

Date of Hearing: March 29, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 609 (Santiago) – As Introduced February 14, 2017

SUBJECT: Alcoholic beverages: licensee promotion events: sunset

SUMMARY: Existing law, until January 1, 2018, permits specified licensees (licensed distilled spirits manufacturers and winegrowers) or an authorized agent, to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers at an invitation-only event, held on specified premises, in connection with the sale or distribution of wine or distilled spirits, as provided. This bill would extend the repeal date for this specific provision in the Alcoholic Beverage Control Act (Act) until January 1, 2023. (*Business and Professions Code §25600.5*)

EXISTING LAW:

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the 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.
- 2) Separates the alcoholic beverage industry into three component parts, or tiers, of manufacturer (including breweries, wineries and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is known as the “tied-house” law.
- 3) Prohibits, generally, an alcoholic beverage licensee from giving any gift or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided for in the Act or by rules adopted by ABC. Numerous exceptions to these restrictions have been enacted through the years in those specific instances where the Legislature determined that the public's interests were protected.
- 4) Permits until January 1, 2018, a manufacturer of distilled spirits, distilled spirits manufacturer's agent, out-of-state distilled spirits shipper's certificate holder, winegrower, rectifier, or distiller, or its authorized unlicensed agent to hold private, free-of-charge, invitational-only promotional events, with entertainment, food and beverages, for a limited number of consumers over 21 years of age and subject to specified conditions, also allow such events to be held on the premises of a “hotel,” as defined.
- 5) Defines “hotel” to mean any hotel, motel, resort, bed and breakfast inn, or other similar transient lodging establishment but it does not include any residential hotel, as defined in law. Requires a hotel, where the authorized event is being held, to maintain, at all times while exercising its license privileges, other areas within the licensed premises for the public not attending the authorized event. Limits the ability to conduct an event at a hotel by requiring a licensee to not utilize the same hotel or hotel chain more than two times per calendar year.
- 6) Provides attendance at the event shall be limited to consumers who receive and accept an invitation to the event. Invited consumers may each invite one guest. All attendees shall be over 21 years of age. The total number of consumers and their guests allowed at any event, as defined,

shall not exceed 600 people. Admittance to the event shall be controlled by a list containing the names of consumers who accepted the invitation and their guests.

- 7) Prohibits the advertisement of any retail licensee, with the specified exception of identification of the event's location.
- 8) Prohibits any other alcohol promotion "in conjunction with," the hosted event. Requires the retail licensee to sell other alcoholic beverages in addition to those of the licensee conducting the event.
- 9) Requires the licensee or authorized unlicensed agent, at least 30 days prior to the event, to apply and provide specified information to ABC for a permit authorizing the event. Clarifies that a caterer's information, if required, must also be provided. All alcoholic beverages provided at any such event must be purchased from the holder of the caterer's permit or the licensed hotel, as applicable.
- 10) States that the original \$200 fee shall be paid by the authorized licensee.
- 11) Sunsets these provisions on January 1, 2018. (*BPC §25600.5*)

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill. According to the author's office, this bill will extend a sunset date for five years (2018 to 2023) for a specific provision in the Act, which allows authorized licensed distilled spirits manufacturers and winegrowers to entertain consumers at private parties, and events by invitation-only where potential buyers could consume alcoholic beverages and food free of charge, as specified.

AB 2293 of 2008 (De León, Chapter 638) created a stand-alone tied-house hosted entertainment exception in the Act which allowed a manufacturer of distilled spirits, winegrower, rectifier, or distiller, or its authorized agent to provide their product, as well as entertainment and food to consumers over 21 years of age during invitation-only events (free of charge), subject to specified conditions. The events had to be held at a premise for which a caterer's permit authorization was issued. Proponents stated that the bill was an opportunity to introduce a new brand or varietals to the marketplace or to loyal customers in a tightly controlled environment.

In 2013, AB 1116 (Hall, Chapter 461) allowed the hosted entertainment events to also be held at a licensed hotel for which there is a supplier's permit authorization, but limited the events to areas of the hotel that are not open to the general public. Supporters noted that hotels are better venues to accommodate these events because they have larger spaces, equipment, staff, security, transportation, and amenities that did not naturally exist at the limited venues where prior events were allowed to take place before the passage of AB 1116. The bill also increased the number of persons that can attend the event from 400 to 600. In addition, the bill revised requirements for providing ABC with relevant information to ensure proper oversight of these invitation-only events and extended the previous sunset provision by 4 years (January 1, 2014 to January 1, 2018).

AB 609 (Santiago) extends the sunset date for AB 1116 (Hall) of 2013 from January 1, 2018 to January 1, 2023. No other changes to current law (BPC §25600.5) are being authorized under the bill.

In support. Diageo writes this promotional opportunity has been beneficial to manufacturers when conducting brand launches or product extension campaigns. We are not aware of any significant ABC enforcement issues regarding the events authorized by current law.

Prior legislation: AB 1116 (Hall), Chapter 461, Statutes of 2013. Expanded an existing provision of law that permits certain alcoholic beverage producers to hold private, free-of-charge, invitational-only promotional events, with entertainment, food and beverages, for a limited number of consumers over 21 years of age and subject to specified conditions, to also allow such events to be held on the premises of a “hotel,” as defined; and extends the sunset from January 1, 2014 to January 1, 2018.

AB 605 (Portantino), Chapter 230, Statutes of 2010. Added provisions to the ABC Act authorizing the department to issue to the holder of an "off-sale" retail license an "instructional tasting license" for the purpose of furnishing tastings of alcoholic beverages to consumers, subject to certain limitations.

AB 2134 (Chesbro), Chapter 149, Statutes of 2010. Created a new tied-house exception in the ABC Act that allows licensed brewers to conduct and participate in events called "Beer Maker Dinners" for consumers held at an on-sale retail licensed premise.

AB 2293 (De Leon), Chapter 638, Statutes of 2008. Adds a new provision to the Alcoholic Beverage Control Act (ABC Act) that permits a manufacturer of distilled spirits, winegrower, rectifier, or distiller, or its authorized agent to provide their product, as well as entertainment and food to consumers over 21 years of age during invitation-only events (free of charge), as specified. The events must occur on premises for which a caterer's permit authorization has been issued. The bill sunset on January 1, 2014.

SB 1548 (Murray), Chapter 670, Statutes of 2006. Permits a beer manufacturer, a licensed beer and wine importer general, or a licensed beer and wine wholesaler to instruct consumers regarding beer and allows for the furnishing of a tasting at a retail on-sale licensee authorized to sell beer, under specified conditions.

AB 2285 (Valerie Brown), Chapter 248, Statutes of 1998. Allowed on-sale retail licensees to offer limited tastings of wine or distilled spirits at the licensed establishment.

SB 993 (Burton) Chapter 544, Statutes of 1997. Among other things, authorized a licensed distilled spirits manufacturer to conduct tastings of distilled spirits on the licensed premises under specified conditions.

REGISTERED SUPPORT / OPPOSITION:

Support

Diageo
The Distilled Spirits Council

Opposition

Alcohol Justice

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