

Date of Hearing: July 5, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

SB 664 (Dodd) – As Amended June 28, 2017

SENATE VOTE: 36-0

SUBJECT: Alcoholic beverages: tied-house restrictions: advertising

SUMMARY: The bill extends an existing Tied-house exception in the Alcoholic Beverage Control Act (Act) pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium (AT&T Park - San Francisco Giants) and an indoor arena (Chase Center - Golden State Warriors) with specified seating capacities located in the City and County of San Francisco. Specifically, **this bill:**

- 1) Allows beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at: (a) an outdoor stadium with a fixed seating capacity of at least 40,000 seats located in the City of San Francisco and (b) an indoor arena with a fixed seating capacity of at least 13,000 seats located in the City and County of San Francisco.
- 2) Provides any purchase of advertising space or time by designated alcohol manufacturers and distributors relating to the outdoor stadium in the City of San Francisco, may be conducted pursuant to a written contract with the owner, a long-term tenant of the complex, or licensee of the complex, whether or not the owner, long-term tenant, or licensee holds an on-sale license.
- 3) Makes legislative findings and declarations as to the necessity as to the necessity of a special statute for the City and County of San Francisco.
- 4) Contains double-jointing language to prevent a chaptering out issue with SB 582 (Bradford of 2017), as both bills amend the same code section.

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) Existing law, known as the "Tied-house" law or "three-tier" system, separates the alcoholic beverage industry into three component parts of manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). 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.
- 3) Prohibits, in general, a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director or agent of any such person from owning, directly or indirectly, any interest in any on-sale license.

- 4) Prohibits, in general, a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising.
- 5) Provides a variety of exceptions from the advertising prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions.

FISCAL EFFECT: Unknown

COMMENTS:

Tied-house law: Tied-house Law refers to the statutory scheme restricting any cross-ownership among the three independent tiers of the alcohol industry: a) manufacturers; b) distributors/wholesalers; and, c) retailers. The term "Tied-house" refers to a practice which was common in this country prior to prohibition, and is still occurring in England today, where a bar or "public house" is tied to the products of a particular manufacturer. The original rationale for

Tied-house restrictions are in place to promote the state's interest in maintaining an orderly market, to prohibit the vertical integration of the alcohol industry, to protect the public from predatory marketing practices, and to prevent the intemperate consumption of alcoholic beverages. In order to further these policy goals, the Legislature has generally prohibited forms of cross-ownership between manufacturers and retailers, and discouraged manufacturers from providing anything of value to distributors or retailers, be it free goods, services or advertising.

Numerous exceptions to these restrictions have been enacted through the years in those specific instances where the Legislature determined that the public's interests were protected. Generally, the business community is interested in removing unnecessary business regulations and creating conditions that facilitate investment and expansion opportunities for companies that have some degree of ownership in multiple segments of the industry. However, the Legislature traditionally does not grant exemptions that favors the products of the entity seeking the exemption, or exemptions that unfairly compromise the role of the distributors.

Over the years numerous exceptions to this prohibition have been added to the ABC Act e.g. Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana, Grizzly Stadium in Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, StubHub Center (formerly the Home Depot Center) in Carson, and numerous other venues.

Purpose of the bill: The author's office notes that this measure would amend ABC Tied-house provisions to include AT&T Park, home of the San Francisco Giants and the Chase Center, which will be the future home of the Golden State Warriors to the list of exemptions in the law, thereby allowing the teams to develop certain alcoholic beverage sponsorships with specified alcohol manufacturers and distributors.

The author's office points out that existing law prohibits an alcohol supplier or wholesaler from directly or indirectly paying a retailer to advertise (signage) the supplier's brands unless a Tied-

house exemption is granted. The author's office notes that existing ABC laws contain numerous exceptions to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees. The author's office emphasizes this bill would put AT&T Park and the Chase Center on an even playing field with other arenas and stadiums in California.

Overview of the Chase Center: The Chase Center is a multi-purpose arena under construction in the Mission Bay neighborhood of San Francisco that will open before the 2019-20 NBA season. It will primarily be used for basketball, becoming the new home of the NBA World Champion Golden State Warriors. The Warriors, who have been located in the San Francisco Bay Area since 1962, have played their home games at Oracle Arena in Oakland since 1971. The name of Chase Center was announced on January 28, 2016, as part of an agreement with JPMorgan Chase. The location will have an overlook of the water at Third St and 16th St. The arena will have multiple layers and floors and will have a seating capacity of 18,000 people. It will contain 580,000 square feet of office and lab space and have 100,000 square feet of retail space. There will also be a public plaza that is 35,000 square feet. A new subway line is also under construction that will link the arena and the University of California, San Francisco to downtown hotels, convention centers and subway and commuter rail lines that serve the entire Bay Area. With a one-billion-dollar investment, Chase Center will anchor a district of 11 acres of restaurants, cafés, offices, public plazas and a new five-and-a-half-acre public waterfront park.

