



SB-969 Alcoholic beverages: entertainment zones: consumption. (2023-2024)

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Senate Bill No. 969

CHAPTER 869

An act to amend Sections 23039.5, 23357, 23358, 23396, and 25690 of, and to add Sections 25691 and 25692 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 969, Wiener. Alcoholic beverages: entertainment zones: consumption.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law defines "entertainment zone" for purposes of the act as a zone created by ordinance on or after January 1, 2024, in the City and County of San Francisco, that authorizes consumption of one or more types of alcoholic beverages on public streets, sidewalks, or public rights-of-way adjacent to and during a special event permitted or licensed by the department. Existing law authorizes the City and County of San Francisco to establish an entertainment zone, subject to certain requirements, including providing specified information relating to the entertainment zone to the department and establishing a process or procedure by which persons in possession of alcoholic beverages in the entertainment zone may be readily identifiable as being 21 years of age or older.

This bill would, instead, define "entertainment zone" as a zone created by a city, county, or city and county ordinance on or after January 1, 2025, that authorizes consumption of one or more types of alcoholic beverages on public streets, sidewalks, or public rights-of-way. The bill would additionally authorize any city, county, or city and county to establish an entertainment zone, subject to the above-described requirements. Before enacting an ordinance to establish or modify an entertainment zone, the bill would require a city, county, or city and county to notify local law enforcement and request feedback about specific information, including, among others, the entertainment zone's proposed boundaries and days and hours of operation. The bill would require a city, county, or city and county that establishes an entertainment zone, or its designated subordinate officer or body, to review the operation of the entertainment zone every 2 years following the adoption of the entertainment zone, as specified, and to make any reports produced during the review available to the department upon request.

Existing law authorizes a licensed beer manufacturer, a licensed winegrower, and any on-sale licensee to permit consumers to leave the premises with open containers of alcoholic beverages for consumption off the premises within an entertainment zone, subject to certain conditions. Existing law specifies that a licensed beer manufacturer, a licensed winegrower, and any on-sale licensee whose privileges are restricted due to operating conditions or other statutory restrictions may be prohibited from exercising entertainment zone privileges that

are contrary to their operating conditions. For this purpose, existing law requires any restrictions on the exercise of off-sale privileges to apply to the removal of alcoholic beverages from the licensed premises for consumption in the entertainment zone.

This bill would, instead, prohibit any restrictions on the exercise of off-sale privileges from applying to the removal of open alcoholic beverages from the licensed premises for consumption in the entertainment zone.

This bill would incorporate additional changes to Section 23358 of the Business and Professions Code proposed by AB 2177 to be operative only if this bill and AB 2177 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 23039.5 of the Business and Professions Code is amended to read:

23039.5. "Entertainment zone" means a zone created by a city, county, or city and county ordinance on or after January 1, 2025, that authorizes consumption of one or more types of alcoholic beverages on public streets, sidewalks, or public rights-of-way.

SEC. 2. Section 23357 of the Business and Professions Code is amended to read:

23357. (a) A licensed beer manufacturer may, at the licensed premises of production, sell to consumers for consumption off the premises beer that is produced and bottled by, or produced and packaged for, that manufacturer. Licensed beer manufacturers may also exercise any of the following privileges:

- (1) Sell that beer to any person holding a license authorizing the sale of beer.
- (2) Sell that beer to consumers for consumption on the manufacturer's licensed premises or on premises owned by the manufacturer that are contiguous to the licensed premises and which are operated by and for the manufacturer.
- (3) Sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide public eating place on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer.
- (4) (A) Permit consumers to leave the premises with open containers of alcoholic beverages for consumption off the premises within an entertainment zone if all of the following conditions are satisfied:
 - (i) The premises is located within the entertainment zone.
 - (ii) Consumption of that type of alcoholic beverage is authorized by the ordinance creating the entertainment zone.
 - (iii) Open alcohol containers only leave the premises during the hours allowed by the ordinance establishing the entertainment zone.
 - (iv) Patrons with open containers exit the premises directly into an entertainment zone.
 - (v) All alcoholic beverages in the entertainment zone are purchased only at a licensed premises located within the entertainment zone.
 - (vi) The premises expressly prohibits open containers or closed containers of alcoholic beverages acquired outside their premises.
 - (vii) Delivery of alcoholic beverages to consumers within the entertainment zone by the licensee or by any third-party delivery service is expressly prohibited unless the delivery is to a residential building or private business that is not a licensee.
 - (viii) No alcoholic beverages purchased at the licensed premises may leave the premises in an open glass or metal container for consumption in an entertainment zone.

