

Date of Hearing: April 19, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 400 (Cooper) – As Amended April 3, 2017

SUBJECT: Crimes: alcoholic beverages: State Capitol

SUMMARY: Existing law prohibits the sale or exposing for sale of any alcoholic beverage within the State Capitol or within the limits of the grounds adjacent and belonging thereto.

AB 400 would exempt from that prohibition an event that is held on those grounds if certain conditions are met, including, among others, that the event is organized and operated by a nonprofit organization that is located in the City of Sacramento for purposes of increasing awareness of the Sacramento region and promoting education about the food and wine of the Sacramento region, and tickets are sold on a presale basis only. Specifically, this bill:

1) Allows the on sale or exposure for sale of any alcoholic beverage within the State Capitol or within the limits of the grounds adjacent and belonging thereto for an event that is held on those grounds if all of the following conditions are met:

- a) The event is organized and operated by a nonprofit organization that is located in the City of Sacramento for purposes of increasing awareness of the Sacramento region and promoting education about the food and wine of the Sacramento region.
- b) Tickets for the event are sold on a presale basis only and are not available for sale at the event.
- c) Each attendee has purchased a ticket for the event, regardless of whether the attendee consumes any food or alcohol at the event.
- d) Alcohol is not sold at the event, and any orders or any other activities that would constitute exposure for sale of alcoholic beverages do not occur at the event, except as authorized by this subdivision.

2) Makes legislative findings and declarations as to the necessity of a special statute for the City of Sacramento.

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) Provides that every person who, within one-half mile of the land belonging to this state upon which any state prison, or within 1,900 feet of the land belonging to this state upon which any Youth Authority institution is situated, or within one mile of the grounds belonging to the University of California, at Berkeley, or within one mile of the grounds belonging to the University of California at Santa Barbara, as such grounds existed as of January 1, 1961, or within one mile of the grounds belonging to Fresno State College, as such grounds existed as of

January 1, 1959, or within three miles of the University Farm at Davis, or within 1 1/2 miles of any building actually occupied as a home, retreat, or asylum for ex-soldiers, sailors, and marines of the Army and Navy of the United States, established or to be established by this state, or by the United States within this state.

3) Prohibits the sale or exposing for sale of any alcoholic beverage within the State Capitol or within the limits of the grounds adjacent and belonging thereto.

4) Provides an exemption for the sale or exposure for sale of any alcoholic beverage within 1,900 feet of the land with respect to the Fred C. Nelles School for Boys.

5) Provides an exemption for the sale or exposure for sale of any alcoholic beverage within 1 1/2 miles of any building actually occupied as a home, retreat, or asylum for ex-soldiers, sailors, and marines of the Army and Navy of the United States shall not apply to the Veterans' Home at Yountville, Napa County, California.

6) Provides a person who sells or exposes for sale, any alcoholic beverage, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100), or by imprisonment for not less than 50 days or by both such fine and imprisonment, in the discretion of the court.

FISCAL EFFECT: Unknown

COMMENTS:

Background. The California State Capitol is home to the government of California. The building houses the bicameral state legislature and the governor. Located in Sacramento, the original building was completed in 1874 at the west end of Capitol Park, which is framed by L Street to the north, N Street to the south, 10th Street to the west, and 15th Street to the east. The Capitol and grounds were listed on the office of the National Register of Historic Places in 1973, and listed as a California Historical Landmark in 1974, with a re-dedication on January 9, 1982 to commemorate the close of the bicentennial restoration project.

The State Capitol and its grounds are under the jurisdiction of the California Highway Patrol (CHP). The CHP is responsible for issuing permits for use of the Capitol grounds outside of the Capitol building. There is no cost for obtaining a permit and permits are issued on a first come first serve basis. Legislative member sponsorship is not required for obtaining a permit on behalf of groups or individuals. Permits for weddings or rallies are obtained from the CHP. Alcohol is not allowed in the park without a special permit issued by the CHP. Sales of any kind on Capitol grounds are not permitted. This includes collecting a donation in exchange for goods and/or services. Limited decorations can be used for the event but they cannot be hung, tacked, taped or in any way affixed to trees, shrubbery, fencing, or lamp posts on state property.

