponsor or purchase advertising space and time from, or on behalf of, an off-sale retail licensee that is an owner or co-owner of a professional sports team (California Cougars indoor soccer team) that plays its home games, in an arena with a fixed seating capacity of 10,000 seats (Stockton Arena) located in San Joaquin County.

AB 663 (Galgiani), Chapter 745, Statutes of 2007. Extended an existing "Tied-house" exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor professional sports facility with a fixed seating capacity of at least 4,200 (Banner Island Ballpark) located in San Joaquin County.

AB 1442 (Horton), Chapter 617, Statutes of 2005. Extended an existing "Tied-house" exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to the Home Depot Center, a sports and athletic complex within the City of Carson in Los Angeles and the Nokia Theater, located within the Los Angeles Sports and Entertainment District, adjacent to Staples Center.

AB 3085 (Governmental Organization Committee), Chapter 437, Statutes of 2004. Provided the Los Angeles County Fair with an exemption from tied-house laws so that so that alcohol manufacturers may purchase advertising from, or on behalf of, the on-sale licensees at this venue.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

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