

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 1890 (Levine) – As Introduced January 18, 2018

SUBJECT: Alcoholic beverage licensees: craft distillers, winegrowers, and beer manufacturers

SUMMARY: Adds a licensed craft distiller to a current exemption in the Alcoholic Beverage Control Act (Act) that allows a licensed winegrower and a licensed small beer manufacturer, whose premises of production are immediately adjacent to each other, to share a common area in which the consumption of alcoholic beverages is permitted, under specified circumstances.

Specifically, **this bill:**

1) Allows a licensed winegrower, licensed beer manufacturer that holds a small beer manufacturer's license, and a licensed craft distiller, in any combination, whose licensed premises of production are immediately adjacent to each other and which are not branch offices, may, with the approval of the Department of Alcoholic Beverage Control (ABC) and under such conditions as the department may require, share a common licensed area in which the consumption of alcoholic beverages is permitted, only under all of the following circumstances:

(a) The shared common licensed area is adjacent and contiguous to the licensed premises of the licensees. The licensed premises of the licensees are not branch offices.

(b) The shared common licensed area shall be readily accessible from the premises of the licensees without the necessity of using a public street, alley, or sidewalk.

(c) Except as provided, the alcoholic beverages that may be consumed in the shared common licensed area shall be purchased by the consumer only from the licensed winegrower, the licensed beer manufacturer, or the licensed craft distiller.

(d) The licensed winegrower, the licensed beer manufacturer, and the licensed craft distiller shall be jointly responsible for compliance and for any violations that may occur within the shared common licensed area, as specified.

2) Does not authorize a licensed winegrower, a licensed beer manufacturer, or the licensed craft distiller to sell, furnish, give, or have upon their respective licensed premises any alcoholic beverages, or to engage in any other activity, not otherwise authorized.

3) Makes relating technical amendments.

EXISTING LAW:

1) Establishes 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) Allows a licensed beer manufacturer to apply to ABC for a brewery event permit that grants the licensee the privilege of selling beer it produces for consumption on property contiguous and adjacent to its licensed premises for special events (up to four such events in a calendar year).
- 4) Authorizes a licensed beer or wine manufacturer, at the licensed premises of production, to sell to consumers for consumption off the premises beer or wine that is produced and bottled by, or produced and packaged for, that manufacturer.
- 5) Authorizes licensed winegrowers to conduct wine tastings featuring their products either on or off the winegrower's premises, as provided for in rules and regulations adopted by ABC.
- 6) Prohibits a licensee to have upon the licensed premises any alcoholic beverages other than the alcoholic beverage for which the licensee is authorized to sell at the premises under his or her license.
- 7) Allows a licensed winegrower and a licensed small beer manufacturer, whose premises of production are immediately adjacent to each other, to share a common area in which the consumption of alcoholic beverages is permitted, under specified circumstances.
- 8) Authorizes ABC to issue a craft distiller's license to manufacture distilled spirits, subject to specified conditions, including that the licensee manufacture no more than 100,000 gallons of distilled spirits per fiscal year, excluding brandy the craft distiller manufactures or has manufactured for them.
- 9) 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). An "off-sale" license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill. In 2015, Governor Brown signed AB 1295 (Levine), which created a new type of alcohol license for craft distilleries. Craft distilleries are small distilleries permitted to produce less than 100,000 gallons of distilled spirits a year, among other privileges and restrictions. According to the author, "the emergent artisanal industry has seen exceptional growth since the passage of AB 1295. This growth has boosted California's economy and created a new venue for tourism."

California's Tied-house laws generally make it illegal for any business licensed to sell alcohol to have any other type of alcohol on their premises that is not included in the business's specific type of license. In 2017, Governor Brown signed AB 997 (Aguiar-Curry), which allows a licensed winegrower and craft beer manufacturer to share a common area where alcoholic beverages may be consumed, under specified conditions. The author states, "The rationale behind the bill was to allow patrons attending either a brewery or winery whose licensed

premises of production are immediately adjacent to each other, to share a common area to enjoy the company of their friends while sampling either business's products."

According to the author's office, this bill "would allow a licensed winegrower, craft beer manufacturer, or craft spirits distiller to offer tastings of their products in a shared space when any combination of these licensed businesses are immediately adjacent to one another. Giving tourists and patrons more opportunities to relax and enjoy California craft beverages in a comfortable setting will increase tourism to the benefit of state and local economies."

Background:

Tied-house laws. The "Tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). 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 protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages.

Exceptions to these restrictions have been enacted throughout the years in those specific instances where the Legislature determined that the public's interests are protected.

ABC licenses. ABC issues licenses in California for the legal manufacture and sale of alcoholic beverages. There are more than 80 different types of ABC licenses authorized in California. Each license has its own set of privileges and obligations specific to the category of license involved. The privileges of a license are expressly limited to those conferred by the specific type of license involved for the premises and time period covered by the license.

