

CONCURRENCE IN SENATE AMENDMENTS

AB 1724 (Jones-Sawyer)

As Amended August 29, 2017

Majority vote

ASSEMBLY: 76-0 (May 4, 2017)

SENATE: 38-0 (September 5, 2017)

Original Committee Reference: **G.O.**

SUMMARY: Extends an existing exception in the Alcoholic Beverage Control Act (Act) pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include a specified outdoor stadium located in the City of Los Angeles (Banc of California Stadium, the future home of the Los Angeles Football Club). This bill also makes minor code maintenance changes to an outdated section of the Act.

The Senate amendments:

- 1) Allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at an outdoor stadium with a fixed seating capacity in excess of 20,000 seats in the City of Los Angeles.
- 2) Provide that any purchase of advertising space or time by designated alcohol manufacturers relating to the specified outdoor stadium in the City of Los Angeles, may be conducted pursuant to a written contract with the owner, a long-term tenant of the stadium, or licensee of the stadium, whether or not the owner, long-term tenant, or licensee holds an on-sale license.
- 3) Make legislative findings and declarations as to the necessity of a special statute for a special statute for the County of Los Angeles.
- 4) Contain language that prevents this bill from chaptering out any other legislative changes made to Business and Professions Code Section 25503.6 (SB 582 (Bradford) and SB 664 (Dodd) both of the current legislative session).
- 5) Change the bill's author from Committee on Governmental Organization to Assembly Member Jones-Sawyer.

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) 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.

- 3) Prohibits, in general, a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director or agent of any such person from owning, directly or indirectly, any interest in any on-sale license.
- 4) Prohibits, in general, a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising.
- 5) Provides a variety of exceptions from the advertising prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions.
- 6) Requires the Chief of the Bureau of Food and Drug Inspection to notify ABC of the conviction of any licensee of any violation of the California Pure Foods Act in connection with alcoholic beverages. Also, requires ABC to promptly investigate whether grounds exist for suspension or revocation of the license.
- 7) Establishes the Sherman Food, Drug, and Cosmetic Law, and provides for regulation under that law by the California Department of Public Health (CDPH) of the packaging and labeling of foods, drugs, devices, and cosmetics.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS: This bill, as amended in the Senate is inconsistent with Assembly actions.

Background

Purpose of the bill. The author's office states, "This bill will create a Tied-house exception for an outdoor stadium with a fixed seating capacity in excess of 20,000 seats in the City of Los Angeles, allowing for the Los Angeles Football Club to sell advertising space to alcoholic beverage manufacturers."

Further, according to the author's office, "the City of Los Angeles has worked tirelessly to bring a Major League Soccer team to the Los Angeles area, with final approval being secured by the City of Los Angeles' Planning Commission and full City Council in May 2016. This important project will bring in hundreds of local jobs, with an estimated economic impact of \$3 billion. By granting this Tied-house exception, we'll ensure the viability of this project thus providing additional revenue for our region and state."

Tied-house laws. 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. The original policy rationale for this body of law was to 1) promote the state's interest in an orderly market; 2) prohibit the vertical integration and dominance by a single producer in the marketplace; 3) prohibit commercial bribery and to protect the public from predatory marketing practices; and, 4) discourage and/or prevent the

intemperate use of alcoholic beverages. These provisions prohibit a manufacturer from paying for advertising space at a stadium or sports arena where the facility is licensed to sell alcoholic beverages at events held at the stadium or arena.

Over the years numerous exceptions to this prohibition have been added to the ABC Act e.g. Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana, Grizzly Stadium in Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, StubHub Center (formerly the Home Depot Center) in Carson, and numerous other venues.

This bill puts the Banc of California Stadium on an even playing field with other arenas and stadiums in California.

Banc of California Stadium. Banc of California Stadium will be the future home of the Los Angeles Football Club, Major League Soccer's latest expansion team. The property is located within Exposition Park next to the Los Angeles Memorial Coliseum in South Los Angeles, at the former site of the Los Angeles Memorial Sports Arena. The stadium will be the centerpiece of a complex that will also include a large community plaza, restaurants, and retail.

Banc of California Stadium will be the first, new open-air stadium in Los Angeles since 1962 and will have a 22,000-seat capacity. The groundbreaking for the stadium took place on August 23, 2016. The Los Angeles Football Club is set to debut in the 2018 season. In addition to soccer games, the stadium will be used for concerts, festivals, and community events. The project is expected to generate over 1,200 new construction jobs and 1,800 full-time operational jobs. Further, it is projected that this development will add \$129 million in annual economic activity from normal operations and \$274 million in short-term economic investment through the construction of the stadium.

