

Date of Hearing: June 28, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

SB 1430 (Glazer) – As Amended April 17, 2018

SENATE VOTE: 39-0

SUBJECT: Winegrowers: tasting rooms

SUMMARY: Would increase the number of licensed branch premises (from 1 to 2) where a winegrower or brandy manufacturer may sell wine or brandy to consumers, or to engage in winetasting activities.

EXISTING LAW:

- 1) Establishes the Department of Alcoholic Beverage Control (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.
- 2) Defines “licensed branch office” as any branch office or warehouse, or United States bonded wine cellar located away from the licensed winegrower’s or brandy manufacturer’s place of production, or manufacture, for which a duplicate license has been issued.
- 3) Prohibits a winegrower or brandy manufacturer from selling wine or brandy to consumers, or engaging in winetasting activities, at more than one licensed branch premise.
- 4) Authorizes a licensed winegrower to conduct specified activities, including authorizing a licensed winegrower to sell wine and brandy for consumption to consumers for on-premises consumption, as specified.
- 5) Authorizes an on-sale beer and wine public premises licensee and a licensed winegrower who exercises his or her license privileges at specified locations to allow a person who has purchased and partially consumed a bottle of wine to remove the partially consumed bottle from the premises upon departure.
- 6) 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 (e.g. 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.
- 7) Defines "bona fide public eating place," as licensed premises that are maintained in good faith and used for the regular service of meals to patrons. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day.

FISCAL EFFECT: Unknown

COMMENTS:

Type 02 alcohol licenses. A Type-02 license authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Type-02 licensees (wineries) are authorized to offer a tasting of wine for free or for a charge at their on-site tasting room. A licensed winegrower also has the ability to sell wine by the glass or bottle for consumption on or off the premise. All Type-02 licenses, which come up for renewal by June 30 of each year.

Wineries holding a Type-02 license may obtain what is known as a Duplicate Type 02 license, which allows a winery to have a tasting room away from the facilities where the wine is produced. Some wineries have tasting rooms both at the facility where they produce their wine and a tasting room at a different location. Either way, a winery may have no more than "one" off-site tasting room.

Some wineries operate under an "alternating proprietor" agreement, which allows two or more persons or entities to alternate on the use of the same space and equipment to produce wine. This bill would allow all Type-02 licensees to operate up to two off-site tasting rooms. Currently, there are 5,888 Type-02 licensees and about 1,500 of those have a duplicate license.

Typically, though not in every jurisdiction, a winery owner is required to obtain a local permit. These local permits can vary dramatically and not every tasting room is required to obtain a local permit. These requirements are all dependent on the location where the prospective tasting room is to be located and the local requirements of that jurisdiction.

Purpose of the bill. According to the author's office, "when wineries operate under an alternating proprietorship agreement, their master Type-02 Winegrower license, and the accompanying rights, is used to cover the facility used for their production. Though allowed, in most instances the agreement prohibits the winery from having a tasting room at the shared facility. In practice, this means these wineries are required to obtain and use their Duplicate Type-02 licenses for an initial tasting room. As a result, most wineries that operate under an alternating proprietorship agreement are unable to have two tasting rooms as do other Type-02 licenses."

This bill allows all Type-02 licensees to operate up to two off-site tasting rooms regardless of whether that winegrower is a bonded winery or a winery operating under an alternating proprietorship agreement.

In support. According to the Steven Kent Winery, "the alternating proprietorship agreement, in practically all cases, restricts the small winery from opening a tasting room at the site of production because that site is in another winery's facility. Consequently, the small winery is only able, practically, to have one tasting room. This bill will help those many small wineries by allowing them to play on the same field as the larger wineries, increasing competition, and providing lovers of wine more wine options."

Related legislation. SB 1283 (Bradford, 2018) would authorize a brewpub-restaurant licensee to label, bottle, package, or refill any container with beer produced on their licensed premises and to sell that beer for consumption off the premises. Additionally, this bill makes various changes to the brewpub restaurant license to allow for greater enforcement by the Department of ABC. (Pending in Assembly G.O. Committee)

SB 1164 (Skinner, 2018) makes various changes to the craft distillers license including the requirement to attend a tasting before being able to purchase directly from the licensee, and increasing the maximum amount that a craft distillers license can produce per year. (Pending in the Assembly Appropriations Committee)

Prior legislation. AB 2488 (Levine, Chapter 98, Statutes of 2014). Authorized a licensed winegrower to conduct limited wine tastings for consumers at certified farmers' markets under certain circumstances.

AB 933 (Skinner, Chapter 366, Statutes of 2013). Allows 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 1649 (Chesbro), Chapter 129, Statutes of 2010. Allows licensed winegrowers to produce spirits of wine (a byproduct of wine fermentation) under specified conditions without having to additionally obtain a distilled spirits manufacturer's license.

AB 1470 (Evans) Chapter 535, Statutes of 2009. Authorized winegrowers to sell wine for consumption at a "branch office," warehouse, or an off-site cellar, and removed the requirement that ABC issue a "duplicate" license "forthwith." Also, authorized an on-sale beer and wine public premises licensee to allow a person who has purchased and partially consumed a bottle of wine to remove the partially consumed bottle from the premises upon departure.

AB 2004 (Evans) Chapter 127, Statutes of 2008. Amended several existing provisions of the Act related to the privileges of a winegrower's license. The bill amended PC Section 23358 to expand a winegrower's (Type-02) license privileges by allowing the sale of wine to the general public for consumption on the master (or production) premises. This change essentially allowed a winegrower to sell wine to consumers by the bottle or by the glass for consumption in approved, licensed areas.

REGISTERED SUPPORT / OPPOSITION:

Support

Family Winemakers of California

Opposition

None on file

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