

Date of Hearing: March 29, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 997 (Aguiar-Curry) – As Introduced February 16, 2017

SUBJECT: Alcoholic beverage licensees: winegrowers and beer manufacturers

SUMMARY: Provides a winegrower and a beer manufacturer that share adjacent or adjoining licensed premises may have upon those premises, and sell for consumption on or off licensed premises, the wine or beer produced upon the licensed premises by the other licensee.

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) 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) 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:

Background. The Department of Alcoholic Beverage Control (ABC) issues licenses to California business operations for the legal manufacture and sale of alcoholic beverages. Each

different license from ABC requires compliance with rules and regulations that are specific to that license type. There are various license combinations for alcohol and the locations where products can be sold and consumed. Under existing law, it is illegal for any licensed business to sell alcohol or have any type of alcohol on-site 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, ABC also provides licenses to manufacturers of beer, wine, brandy, and spirits. A licensed “beer manufacturer” may sell his or her beer on-site, and similarly, a licensed “winegrower” may conduct tastings and sell wine on-site.

Wineries typically offer tastings to provide customers with the experience of trying the wine and learning about its production before purchasing. California breweries and microbreweries similarly attract visitors to taste the different varieties of beer and see the brewing process for different beers first-hand.

Purpose of the bill. According to the author's office, Californians and tourists have long been attracted to our state by the wine and craft beer industry. Visitors annually make significant contributions to the state's economy through purchasing alcohol products and spending money on lodging, food, and local activities.

The author states that this bill will allow consumers to enjoy both beer and wine products in a shared space when a brewery and winery are co-located. Under the provision of this bill, visitors to such a location would be able to purchase beer from the brewery and wine from the winery, and then consume both products in an outdoor picnic area. This is prohibited under existing law.

When a winery and a brewery are located adjacent to one another, the Act licensing laws restricts consumers from enjoying the wine and the beer produced there in one shared space. This is because beer manufacturers can only have beer on site, and winemakers can only have wine. The author states that this creates a significant barrier to the enjoyment of and exposure to different California-made alcoholic products.

The author's office offers the following examples of how current law limits customer choice and convenience: 1) The Berryessa Brewing Company and Berryessa Gap Winery are both located at 27260 Hwy. 128, Winters, CA. However, visitors to this address must elect to visit either the brewery or the tasting room to consume either beer or wine. This can be a detriment to consumers' enjoyment of both of the products manufactured on-site, and may create a disincentive from visiting the manufacturing location in comparison to a standard restaurant or bar; and 2) Hovey Winery and Murphys Pourhouse (a microbrewery) are both located at 350 Main Street, Murphys, CA. These two operations share an outdoor picnic area where visitors can enjoy their surroundings and consume the beer and wine products; however, existing law requires there to be physical separation across the open space to keep the beer drinkers apart from the wine drinkers.

In support. Writing in support of this measure, the California Association of Winegrape Growers states this bill will encourage customers to taste and enjoy more California-made beer and wine products, and incentivize tourism and sales in the surrounding areas.

Proponents further point out that this bill takes a common sense approach in addressing a flaw in current law by allowing visitors to a co-located brewery and winery to consume products made by either location in one shared space.

Policy consideration. To better achieve the stated intent of the bill, the author might consider an amendment, which would remove "right to sell" provision contained in the bill. This amendment would clarify that a winegrower and a beer manufacturer can only sell their product, not the product of the other licensee.

Therefore, the bill should be amended as follows: on page 2, line 19 strike "*and sell*".

Prior legislation. AB 776 (Cooper), Chapter 519, Statutes of 2015. Allowed 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).

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 933 (Skinner), Chapter 366, Statutes of 2013. Granted licensed distilled spirits manufacturers and licensed brandy manufacturers the privilege to conduct consumer tastings on their licensed premises and to charge for those tastings.

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

AB 605 (Portantino), Chapter 230, Statutes of 2010. Among other things, authorized ABC to issue to the holder of an "off-sale" retail license an "instructional tasting license" for the purpose of furnishing tastings of alcoholic beverages to consumers, subject to certain limitations.

SB 1548 (Murray), Chapter 670, Statutes of 2006. Authorized beer manufacturers and wholesalers to offer beer samples (not to exceed 8 ounces per person, per day) to individuals of legal drinking age at on-sale retail licensed premises under specified conditions.

AB 1407 (Wesson), Chapter 699, Statutes of 1999. Modified the Act relating to wine auction sales, event permits, and the manner by which a manufacturer or distributor may stock or rotate their products at off-sale establishments.

AB 81 (Wright), Chapter 103, Statutes of 1997. 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 once per quarter or up to four times per year. Requires that any event authorization by ABC will be subject to approval by the appropriate local law enforcement agency.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Winegrape Growers
Wine Institute

Opposition

Alcohol Justice

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