Overview of AT&T Park: AT&T Park is a baseball park located in the South Beach neighborhood of San Francisco, California with a seating capacity of 41,503. Since 2000, it has served as the home of the San Francisco Giants, the city's MLB franchise. Originally named Pacific Bell Park, then SBC Park in 2003 after SBC Communications acquired Pacific Bell, the stadium was ultimately christened AT&T Park in 2006 following SBC's buyout of AT&T. The \$357 million stadium, the first privately financed ballpark to be built in 38 years, is a classic urban ballpark with an old-time feel that was inspired by Wrigley Field and Fenway Park. A waterfront promenade allows free views of the game just beyond the right-field fence. The stadium contains 68 luxury suites, 5,200 club seats on the club level and an additional 1,500 club seats at the field level behind home plate. In 2007, AT&T Park hosted the MLB All-Star Game and played host to the World Series in 2010, 2012 and 2014. In addition to Giants baseball, AT&T Park hosts several other events throughout the year (other sports, concerts, entertainment experiences, and civic events).

In support: According to the San Francisco Baseball Club, historically, the interpretation of the Tied-house laws allowed venue operators to accept advertising revenue from alcoholic beverage suppliers when an independent third-party concessionaire held the venue's retail license, as is the case at AT&T Park. However, ABC's current interpretation is that an exemption is needed even if an independent concessionaire holds the retail license. SB 664 will allow an alcohol manufacturer to purchase advertising space at AT&T Park where the facility is licensed to sell alcoholic beverages at events held at the stadium.

Related legislation: SB 582 (Bradford) of 2017. Would allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at a specified stadium and venue located in the City of Inglewood. (Pending in the Assembly Governmental Organization Committee)

Prior Legislation: SB 1105 (Mendoza of 2016). Would have authorized ABC to issue a general on-sale license for a sports entertainment facility bona fide public eating-place that would allow the licensee to sell beer, wine, and distilled spirits at retail for consumption on the premises in a sports entertainment facility, as defined. (Never heard in the Assembly Governmental Organization Committee)

AB 1971 (Cooper of 2016). Would have created a stand-alone Tied-house exception in the ABC Act to allow holders of manufacturer licenses, as specified, to purchase advertising from retail licensees at outdoor stadiums and indoor arenas, subject to specified conditions. (Placed on the Senate Inactive File)

AB 866 (E. Garcia of 2016). Would have extended an existing Tied-house exception in the Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego (Petco Park – home of the San Diego Padres Major League Baseball team). (Placed on the Senate Inactive File)

AB 527 (Dodd), Chapter 517, Statutes of 2015. Created a new Tied-house exception in the Act that authorizes certain alcoholic beverage licensees to sponsor a limited number of events promoted by or to purchase advertising space and time from, or on behalf of, a live entertainment marketing company that conducts live artistic, musical, sports, food, beverage, culinary, or other cultural entertainment events at venues located solely in the County of Napa, under specified conditions.

SB 557 (Hall), Chapter 420, Statutes of 2015. Extended an existing Tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a fairgrounds with a horse racetrack and equestrian and sports facilities located in San Diego County.

SB 462 (Wolk, Chapter 315, Statutes of 2015). Among other things, extended an existing Tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a specified entertainment complex, known as the Green Music Center, located on the campus of Sonoma State University.

SB 600 (Bonta), Chapter 139, Statutes of 2014. Extends an existing “Tied-house” exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 68,000 seats located in the City of Santa Clara (Levi’s Stadium – San Francisco 49ers new stadium).

SB 324 (Wright), Chapter 164, Statutes of 2013. Provided a "Tied-house" exception to the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees and the Los Angeles Forum in the City of Inglewood.

AB 776 (Aghazarian) Chapter 221, Statutes of 2007. Created a new "Tied-house" exception by authorizing a beer manufacturer to sponsor or purchase advertising space and time from, or on behalf of, an off-sale retail licensee that is an owner or co-owner of a professional sports team (California Cougars indoor soccer team) that plays its home games, in an arena with a fixed seating capacity of 10,000 seats (Stockton Arena) located in San Joaquin County.

AB 663 (Galgiani) Chapter 745, Statutes of 2007. Extended an existing “Tied-house” exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor professional sports facility with a fixed seating capacity of at least 4,200 (Banner Island Ballpark) located in San Joaquin County.

AB 1442 (Horton) Chapter 617, Statutes of 2005. Extended an existing “Tied-house” exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to the Home Depot Center, a sports and athletic complex within the City of Carson in Los Angeles and the Nokia Theater, located within the Los Angeles Sports and Entertainment District, adjacent to Staples Center.

AB 3085 (Governmental Organization Committee), Chapter 437, Statutes of 2004. Provided the Los Angeles County Fair with an exemption from Tied-house laws so that so that alcohol manufacturers may purchase advertising from, or on behalf of, the on-sale licensees at this venue.

SB 1647 (Perata) Chapter 275, Statutes of 2004. Extended an existing "Tied-house" exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licenses to the Oakland Coliseum in Alameda County.

SB 1189 (Costa) Chapter 47, Statutes of 2002. Extended an existing "Tied-house" exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licenses to the Visalia Oaks Stadium in Visalia and the California Speedway in Fontana.

REGISTERED SUPPORT / OPPOSITION:

Support

City and County of San Francisco
Golden State Warriors
San Francisco Giants Baseball Club

Opposition

None on file

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