

Introduced by Senator Wiener
(Coauthor: Assembly Member Lee)

January 25, 2024

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.

LEGISLATIVE COUNSEL'S DIGEST

SB 969, as introduced, 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 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.

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 23039.5 of the Business and Professions
 2 Code is amended to read:
 3 23039.5. “Entertainment zone” means a zone created by *a city,*
 4 *county, or city and county* ordinance on or after January 1, ~~2024,~~
 5 ~~in the City and County of San Francisco 2025,~~ that authorizes
 6 consumption of one or more types of alcoholic beverages on public
 7 streets, sidewalks, or public ~~rights-of-way adjacent to and during~~

1 ~~a special event permitted or licensed by the department.~~
2 ~~rights-of-way.~~

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

5 23357. (a) A licensed beer manufacturer may, at the licensed
6 premises of production, sell to consumers for consumption off the
7 premises beer that is produced and bottled by, or produced and
8 packaged for, that manufacturer. Licensed beer manufacturers may
9 also exercise any of the following privileges:

10 (1) Sell that beer to any person holding a license authorizing
11 the sale of beer.

12 (2) Sell that beer to consumers for consumption on the
13 manufacturer's licensed premises or on premises owned by the
14 manufacturer that are contiguous to the licensed premises and
15 which are operated by and for the manufacturer.

16 (3) Sell beer and wine, regardless of source, to consumers for
17 consumption at a bona fide public eating place on the
18 manufacturer's licensed premises or at a bona fide public eating
19 place on premises owned by the manufacturer which are contiguous
20 to the licensed premises and which are operated by and for the
21 manufacturer.

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

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

27 (ii) Consumption of that type of alcoholic beverage is authorized
28 by the ordinance creating the entertainment zone.

29 (iii) Open alcohol containers only leave the premises during the
30 hours allowed by the ordinance establishing the entertainment
31 zone.

32 (iv) Patrons with open containers exit the premises directly into
33 an entertainment zone.

34 (v) All alcoholic beverages in the entertainment zone are
35 purchased only at a licensed premises located within the
36 entertainment zone.

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

39 (vii) Delivery of alcoholic beverages to consumers within the
40 entertainment zone by the licensee or by any third-party delivery

1 service is expressly prohibited unless the delivery is to a residential
2 building or private business that is not a licensee.

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

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

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

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

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

27 (c) Notwithstanding any other provision of this division, a
28 licensed beer manufacturer may manufacture cider or perry at the
29 licensed premises of production and may sell cider or perry to any
30 licensee authorized to sell wine. For purposes of this subdivision,
31 "cider" and "perry" have the meanings provided in Section
32 4.21(e)(8) of Title 27 of the Code of Federal Regulations. This
33 subdivision does not alter or amend the classification of cider or
34 perry as wine for any purpose other than that provided by this
35 section.

36 (d) A beer manufacturer may also have upon the licensed
37 premises, or on premises owned by the manufacturer that are
38 contiguous to the licensed premises and are operated by and for
39 the manufacturer all beers and wines, regardless of source, for sale
40 or service only to guests during private events or private functions

1 not open to the general public. Alcoholic beverage products sold
2 at the premises that are not produced and bottled by, or produced
3 and packaged for, the beer manufacturer shall be purchased by the
4 beer manufacturer only from a licensed wholesaler. All alcoholic
5 beverages sold or served shall be produced by a licensee authorized
6 to manufacture the product.

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

9 23358. (a) Licensed winegrowers, notwithstanding any other
10 provisions of this division, may also exercise the following
11 privileges:

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

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

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

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

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

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

30 (ii) Consumption of that type of alcoholic beverage is authorized
31 by the ordinance creating the entertainment zone.

32 (iii) Open alcohol containers only leave the premises during the
33 hours allowed by the ordinance establishing the entertainment
34 zone.

35 (iv) Patrons with open containers exit the premises directly into
36 an entertainment zone.

37 (v) All alcoholic beverages in the entertainment zone are
38 purchased only at a licensed premises located within the
39 entertainment zone.

