
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Bill Dodd

Chair

2021 - 2022 Regular

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| Bill No: | AB 239 | Hearing Date: | 6/8/2021 |
| Author: | Villapudua, et al. | | |
| Version: | 1/13/2021 Introduced | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Felipe Lopez | | |

SUBJECT: Winegrowers and brandy manufacturers: exercise of privileges: locations

DIGEST: This bill allows a licensed winegrower to sell or deliver wine in containers supplied, furnished, or sold by the customer at the winegrower's offsite tasting room.

ANALYSIS:

Existing law:

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC 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 and the collection of license fees for this purpose.
- 2) Provides, under the ABC Act, for the issuance of various alcoholic beverage licenses, including the imposition of fees, conditions, and restrictions in connection with the issuance of those licenses.
- 3) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or "three-tier" system.
- 4) Authorizes licensed winegrowers and brandy manufacturers to exercise their license privileges away from their licensed premises at, or from, branch offices or warehouses or United States bonded wine cellars located away from the place of productions or manufacture, subject to specified exceptions. One of

the exceptions to this authorization is the sale or delivery of wine to consumers in containers supplied, furnished, or sold by the consumer.

- 5) Permits an on-sale beer and wine public premises licensee and a licensed winegrower to allow a person who has purchased a partially consumed a bottle of wine to remove the partially consumed bottle from the premises upon departure.

This bill allows a licensed winegrower to sell or deliver wine in containers supplied, furnished, or sold by the customer at the winegrower's offsite tasting room.

Background

Purpose of the bill. According to the author's office, "under AB 239, the restriction for wineries will be removed, allowing licensed winegrowers to fill consumer-provided bottles at their wineries and tasting rooms. Allowing wineries to refill consumer bottles will not only bring parity to existing law governing breweries, but it will also limit waste by reducing the amount of bottles needed in the packaging process."

Type 02 alcohol licenses. A Type 02 license authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Wineries holding a Type 02 license may obtain what is known as a Duplicate Type 02 license, which allows a winery to have a tasting room away from the facilities where the wine is made. Some wineries have tasting rooms both at the facility where they produce their wine and a tasting room at a different location. Either way, a winery may have no more than one off-site tasting room.

Wineries are authorized to offer tasting of wine for free or for a charge at their tasting room. They also have the ability to sell wine by the glass or bottle for consumption on or off the premises. Some wineries operate under an "alternating proprietor" agreement, which allows two or more persons or entities to alternate on the use of the same space and equipment to produce wine. Of the 6,511 total winegrower licensees, 1,627 winegrowers currently hold one duplicate license.

Typically, though not in every jurisdiction, a winery owner is required to obtain a local permit. These local permits can vary dramatically and not every tasting room is required to obtain a local permit. These requirements are all dependent on the location where the prospective tasting room is to be located and the local requirements of that jurisdiction.

Existing law prohibits a winegrower with a Type 02 license from filling or refilling containers supplied by a consumer at premises licensed with a duplicate Type 02 license. A winegrower can fill bottles that they own at premises that are licensed with a duplicate, but they cannot fill consumer-supplied containers. This bill removes that prohibition.

Prior/Related Legislation

SB 19 (Glazer, 2021) would authorize a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Pending in the Assembly Rules Committee)

SB 264 (Glazer, 2020) would have authorized a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Held on the Assembly Appropriations Suspense File)

AB 2752 (Bauer-Kahan, 2020) would have authorized a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Never heard in the Assembly Governmental Organization Committee)

AB 2957 (Robert Rivas, 2020) would allow a licensed winegrower to sell or deliver wine in containers supplied, furnished, or sold by the customer at the winegrower's off-site tasting room. (Never heard in the Senate Governmental Organization Committee)

SB 1430 (Glazer, 2018) would have authorized a licensed winegrower or brandy manufacturer to operate two off-site tasting rooms under its winegrower license. (Held on the Assembly Appropriations Suspense File)

AB 2488 (Levine, Chapter 98, Statutes of 2014) authorized a licensed winegrower to conduct limited wine tastings for consumers at certified farmers' markets under certain circumstances.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Amador Vintners Association
Anderson Valley Winegrowers Association
California Association of Winegrape Growers
California Farm Bureau
El Dorado Winery Association
Family Winemakers of California

Mendocino Winegrowers, Inc.
Monterey County Vintners & Growers Association
Morgan Hill Chamber of Commerce
Placer County Wine & Grape Association
Santa Barbara Vintners
Santa Cruz Mountains Winegrowers Association
Temecula Valley Winegrowers Association
Wine Institute
Wineries of Santa Clara Valley

OPPOSITION:

Alcohol Justice

ARGUMENTS IN SUPPORT: According to the Monterey County Vintners & Growers Association, “many Californians regularly visit the local brewery to refill their ‘growler’ with beer. Others have warm memories of traveling through Spain and Italy, refilling their bottles with wine for evening meals. Besides being fun and enchanting, these practices bring people closer to the source of their food and wine and build stronger relationships within the community it is also an environmentally sustainable practice aligned with other sustainable practices of many vineyards, wineries, and tasting rooms.”

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, “there are issues of product safety and over-consumption in allowing wine or brandy to be sold or delivered off of their licensed premises in containers controlled by the consumer. We can imagine wine delivery trucks looking much like a barrel pulling up curbside to a venue and poured from a spigot to a non-sanitary bucket. This simple language allows a wide range of malfeasance and throws caution to the wind.”