

Date of Hearing: April 27, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 297 (Levine) – As Introduced February 6, 2017

**SUBJECT:** Alcoholic beverages: licenses: wine and food cultural museum and educational center

**SUMMARY:** Would authorize the California Wine Center, a non-profit entity located in County of Sonoma to sell, furnish, or give alcoholic beverages for consumption on the premises and off-sale privileges, as specified. Specifically, this bill:

- 1) Provides for an on-sale general license for a wine and food cultural museum and educational center and authorizes those persons to sell, furnish, or give alcoholic beverages for consumption on the premises and off-sale privileges, as described.
- 2) States “a wine and food cultural museum and educational center” is a person that meets all the following conditions:
  - (a) The retail premises shall include an auditorium, exhibition gallery, teaching kitchen, and library and may be adjacent to a bona fide eating-place as defined in Business and Professions Code Section 23038.
  - (b) The premises is located in the County of Sonoma, operated by a nonprofit entity that is exempt from payment of income taxes as an organization described in B & P Section 501(c)(3) of the Internal Revenue Code, and includes real estate improvements of a value of at least ten million dollars (\$10,000,000).
- 3) Provides the Department of Alcoholic Beverage Control (ABC) shall upon request and qualification issue a licensee located in the County of Sonoma a duplicate of the original license for a premises located on commonly owned, leased, or managed property contiguous to, or in close proximity to the original licensed premises, as defined.
- 4) States there shall be no limit as to the number of events held on a licensed premises or duplicate premises at which a person or persons issued caterer’s permits under B & P Section 23399 may sell alcoholic beverages so long as the on-sale general licensee surrenders its license privileges for any portion of the premises at which a catered event is held for the duration of the event. A licensee licensed under this section shall not be included in the definition of “public premises”, as defined.
- 5) States a license issued pursuant to this bill may be transferred to another person, qualified but not to another location. A licensee specified in bill shall purchase no alcoholic beverages for sale in this state other than from a wholesaler or winegrower licensee. Licensees may donate wine to a person licensed under this bill.
- 6) Provides a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, or the holder of an importer’s general license may hold the ownership of any interest, directly or indirectly, in the premises and in the license issued pursuant to this bill, may serve as an officer, director, employee, or agent of that licensee, and may sponsor or

fund educational programs, special fundraising and promotional events, improvements in capital projects, and the development of exhibits or facilities of and for that licensee as defined.

7) Provides an applicant for an original on-sale general license for a wine, food and art cultural museum, and educational center or for an original on-sale general license for a wine and food cultural museum and educational center shall, at the time of filing the application for the license, accompany the application with a fee of twelve thousand dollars (\$12,000), as specified.

8) States an applicant for a duplicate on-sale general license for a wine, food and art cultural museum, and educational center or for a duplicate on-sale general license for a wine and food cultural museum and educational center shall, at the time of filing the application for the license, accompany the application with a fee equal to the license fee for an on-sale general license.

#### **EXISTING LAW:**

1) Establishes ABC and grants it exclusive authority to administer the provisions of the Alcoholic Beverage Control Act (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) Contains provisions for various types of licenses that permit licensees to furnish alcoholic beverages under designated circumstances.

3) Existing law, known as the "tied-house" law, separates the alcoholic beverage industry into three component parts of manufacturer, wholesaler, and retailer. 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. Generally, other than exemptions 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) Provides a general tied-house exception to allow licensed winemakers to hold an ownership interest or any financial relationship in no more than two on-sale establishments provided that certain conditions are met (e.g., the on-sale licensee purchases all alcoholic beverages from a California wholesaler and the number of wine items by brand listed and offered for sale by the on-sale licensee which are produced by the winegrower does not exceed 15 percent.)

5) Provides an on-sale general license for a wine, food and art cultural museum and educational center located in the County of Napa (American Center for Wine, Food and the Arts - COPIA) to sell, furnish, or give alcoholic beverages for consumption on the premises and various off-sale privileges.

**FISCAL EFFECT:** Unknown

#### **COMMENTS:**

Background. 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. Retail licenses are commonly classified by the kind of alcoholic beverage sold and the nature of the premises involved. Included in the beverage category are general licenses (covering all

alcoholic beverages, i.e., distilled spirits, wine, and beer); beer licenses; and beer and wine licenses. The two most common California retail premises that require ABC licenses are: (1) "Off-sale" establishments (e.g., grocery stores, liquor stores, convenience stores), in which alcoholic beverages are sold to consumers in sealed packages for consumption off the premises; and (2) "On-sale" establishments (e.g., restaurants, hotels, cafeterias, nightclubs, bars, and cafes), in which alcoholic beverages are sold primarily for consumption on the premises. Other retailers who require ABC licenses include caterers who sell alcoholic beverages to their customers; holders of special charitable or fundraising event licenses; public conveyances serving alcoholic beverages; and nonprofit clubs established for fraternal, civic, patriotic, benevolent, or other purposes and granted the specific privilege of possessing an ABC license.

