

Date of Hearing: March 29, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 981 (Gray) – As Introduced February 16, 2017

SUBJECT: Alcoholic beverages: tied-house restrictions

SUMMARY: Adds clarity to an existing tied-house exception in the Alcoholic Beverage Control Act (Act) pertaining to market research by certain licensees and the purchase of off-sale retail data by also including a “*distilled spirits wholesaler*” in the provision prohibiting a licensed retailer from being obligated to purchase or sell the alcoholic beverages of the licensee conducting the market research.

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 or occupation taxes for this purpose.
- 2) Existing law, known as the “tied-house” law, 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).
- 3) Tied house refers to a practice in this country prior to Prohibition and still occurring in England today where a bar or public house, from whence comes the “house” of tied house, is tied to the products of a particular manufacturer, either because the manufacturer owns the house, or the house is contractually obligated to carry only a particular manufacturer’s products.
- 4) The original policy rationale for this body of law was to: (a) promote the state’s interest in an orderly market; (b) prohibit the vertical integration and dominance by a single producer in the marketplace; (c) prohibit commercial bribery and protect the public from predatory marketing practices; and, (d) discourage and/or prevent the intemperate use of alcoholic beverages. Generally, other than exceptions 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) Provides for numerous tied-house exceptions to the general prohibition including one (Section 25503.24 of the Business and Professions Code) which allows certain licensees to conduct market research and, in connection with that research, to purchase marketing data from off-sale licensed retailers provided that no licensed retailer is obligated to purchase or sell the alcoholic beverages of the purchasing licensee.

FISCAL EFFECT: Unknown

COMMENTS:

As noted above, existing law generally prohibits the giving of something of value from certain licensees to another group of licensees. An exception has been made to the general prohibition

to allow certain licensees (manufacturers, winegrowers, rectifiers, distillers, and distilled spirits wholesalers) to conduct market research and, in connection with that research, to purchase marketing data from off-sale licensed retailers provided that no licensed retailer is obligated to purchase or sell the alcoholic beverages of the purchasing licensee. A licensed retailer is also prohibited from requiring the exempted group of licensed purchasers of marketing data to conduct market research as a condition for selling alcoholic beverages to that licensed retailer.

A distilled spirits wholesaler is currently one of the licensees exempt from the general prohibition, but is not one of the entities prohibited from obligating the licensed retailer to purchase or sell the alcoholic beverages of the licensee conducting the market research.

AB 981 would correct this oversight by including a “distilled spirits wholesaler” in the provision prohibiting a licensed retailer from being obligated to purchase or sell alcoholic beverages of the licensee conducting the research.

Prior legislation. AB 1429 (Governmental Organization), Chapter 567, Statutes of 2001. Among other things, authorized various licensed entities to conduct market research and, in connection with that research, to purchase from licensed on-sale retailers data, regarding purchases and sales of alcoholic beverage products, at the customary rates that those retailers sell similar data for nonalcoholic beverage products.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

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