CDPH. CDPH regulates the production, manufacture, and sale of foods, drugs, medical devices and cosmetics in California pursuant to the Sherman Food, Drug, and Cosmetic Law. Within the CDPH, is the Food, Drug, and Radiation Safety Division of the Center for Environmental Health. The Food and Drug Branch's mission is to protect and improve the health of all California residents by assuring that foods, drugs, medical devices and certain other consumer products are safe and are not adulterated, misbranded nor falsely advertised; and that drugs and medical devices are effective.

Business and Professions Code Section 24204 contains outdated references. For example, there is no longer a "Bureau of Food and Drug Inspection" and the "California Pure Foods Act" was combined with the Sherman Food, Drug and Cosmetic Law in 1970. This bill is simply intended to replace these outdated references with the correct ones, by requiring the Director of the CDPH to notify the Department of ABC of the conviction of any licensee of any violation of the Sherman Food, Drug, and Cosmetic Law in connection with alcoholic beverages.

In support: The Los Angeles Football Club states that, "AB 1724 will allow them to both responsibly serve alcoholic beverages to its football fan-base and provide the stadium with much needed advertising revenue through our Tied-house exemption. This project is very important to the City of Los Angeles, which will see an estimated economic impact of over \$3 billion annually. Further, the state will benefit as well with important sales tax and income tax

generated by the fans and employees, and ultimately, because the stadium is on land leased from the state, the lease will at least \$1.7 million annual park and state revenues."

Related legislation: SB 664 (Dodd) of the current legislative session, allows beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at an outdoor stadium (AT&T Park) and an indoor arena (Chase Center) with specified seating capacities located in the City and County of San Francisco.

SB 582 (Bradford) of the current legislative session, allows beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at a specified stadium (The Los Angeles Stadium at Hollywood Park) and performance venue located in the City of Inglewood.

SB 56 (Mendoza) of the current legislative session, among other things, authorizes ABC to issue a Sports Entertainment Facility Permit that would allow the permit holder to sell alcoholic beverages at a sports entertainment facility, as defined.

Prior legislation: SB 1105 (Mendoza) of 2016, among other things, would have authorized ABC to issue a general on-sale license for a sports entertainment facility bona fide public eating place that would allow the licensee to sell beer, wine, and distilled spirits at retail for consumption on the premises in a sports entertainment facility, as defined. (Never heard in Assembly Governmental Organization Committee)

AB 1971 (Cooper) of 2016, would have created a stand-alone Tied-house exception in the Act to allow holders of manufacturer licenses, as specified, to purchase advertising from retail licensees at outdoor stadiums and indoor arenas, subject to specified conditions. (Held on Senate inactive file)

AB 2096 (Low) of 2016, would have added 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. (Never heard in Assembly Governmental Organization Committee)

AB 866 (E. Garcia) of 2016, would have extended an existing Tied-house exception in the Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include outdoor stadiums with specified seating capacities located in the Cities of Inglewood and San Diego. (Held on Senate Inactive File)

AB 527 (Dodd), Chapter 517, Statutes of 2015, created a new Tied-house exception in the 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 557 (Hall), Chapter 420, Statutes of 2015, extended an existing Tied-house exception 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 located in San Diego County.

SB 462 (Wolk), Chapter 315, Statutes of 2015, among other things, extended an existing Tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a specified entertainment complex, known as the Green Music Center, located on the campus of Sonoma State University.

SB 133 (McGuire) of 2015, would have made similar minor code maintenance changes to an outdated section of the ABC Act. (Amended to address an issue related to transient occupancy taxes)

AB 600 (Bonta), Chapter 139, Statutes of 2014, extended an existing Tied-house exception 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).

SB 324 (Wright), Chapter 164, Statutes of 2013, extended an existing Tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a fully enclosed arena with a fixed seating capacity in excess of 13,000 seats (the Forum) in the City of Inglewood.

SB 351 (Negrete-McLeod) of 2007, would have extended an existing Tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees so that alcoholic beverage manufacturers may purchase advertising from on-sale retail licensees in order to promote "safe ride home programs" at specified stadiums and arenas. (Held on Assembly inactive file)

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 located in San Joaquin County (Banner Island Ballpark).

AB 3046 (Chavez), Chapter 587, Statutes of 2006, extended an existing Tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to a fully enclosed arena with a fixed seating capacity in excess of 15,000 seats located in Santa Clara County (HP Pavilion).

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.