Under existing law, it is generally illegal for any licensed business to sell alcohol or have any type of alcohol on their premise that is not included in that license type. For example, if a restaurant obtains a license for beer and wine sales, the presence of distilled spirits on-site would be illegal. The law presumes that all alcoholic beverages found at licensed premises belong to the licensee, and therefore the person who obtained the license would be guilty of a misdemeanor.

In addition to issuing licenses for the sale of alcohol at restaurants, bars, businesses, and events, the ABC also provides licenses to manufacturers of beer, wine, brandy, and spirits. Specifically, a licensed beer manufacturer with a Type 01 or Type 23 license is authorized to sell beer to consumers for consumption on or off the manufacturer's licensed premises. Similarly, a winegrower with a Type 02 license is authorized to sell wine to consumers for consumption on or off the manufacturer's licensed premises. In addition to other privileges, these licensees may conduct tastings under specified conditions.

This bill allows licensed craft distiller (Type 74), a licensed winegrower (Type 02), and licensed beer manufacturer (Type 23), in any combination, to, with the approval of ABC, share a common licensed area in which the consumption of alcoholic beverages, under specified circumstances. According to ABC, there are currently 88 craft distiller's licenses (Type-74).

In support. The California Artisanal Distillers Guild states, "Wineries, breweries and distilleries share many customers and host groups that would benefit from this bill as well. By co-locating

tasting rooms and having work spaces on the premises it gives a centralization that would be helpful in many areas around the state. Production facilities near each other provide lead to cooperative projects and give the public opportunities to see the processes in close proximity. This can be educational and also entertaining, which leads to repeat visits and greater growth opportunities for involved."

In opposition. Alcohol Justice is opposed to this bill because, "Separate licenses for on-sale consumption deserve to be separated, as liability for over serving is the duty of each licensee and cannot be monitored when sharing patrons."

Prior legislation. AB 997 (Aguiar-Curry), Chapter 788, Statutes of 2017. Allowed a licensed winegrower and a licensed small beer manufacturer, whose premises of production are immediately adjacent to each other, to share a common area in which the consumption of alcoholic beverages is permitted, under specified circumstances.

AB 2913 (Committee on Governmental Organization), Chapter 423, Statutes of 2016. Among other things, revised the definition of a licensed "distilled spirits rectifier", as defined. Furthermore, made conforming and technical modifications to AB 1295 (Levine), Chapter 640, Statutes of 2015.

AB 1295 (Levine), Chapter 640, Statutes of 2015. Created a new "craft distiller's license" in the Act with specified privileges and limited to persons who manufacture less than 100,000 gallons of distilled spirits annually, exclusive of brandy production. This bill also modifies an existing provision of law that currently allows distillers to offer six, one-quarter ounce tastings, per individual/per day, to instead permit distillers to combine the current limitation into one single 1.5 ounce tasting that may also include a non-alcoholic mixer.

AB 776 (Cooper), Chapter 519, Statutes of 2015. Allowed a licensed beer manufacturer to apply to the ABC for a brewery event permit that grants the licensee the privilege of selling beer it produces for consumption on property contiguous and adjacent to its licensed premises for special events (up to four such events in a calendar year).

AB 2004 (Chesbro), Chapter 806, Statutes of 2014. Authorized a licensed beer manufacturer to apply to ABC for a certified farmers' market beer sales permit, which allows the licensee to sell packaged beer at a farmers' market, including any specified area, under certain conditions. The bill also allowed a beer manufacturer to sell beer and wine on their own premises during private events.

AB 2134 (Chesbro), Chapter 149, Statutes of 2010. Allowed licensed beer manufacturers to conduct and participates in events called "Beer Maker Dinners" for consumers held at an on-sale retail licensed premise.

AB 2004 (Evans), Chapter 127, Statutes of 2008. Authorized, among other things, the consumption of wine on a winery's licensed premises in order to accommodate visitors interested in pairing wine with food in a picnic setting.

AB 111 (Koretz), Chapter 62, Statutes of 2005. Enabled licensees with on-sale general licenses to apply to ABC for an event permit which would authorize the licensee to sell beer, wine or other distilled spirits for consumption on property adjacent to the licensed premises or property owned or controlled by the licensee up to four times per year, as specified.

SB 113 (Thompson), Chapter 238, Statutes of 1993. Permitted a licensed winegrower to sell wine and brandy to consumers for consumption off the premises or for consumption at a restaurant located at the winery or immediately contiguous to it.

REGISTERED SUPPORT / OPPOSITION:

Support

California Artisanal Distillers Guild
Modern Times Drinks, Inc.

Opposition

Alcohol Justice

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