

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE MAY 23, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1245

Introduced by Assembly Member Torrico

February 23, 2007

An act to amend Section 25600 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1245, as amended, Torrico. Alcoholic beverages.

The Alcoholic Beverage Control Act prohibits any licensee from giving a premium, gift, or free goods in connection with the sale and distribution of any alcoholic beverage, except as provided. *Existing law provides an exception for the furnishing or giving of any retailer advertising specialty with respect to distilled spirits and wines.*

~~This bill would permit a beer manufacturer, as defined, to furnish, give, rent, lend, or sell advertising specialties to a retailer, under specified circumstances~~ *provide that no rule of the department may impose a dollar limit, specified on a yearly basis, for consumer advertising specialties furnished by a beer manufacturer to the general public of other than a specified amount per unit original cost to the beer manufacturer who purchased it.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25600 of the Business and Professions
 2 Code is amended to read:

3 25600. (a) (1) No licensee shall, directly or indirectly, give
 4 any premium, gift, or free goods in connection with the sale or
 5 distribution of any alcoholic beverage, except as provided by rules
 6 that shall be adopted by the department to implement this section
 7 or as authorized by this division.

8 (2) (A) Notwithstanding paragraph (1), for purposes of this
 9 section, a refund to, or exchange of products for, a dissatisfied
 10 consumer by a licensee authorized to sell to consumers shall not
 11 be deemed a premium, gift, or free goods given in connection with
 12 the sale or distribution of an alcoholic beverage.

13 (B) A winegrower may advertise or otherwise offer consumers
 14 a guarantee of product satisfaction only in newsletters or other
 15 publications of the winegrower or at the winegrower’s premises.
 16 A winegrower may refund to a dissatisfied consumer the entire
 17 purchase price of wine produced by that winegrower and sold to
 18 that consumer, regardless of where the wine was purchased.

19 (b) (1) No rule of the department may permit a licensee to give
 20 any premium, gift, or free goods of greater than inconsequential
 21 value in connection with the sale or distribution of beer. Except
 22 as provided in ~~subdivision (d)~~ *paragraph (2)*, with respect to beer,
 23 premiums, gifts, or free goods, including advertising specialties
 24 that have no significant utilitarian value other than advertising,
 25 shall be deemed to have greater than inconsequential value if they
 26 cost more than twenty-five cents (\$0.25) per unit, or cost more
 27 than fifteen dollars (\$15) in the aggregate for all those items given
 28 by a single supplier to a single retail premises per calendar year.

29 (2) (A) *No rule of the department may impose a dollar limit for*
 30 *consumer advertising specialties furnished by a beer manufacturer*
 31 *to the general public other than the following dollar limits:*

32 (i) *Effective January 1, 2009, three dollars (\$3) per unit original*
 33 *cost to the beer manufacturer who purchased it.*

34 (ii) *Effective January 1, 2010, four dollars (\$4) per unit original*
 35 *cost to the beer manufacturer who purchased it.*

36 (iii) *Effective January 1, 2011, and each year thereafter, five*
 37 *dollars (\$5) per unit original cost to the beer manufacturer who*
 38 *purchased it.*

1 (B) Consumer advertising specialties furnished by a beer
2 manufacturer and subject to this paragraph shall be deemed to be
3 of inconsequential value.

4 (c) With respect to distilled spirits and wines, a licensee may
5 furnish, give, rent, loan, or sell advertising specialties to a retailer,
6 provided those items bear conspicuous advertising required of a
7 sign and the total value of all retailer advertising specialties
8 furnished by a supplier, directly or indirectly, to a retailer do not
9 exceed fifty dollars (\$50) per brand in any one calendar year per
10 retail premises. The value of a retailer advertising specialty is the
11 actual cost of that item to the supplier who initially purchased it,
12 excluding transportation and installation costs. The furnishing or
13 giving of any retailer advertising specialty shall not be conditioned
14 upon the purchase of the supplier's product. Retail advertising
15 specialties given or furnished free of charge may not be sold by
16 the retail licensee. No rule of the department may impose a dollar
17 limit for consumer advertising specialties furnished by a distilled
18 spirits supplier to a retailer or to the general public of less than
19 five dollars (\$5) per unit original cost to the supplier who purchased
20 it.

21 ~~(d) (1) With respect to beer, a beer manufacturer may furnish,~~
22 ~~give, rent, loan, or sell advertising specialties to a retailer, provided~~
23 ~~those items bear conspicuous advertising required of a sign and~~
24 ~~the total value of all retailer advertising specialties furnished by a~~
25 ~~beer manufacturer, directly or indirectly, to a retailer do not exceed~~
26 ~~fifty dollars (\$50) per brand in any one calendar year per retail~~
27 ~~premises. The value of a retailer advertising specialty is the actual~~
28 ~~cost of that item to the beer manufacturer who initially purchased~~
29 ~~it, excluding transportation and installation costs. The furnishing~~
30 ~~or giving of any retailer advertising specialty shall not be~~
31 ~~conditioned upon the purchase of the beer manufacturer's product.~~
32 ~~Retail advertising specialties given or furnished free of charge may~~
33 ~~not be sold by the retail licensee. No rule of the department may~~
34 ~~impose a dollar limit for consumer advertising specialties furnished~~
35 ~~by a beer manufacturer to a retailer or to the general public of less~~
36 ~~than five dollars (\$5) per unit original cost to the beer manufacturer~~
37 ~~who purchased it.~~

38 (2) For purposes of this subdivision, "beer manufacturer" means
39 a holder of a beer manufacturer's license, a holder of an out-of-state

- 1 ~~beer manufacturer's certificate, or a holder of a beer and wine~~
- 2 ~~importer's general license.~~

O