

Date of Hearing: April 4, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2469 (Berman) – As Introduced February 14, 2018

**SUBJECT:** Alcoholic beverages: off-site licensees

**SUMMARY:** Prohibits an off-sale licensee from delivering alcoholic beverages from an order received by "digital means" without proof of age and identity. Specifically, this bill:

1) Provides that no off-sale licensee shall deliver any alcoholic beverages pursuant to orders received for alcoholic beverages by digital means unless upon delivery the recipient shall be able to furnish proof of age and identity to indicate that he or she is 21 years of age or over.

**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1) The enactment of the 21st Amendment to the U.S. Constitution in 1933 repealed the 18th Amendment and ended the era of Prohibition.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 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 for this purpose.

3) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or the "three-tier" system. 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.

4) Defines "sell" or "sale" and "to sell" to include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages pursuant to an order placed for the purchase of such beverages and soliciting or receiving an order for such beverages.

5) Provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

6) Prohibits an off-sale licensee shall deliver any alcoholic beverages pursuant to orders received for alcoholic beverages by telephone or other electronic means unless upon delivery the recipient shall be able to furnish proof of age and identity to indicate that he or she is 21 years of age or over. (BPC Section 25605)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

Purpose of the bill. According to the author's office, existing law prohibits an off-sale licensee from delivering alcoholic beverages from an order received over the telephone or other electronic means without proof of age and identity.

Modern technological advancements such as digital communication have resulted in new ways for individuals to order alcoholic beverages delivery. Digital communication devices include, but are not limited to high definition televisions, cell phones, the internet, and e-mail. AB 2469 would additionally prohibit an off-sale licensee from delivering alcoholic beverages from an order received by "digital means" without proof of age and identity. This bill is intended to close a technological loophole in state law to prevent underage drinking and protect the public health.

In support. The California Beer and Beverage Distributors is the sponsor of this bill, and states that "there is some concern that current law may not necessary cover all forms of electronic communications. There is a big difference between "electronic" and digital". Information is often both electronic and digital, but there is some that is only electronic and some that is only digital"

Related legislation. SB 254 (Portantino) of 2017. This bill would prohibit a delivery network company, as defined, from delivering alcoholic beverages unless it has a system, reviewed and approved by ABC by January 1, 2020, that meets specified requirements, including that the company can verify that the products are delivered to a person who is 21 years of age or older. This bill also prohibits a delivery network company from delivering alcoholic beverages to consumers on the grounds of a college or university. (Pending in Assembly G.O. Committee)

Prior legislation. SB 818 (Senate Governmental Organization Committee), Chapter 337, Statutes of 2013. The bill made non-controversial, clarifying and code maintenance changes to the Act. The bill amended BPC Section 25605 to recognize forms of electronic communication, in addition to the telephone, by which alcohol orders may be placed. BPC Section 25605 was enacted in 1963 before e-mail and other forms of electronic communication existed.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Beer and Beverage Distributors (Sponsor)

**Opposition**

Alcohol Justice

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