(ix) The licensee annually submits their notice of intent to participate in an open container entertainment zone to the department.

(B) This paragraph does not require a licensee to sell any alcoholic beverage for consumption off the premises within an entertainment zone.

(C) Licensees whose privileges are restricted due to operating conditions or other statutory restrictions may be prohibited from exercising entertainment zone privileges that are contrary to their operating conditions. For purposes of this paragraph, any restrictions on the exercise of off-sale privileges shall not apply to the removal of open alcoholic beverages from the licensed premises for consumption in the entertainment zone.

(b) Notwithstanding any other provision of this division, licensed beer manufacturers and holders of out-of-state beer manufacturer's certificates may be issued and may hold retail package off-sale beer and wine licenses. Alcoholic beverage products sold at or from the off-sale premises that are not produced and bottled by, or produced and packaged for, the beer manufacturer shall be purchased by the beer manufacturer only from a licensed wholesaler.

(c) Notwithstanding any other provision of this division, a licensed beer manufacturer may manufacture cider or perry at the licensed premises of production and may sell cider or perry to any licensee authorized to sell wine. For purposes of this subdivision, "cider" and "perry" have the meanings provided in Section 4.21(e)(8) of Title 27 of the Code of Federal Regulations. This subdivision does not alter or amend the classification of cider or perry as wine for any purpose other than that provided by this section.

(d) A beer manufacturer may also have upon the licensed premises, or on premises owned by the manufacturer that are contiguous to the licensed premises and are operated by and for the manufacturer all beers and wines, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic beverage products sold at the premises that are not produced and bottled by, or produced and packaged for, the beer manufacturer shall be purchased by the beer manufacturer only from a licensed wholesaler. All alcoholic beverages sold or served shall be produced by a licensee authorized to manufacture the product.

SEC. 3. Section 23358 of the Business and Professions Code is amended to read:

23358. (a) Licensed winegrowers, notwithstanding any other provisions of this division, may also exercise the following privileges:

- (1) Sell wine and brandy to any person holding a license authorizing the sale of wine or brandy.
- (2) Sell wine and brandy to consumers for consumption off the premises where sold.
- (3) Sell wine to consumers for consumption on the premises.
- (4) Sell all beers, wines, and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee. At such a bona fide public eating place, beer, wine, and brandy may be used in the preparation of food and beverages to be consumed on the premises.
- (5) (A) Permit consumers to leave the premises with open containers of alcoholic beverages for consumption off the premises within an entertainment zone if all of the following conditions are satisfied:
 - (i) The premises is located within the entertainment zone.
 - (ii) Consumption of that type of alcoholic beverage is authorized by the ordinance creating the entertainment zone.
 - (iii) Open alcohol containers only leave the premises during the hours allowed by the ordinance establishing the entertainment zone.
 - (iv) Patrons with open containers exit the premises directly into an entertainment zone.
 - (v) All alcoholic beverages in the entertainment zone are purchased only at a licensed premises located within the entertainment zone.

(vi) The premises expressly prohibits open containers or closed containers of alcoholic beverages acquired outside their premises.

(vii) Delivery of alcoholic beverages to consumers within the entertainment zone by the licensee or by any third-party delivery service is expressly prohibited unless the delivery is to a residential building or private business that is not a licensee.

(viii) No alcoholic beverages purchased at the licensed premises may leave the premises in an open glass or metal container for consumption in an entertainment zone.

(ix) The licensee annually submits their notice of intent to participate in an open container entertainment zone to the department.

(B) This paragraph does not require a licensee to sell any alcoholic beverage for consumption off the premises within an entertainment zone.

(C) Licensees whose privileges are restricted due to operating conditions or other statutory restrictions may be prohibited from exercising entertainment zone privileges that are contrary to their operating conditions. For purposes of this paragraph, any restrictions on the exercise of off-sale privileges shall not apply to the removal of open alcoholic beverages from the licensed premises for consumption in the entertainment zone.

(6) Produce spirits of wine and blend those spirits of wine into wine produced by the winegrower or sell those spirits of wine to an industrial alcohol dealer or a distilled spirits manufacturer.