Legends of Wine. The Legends of Wine event, held in September is part of Farm to Fork month in Sacramento, having started in 2013. Wine lovers have the opportunity to sample and discover more about some of the region's most celebrated varietals, as selected by two of Sacramento's internationally recognized culinary specialists. The event is held on the grounds of California's State Capitol. Guests are able to sample a wide array of award-winning wines paired and presented with artisan cheeses, specialty desserts, and other local delights. This event is for those age 21 and over. All tickets are pre-sold, as they cannot be purchased at the event.



Purpose of the bill. According to the author's office, "[s]ince 2013, the Sacramento Legends of Wine event has been an integral part of the two week-long Farm to Fork Celebration that includes a number of different events highlighting Sacramento area agriculture and food elements. This event is designed to promote information and education about the food and wine of the Sacramento region."

The author adds that last year, ABC voiced concerns that this event, which is held on the Capitol grounds, could be violating the Penal Code 172 (a) which makes it a misdemeanor to sell alcohol on the Capitol grounds. Event tickets are sold only on a pre-sale, on-line basis and are not available at the time or place of the event. A ticket is required whether an attendee consumes any wine or food. Given the design and emphasis of the event, it is reasonable to conclude that it does not violate the Penal Code.

The author states that AB 400 clarifies the Penal Code such that the Legends of Wine can occur on Capitol grounds since no wine will be sold at the event or any other activities will occur which would constitute exposure for sale of alcohol. This clarification will prevent future concerns regarding a Penal Code violation and will allow this renowned event to continue in the future.

In support. The sponsor, Visit Sacramento, a non-profit 501(c)(6) organization, writes, "The State Capitol is essential to driving tourism, job creation and overall economic impact to the Sacramento region. AB 400 will help us to further the Sacramento region's image as America's Farm-to-Fork Capital by educating consumers on the unique agricultural products that are produced in Northern California. Since 2013, the Legends of Wine event on the west steps of the Capitol has highlighted California wine, agriculture and food production. The event has been one of four Farm-to-Fork events produced by Visit Sacramento and illustrates how agriculture production in the Sacramento region helps to feed the entire nation."

The sponsor states, "That due to restrictions in California law that does not allow for non-profit-produced events that serve alcohol on the Capitol grounds, we've been informed that the event will not be permitted moving forward. With more than 150 different commodities coming out of the ground, and as the Capital City of California, we believe that celebrating California's agricultural abundance and Sacramento's standing as America's Farm-to-Fork Capital presents tremendous value to our city and state. More importantly, we believe that celebrating our region's authenticity at the State Capitol presents a unifying message for all of California."

Prior legislation. AB 774 (Levine), Chapter 107, Statutes of 2015. Provides that a certified farmers' market beer sales permit shall also authorize an instructional tasting event on the subject of beer at a certified farmers' market, including any permitted community event area adjacent to, and operated in conjunction with, a certified farmers' market, located within the county or an adjacent county of the physical location of the licensed beer manufacturer, under specified conditions.

AB 2488 (Levine), Chapter 98, Statutes of 2014. Expanded an existing privilege in the Act relating to the sale of wine by a licensed winegrower at certified farmers' markets to also allow a licensed winegrower the privilege of conducting limited wine tastings for consumers at farmers' markets under certain circumstances.

AB 2004 (Chesbro), Chapter 806, Statutes of 2014. Among other things, authorized a licensed beer manufacturer to apply to ABC for a "certified farmers' market beer sales permit" for the purpose of allowing the licensee to sell packaged beer at a farmers' market, including any area outside the footprint of the farmers' market, under specified conditions.

AB 520 (Chesbro), Chapter 777, Statutes of 2014. Expanded the types of licensees that may provide instructional tastings events regarding wine or distilled spirits at on-sale retail licensed premises and placed additional restrictions on the instructional tastings events, including restrictions on the types of advertising that may be conducted prior to the instructional tasting event.

REGISTERED SUPPORT / OPPOSITION:

Support

Visit Sacramento

Opposition

None on file

Analysis Prepared by: Eric Johnson / G.O. / (916) 319-2531