- 1 (vi) The premises expressly prohibits open containers or closed
2 containers of alcoholic beverages acquired outside their premises.
- 3 (vii) Delivery of alcoholic beverages to consumers within the
4 entertainment zone by the licensee or by any third-party delivery
5 service is expressly prohibited unless the delivery is to a residential
6 building or private business that is not a licensee.
- 7 (viii) No alcoholic beverages purchased at the licensed premises
8 may leave the premises in an open glass or metal container for
9 consumption in an entertainment zone.
- 10 (ix) The licensee annually submits their notice of intent to
11 participate in an open container entertainment zone to the
12 department.
- 13 (B) This paragraph does not require a licensee to sell any
14 alcoholic beverage for consumption off the premises within an
15 entertainment zone.
- 16 (C) Licensees whose privileges are restricted due to operating
17 conditions or other statutory restrictions may be prohibited from
18 exercising entertainment zone privileges that are contrary to their
19 operating conditions. For purposes of this paragraph, any
20 restrictions on the exercise of off-sale privileges shall *not* apply
21 to the removal of *open* alcoholic beverages from the licensed
22 premises for consumption in the entertainment zone.
- 23 (6) Produce spirits of wine and blend those spirits of wine into
24 wine produced by the winegrower or sell those spirits of wine to
25 an industrial alcohol dealer or a distilled spirits manufacturer.
- 26 (b) A winegrower may also have upon the premises all beers,
27 wines, and brandies, regardless of source, for sale or service only
28 to guests during private events or private functions not open to the
29 general public. Alcoholic beverage products sold at the premises
30 that are not produced and bottled by, or produced and packaged
31 for, the winegrower shall be purchased by the winegrower only
32 from a licensed wholesaler.
- 33 (c) A winegrower shall actually produce on the winegrower's
34 licensed premises by conversion of grapes, berries, or other fruit,
35 into wine, not less than 50 percent of all wines sold to consumers
36 on the winegrower's licensed premises and any licensed branch
37 premises.
- 38 (d) The department may, if it shall determine for good cause
39 that the granting of any such privilege would be contrary to public
40 welfare or morals, deny the right to exercise any on-sale privilege

1 authorized by this section in either a bona fide eating place the
2 main entrance to which is within 200 feet of a school or church,
3 or on the licensed winery premises, or both.

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

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

11 23396. (a) Any on-sale license authorizes the sale of the
12 alcoholic beverage specified in the license for consumption on the
13 premises where sold. No alcoholic beverages, other than beers,
14 may be sold or served in any bona fide public eating place for
15 which an on-sale license has been issued unless the premises
16 comply with the requirements prescribed in Section 23038,
17 23038.1, 23038.2, or 23038.3.

18 (b) (1) In addition to the privilege in subdivision (a), any on-sale
19 license for a premises located in an entertainment zone authorizes
20 the licensee to permit consumers to leave the licensed premises
21 with open containers of alcoholic beverages for consumption off
22 the premises within the entertainment zone if all of the following
23 conditions are satisfied:

24 (A) The alcoholic beverage is specified in both the license and
25 the ordinance creating the entertainment zone.

26 (B) Open alcohol containers only leave the premises during the
27 hours allowed by the ordinance establishing the entertainment
28 zone.

29 (C) Patrons with open containers exit the licensed premises
30 directly into an entertainment zone.

31 (D) All alcoholic beverages in the entertainment zone are
32 purchased only at a licensed premises located within the
33 entertainment zone.

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

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

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

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

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

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

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

19 25690. ~~(a) If the City and County of San Francisco~~ *A city,*
20 *county, or city and county that* establishes an entertainment ~~zone,~~
21 ~~it~~ *zone* shall do both of the following:

22 ~~(1)~~
23 *(a)* Establish a process or procedure by which persons in
24 possession of alcoholic beverages in the entertainment zone may
25 be readily identifiable as being 21 years of age or older.

26 ~~(2)~~
27 *(b)* Provide all of the following to the department:

28 ~~(A)~~
29 *(1)* A copy of the ordinance establishing the entertainment zone.

30 ~~(B)~~
31 *(2)* Information as may be necessary to identify the boundaries
32 of the entertainment zone.

33 ~~(C)~~
34 *(3)* The days and hours of operation of the entertainment zone.

35 ~~(D)~~
36 *(4)* The types of alcoholic beverages permitted within the
37 entertainment zone.

38 ~~(E)~~
39 *(5)* The approved nonglass and nonmetal containers in which
40 alcoholic beverages may be authorized.

1 ~~(b) The Legislature finds and declares that a special statute is~~
2 ~~necessary and that a general statute cannot be made applicable~~
3 ~~within the meaning of Section 16 of Article IV of the California~~
4 ~~Constitution because of the unique economic circumstances in the~~
5 ~~City and County of San Francisco.~~

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

8 25691. (a) An ordinance establishing an entertainment zone
9 shall not authorize consumption of alcoholic beverages during the
10 hours in which sales of alcoholic beverages are prohibited under
11 Section 25631.

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

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

19 25692. (a) Before enacting an ordinance to establish an
20 entertainment zone, a city, county, or city and county shall notify
21 local law enforcement and request feedback about both of the
22 following:

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

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

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