(b) A winegrower may also have upon the premises all beers, wines, and brandies, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic beverage products sold at the premises that are not produced and bottled by, or produced and packaged for, the winegrower shall be purchased by the winegrower only from a licensed wholesaler.

(c) A winegrower shall actually produce on the winegrower's licensed premises by conversion of grapes, berries, or other fruit, into wine, not less than 50 percent of all wines sold to consumers on the winegrower's licensed premises and any licensed branch premises.

(d) The department may, if it shall determine for good cause that the granting of any such privilege would be contrary to public welfare or morals, deny the right to exercise any on-sale privilege authorized by this section in either a bona fide eating place the main entrance to which is within 200 feet of a school or church, or on the licensed winery premises, or both.

(e) Nothing in this section or in Section 23390 is intended to alter, diminish, replace, or eliminate the authority of a county, city, or city and county from exercising land use regulatory authority by law to the extent the authority may restrict, but not eliminate, privileges afforded by these sections.

SEC. 3.5. Section 23358 of the Business and Professions Code is amended to read:

23358. (a) Licensed winegrowers, notwithstanding any other provisions of this division, may also exercise the following privileges:

(1) Sell wine and brandy to any person holding a license authorizing the sale of wine or brandy.

(2) Sell wine and brandy to consumers for consumption off the premises where sold.

(3) Sell wine to consumers for consumption on the premises.

(4) Sell all beers, wines, and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee. At such a bona fide public eating place, beer, wine, and brandy may be used in the preparation of food and beverages to be consumed on the premises.

(5) (A) Permit consumers to leave the premises with open containers of alcoholic beverages for consumption off the premises within an entertainment zone if all of the following conditions are satisfied:

(i) The premises is located within the entertainment zone.

- (ii) Consumption of that type of alcoholic beverage is authorized by the ordinance creating the entertainment zone.
- (iii) Open alcohol containers only leave the premises during the hours allowed by the ordinance establishing the entertainment zone.
- (iv) Patrons with open containers exit the premises directly into an entertainment zone.
- (v) All alcoholic beverages in the entertainment zone are purchased only at a licensed premises located within the entertainment zone.
- (vi) The premises expressly prohibits open containers or closed containers of alcoholic beverages acquired outside their premises.
- (vii) Delivery of alcoholic beverages to consumers within the entertainment zone by the licensee or by any third-party delivery service is expressly prohibited unless the delivery is to a residential building or private business that is not a licensee.
- (viii) No alcoholic beverages purchased at the licensed premises may leave the premises in an open glass or metal container for consumption in an entertainment zone.
- (ix) The licensee annually submits their notice of intent to participate in an open container entertainment zone to the department.

(B) This paragraph does not require a licensee to sell any alcoholic beverage for consumption off the premises within an entertainment zone.

(C) Licensees whose privileges are restricted due to operating conditions or other statutory restrictions may be prohibited from exercising entertainment zone privileges that are contrary to their operating conditions. For purposes of this paragraph, any restrictions on the exercise of off-sale privileges shall not apply to the removal of open alcoholic beverages from the licensed premises for consumption in the entertainment zone.

(6) Produce spirits of wine and blend those spirits of wine into wine produced by the winegrower or sell those spirits of wine to an industrial alcohol dealer or any person holding a license authorizing the manufacture or rectification of distilled spirits.

(b) A winegrower may also have upon the premises all beers, wines, and brandies, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic beverage products sold at the premises that are not produced and bottled by, or produced and packaged for, the winegrower shall be purchased by the winegrower only from a licensed wholesaler.

(c) A winegrower shall actually produce on the winegrower's licensed premises by conversion of grapes, berries, or other fruit, into wine, not less than 50 percent of all wines sold to consumers on the winegrower's licensed premises and any licensed branch premises.

(d) The department may, if it shall determine for good cause that the granting of any such privilege would be contrary to public welfare or morals, deny the right to exercise any on-sale privilege authorized by this section in either a bona fide eating place the main entrance to which is within 200 feet of a school or church, or on the licensed winery premises, or both.

(e) Nothing in this section or in Section 23390 is intended to alter, diminish, replace, or eliminate the authority of a county, city, or city and county from exercising land use regulatory authority by law to the extent the authority may restrict, but not eliminate, privileges afforded by these sections.