"Tied-house" restrictions date back to Prohibition and are principally designed to encourage temperance by discouraging a supplier from owning or having an interest in (and thereby controlling or influencing) retail outlets. A person who has an interest (whether as owner, officer, director, or agent) in a licensed business in the manufacturing or wholesale tier of the alcoholic beverage industry may be prohibited from also having an interest in a licensed business in the retail tier, including an interest in any on-sale or off-sale license.

Purpose of the bill. SB 1511 of 2000 (Chesbro) created a new license category (Type 78) in the Act for the American Center for Wine, Food and the Arts (COPIA), a non-profit entity located in Napa County. The bill allowed the Center to sell, furnish, or give alcoholic beverages for consumption on the licensed premises. The bill provided a "tied-house" exception for wine suppliers to serve as officers and directors of the Center license and permits wine suppliers to give financial support to the licensee. This special license was deemed necessary because the Act denies access to persons under 21 years of age on public retail premises that do not offer meals. The bill also allowed a non-profit organization to accept alcoholic beverage donations. The nonprofit organization could then sell the donated alcohol for a profit and use the proceeds to support the operational costs of the organization. The new license category was tailored to stay within the existing framework of the ABC Act.

According to the author's office, AB 297 would extend the specified privileges for the Type 78 license to the California Wine Center in Sonoma County (Center). The Center will be a key feature in the recently renovated Museum on the Square area of downtown Santa Rosa. Its presence will assist in revitalizing the community by bringing together experts in wine, leaders in the industry, wine industry employees and tourists.

The author states, "Santa Rosa is entering a phase of robust tourism development and wine country tourism is booming. Sonoma County has the greatest potential for development in the tourism sector due to new infrastructure and transportation expansions. These advancements will allow more access to surrounding wine regions and ease vehicle load on the roads. The Center will also assist the wine industry by acting as a link between small and medium sized wineries and the increasingly demanding international export market. Further, the Center will function as a centrally located educational facility for the wine industry's growing workforce. It will offer professional development classes and trainings for the various wine industry focused careers. This bill will help to strengthen and further the developing wine industry and culture in Sonoma County."

The author further adds that the 2015 Sonoma County Annual Tourism Report identifies multiple areas in which the Center will improve the economic strength of Santa Rosa through its development. Since 2003, tourism to Sonoma County has steadily increased along with tourist spending. As the wine industry continues to grow in Sonoma County, a single destination to coordinate wine country visits, facilitate communication between wineries, and support industry functions is becoming more necessary.

In support. Proponents note this bill will be an important tool for the California Wine Center to attain viability and stability for the long term. Specifically, it will allow other ABC license holders to serve on its board and work in its operation without violating California's tied-house laws and will permit the nonprofit to accept donated alcoholic beverage product and use it to advance its mission through sale and/or service on- or off- premise. The timing of the development and launch of the California Wine Center is fortuitous. As we struggle with ways to protect our agricultural lands and preserve the rural character of our most notable wine-grape regions, the California Wine Center will play an important role.

In opposition. Alcohol Justice states, "California already suffers more than \$35 billion dollars in alcohol-related harm with 10,500 alcohol-related deaths annually. If AB 297 is passed and signed into law, it will negatively impact public health and safety and increases the potential of alcohol-related problems."

Prior legislation. SB 127 (Chesbro), Chapter 171, Statutes of 2005. Deleted an existing provision of law that limits "COPIA" to the sale of no more than 6,000 cases of wine per calendar year labeled with and otherwise bearing only the name, logo, trademark and/or other proprietary art owned by the wine, food and cultural museum and educational center licensee. The bill also deleted an existing provision that specifies that such wine bear a name, logo, trademark and/or other proprietary art or statement identifying any other licensee.

SB 1511 (Chesbro), Chapter 231, Statutes of 2000. Provides an on-sale general license for a wine, food and art cultural museum and educational center (COPIA) that authorizes described persons to sell, furnish, or give alcoholic beverages for consumption on the premises and various off-sale privileges. Such off-sale privileges are limited to the sale of no more than 6,000 cases per calendar year of wine labeled with and otherwise bearing only the name, logo, trademark and/or other proprietary art owned by the wine, food, and art cultural museum and educational center licensee. Furthermore, the law provides that in no event shall such wine bear a name, logo, trademark and/or other proprietary art or statement identifying any other licensee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Travel Association  
City of Santa Rosa  
Family Winemakers of California  
Santa Rosa Metro Chamber  
Sonoma County Board of Supervisors  
Wine Institute

**Opposition**

Alcohol Justice

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