

Assembly Bill No. 1070

Passed the Assembly June 1, 2021

Chief Clerk of the Assembly

Passed the Senate September 3, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 25600.06 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1070, Cooper. Alcoholic beverage gift restrictions: exceptions: advertising umbrellas.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. Existing law generally prohibits a licensee from giving any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided by departmental rules or as otherwise authorized. As an exception to this prohibition, existing law authorizes a beer manufacturer, without direct or indirect charge, to give up to 5 cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year for use at the licensed location, as specified. The Alcoholic Beverage Control Act makes a violation of any of its provisions, for which another penalty or punishment is not specifically provided, a misdemeanor.

This bill, until January 1, 2025, would authorize specified licensees or their designated representatives, without direct or indirect charge, to give up to 12 retail advertising umbrellas to an on-sale retail licensee, per licensed location, each calendar year for use at the location. The bill would prohibit the retail advertising umbrellas from exceeding the value of \$150 per unit and would prescribe other requirements in this regard. The bill would require the authorized licensees to file records related to the umbrellas provided to an on-sale retail licensee with the department within 30 days of their delivery and would require on-sale retail licensees to keep and maintain records for a 3-year period of all retail advertising umbrellas received, as specified. This bill would provide that any violation of these provisions is a misdemeanor, punishable as provided. Because the bill would expand the scope of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 25600.06 is added to the Business and Professions Code, to read:

25600.06. (a) For purposes of this section:

(1) “Authorized licensee” means a distilled spirits manufacturer, distilled spirits manufacturer’s agent, distilled spirits importer general, distilled spirits general rectifier, rectifier, out-of-state distilled spirits shipper’s certificate holder, brandy manufacturer, and brandy importer. “Authorized licensee” does not include a distilled spirits wholesaler or distilled spirits importer general that only holds a wholesaler’s or retailer’s license as an additional license.

(2) “Retail advertising umbrella” means an umbrella that bears conspicuous advertising of distilled spirits required of a sign.

(3) “Umbrella” means a folding canopy supported by wooden, metal, or plastic ribs that is mounted on a wooden, metal, or plastic pole that is designed to protect a person against sunlight or rain.

(b) Notwithstanding Section 25500 or Section 25600, or other law to the contrary:

(1) An authorized licensee, or a designated representative of an authorized licensee acting as an agent of the authorized licensee, without direct or indirect charge, may give up to 12 retail advertising umbrellas to an on-sale retail licensee, per licensed location, each calendar year for use at the licensed location. Each retail advertising umbrella shall not exceed the value of one hundred fifty dollars (\$150) per unit. The gift of retail advertising umbrellas shall not be conditioned, directly or indirectly, upon the purchase or sale of any product, including, without limitation, any distilled spirit produced, imported, sold, marketed, or in any other way promoted or represented by the authorized licensee giving the umbrella. Umbrellas provided pursuant to this section shall only be delivered by the authorized licensee, or a designated

representative of an authorized licensee acting as an agent of the authorized licensee, providing it to the licensed premises of the retailer receiving the retail advertising umbrellas. No more than 12 retail advertising umbrellas shall be delivered by the authorized licensee to any single on-sale retail licensed premises.

(2) The on-sale retail licensee shall not sell the retail advertising umbrellas, give it away, or return it to an authorized licensee for cash, credit, or replacement. The on-sale retail licensee shall not condition the purchase of an authorized licensee's product or products on the giving of retail advertising umbrellas by that manufacturer.

(c) A distilled spirits wholesaler or distilled spirits importer general that holds a wholesaler's or retailer's license only as an additional license shall not directly or indirectly underwrite, share in, or contribute to, the cost of umbrellas or any costs of transportation or shipping or serve as the agent of the authorized licensee to deliver, stock, or store umbrellas for an on-sale retailer.

(d) A licensee authorized to give umbrellas pursuant to this section shall not be precluded from doing so on the basis of having an interest in any other type of alcoholic beverage license within or outside of the state.

(e) The authorized licensee shall file with the department, in a manner prescribed by the department, records related to umbrellas provided to an on-sale retail licensee pursuant to this section within 30 days of the delivery of the retail advertising umbrellas. In addition, authorized licensees shall keep and maintain records for a three-year period of all umbrellas given pursuant to this section.

(f) An on-sale retail licensee shall keep and maintain records for a three-year period of all retail advertising umbrellas received pursuant to this section and of all other umbrellas purchased or otherwise received. Those records shall be maintained by the on-sale retail licensee at the licensed premises to which the authorized licensee delivers the umbrellas authorized by this section. The on-sale retail licensee shall produce records to the department promptly upon request.

(g) A violation of this section is a misdemeanor punishable pursuant to Section 25617.

(h) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2021

Governor