SEC. 4. Section 23396 of the Business and Professions Code is amended to read:

23396. (a) Any on-sale license authorizes the sale of the alcoholic beverage specified in the license for consumption on the premises where sold. No alcoholic beverages, other than beers, may be sold or served in any bona fide public eating place for which an on-sale license has been issued unless the premises comply with the requirements prescribed in Section 23038, 23038.1, 23038.2, or 23038.3.

(b) (1) In addition to the privilege in subdivision (a), any on-sale license for a premises located in an entertainment zone authorizes the licensee to permit consumers to leave the licensed premises with open

containers of alcoholic beverages for consumption off the premises within the entertainment zone if all of the following conditions are satisfied:

- (A) The alcoholic beverage is specified in both the license and the ordinance creating the entertainment zone.
- (B) Open alcohol containers only leave the premises during the hours allowed by the ordinance establishing the entertainment zone.
- (C) Patrons with open containers exit the licensed premises directly into an entertainment zone.
- (D) All alcoholic beverages in the entertainment zone are purchased only at a licensed premises located within the entertainment zone.
- (E) The premises expressly prohibits open containers or closed containers of alcoholic beverages acquired outside their premises.
- (F) Delivery of alcoholic beverages to consumers within the entertainment zone by the licensee or by any third-party delivery service is expressly prohibited unless the delivery is to a residential building or private business that is not a licensee.
- (G) No alcoholic beverages purchased at the licensed premises may leave the premises in an open glass or metal container for consumption in an entertainment zone.
- (H) The licensee annually submits their notice of intent to participate in an open container entertainment zone to the department.

(2) This subdivision does not require a licensee to sell any alcoholic beverage for consumption off the premises within an entertainment zone.

(3) Licensees whose privileges are restricted due to operating conditions or other statutory restrictions may be prohibited from exercising entertainment zone privileges that are contrary to their operating conditions. For purposes of this paragraph, any restrictions on the exercise of off-sale privileges shall not apply to the removal of open alcoholic beverages from the licensed premises for consumption in the entertainment zone.

SEC. 5. Section 25690 of the Business and Professions Code is amended to read:

25690. A city, county, or city and county that establishes an entertainment zone shall do both of the following:

(a) Establish a process or procedure by which persons in possession of alcoholic beverages in the entertainment zone may be readily identifiable as being 21 years of age or older.

(b) Upon establishing or modifying the entertainment zone, provide all of the following to the department:

- (1) A copy of the ordinance establishing or modifying the entertainment zone.
- (2) Information as may be necessary to identify the boundaries of the entertainment zone.
- (3) The days and hours of operation of the entertainment zone.
- (4) The types of alcoholic beverages permitted within the entertainment zone.
- (5) The approved nonglass and nonmetal containers in which alcoholic beverages may be authorized.

SEC. 6. Section 25691 is added to the Business and Professions Code, to read:

25691. (a) An ordinance establishing or modifying an entertainment zone shall not authorize consumption of alcoholic beverages during the hours in which sales of alcoholic beverages are prohibited under Section 25631.

(b) An ordinance establishing or modifying an entertainment zone may only authorize consumption of alcoholic beverages during the hours in which at least one licensee within the boundaries of the entertainment zone is permitted to sell alcoholic beverages for consumption on the premises.

SEC. 7. Section 25692 is added to the Business and Professions Code, to read:

25692. (a) Before enacting an ordinance to establish or modify an entertainment zone, a city, county, or city and county shall notify local law enforcement and request feedback about both of the following:

(1) Potential health and safety impacts that might be generated by the entertainment zone and strategies to mitigate those impacts.

(2) The entertainment zone's proposed boundaries, days and hours of operation, types of alcoholic beverages permitted, and approved nonglass and nonmetal containers.

(b) A city, county, or city and county that establishes an entertainment zone, or its designated subordinate officer or body, shall review the operation of the entertainment zone every two years following the adoption of the entertainment zone to ensure that the entertainment zone is being maintained in a manner that protects the health and safety of the general public. This review shall be conducted in consultation with local law enforcement agencies and any reports produced during the review shall be made available to the department upon request.

SEC. 8. Section 3.5 of this bill incorporates amendments to Section 23358 of the Business and Professions Code proposed by both this bill and Assembly Bill 2177. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 23358 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 2177, in which case Section 3 of this bill shall not become operative.