
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 495 (Bigelow) - Alcoholic beverage control: licensure

Version: June 16, 2022

Urgency: No

Hearing Date: August 1, 2022

Policy Vote: G.O. 11 - 0

Mandate: No

Consultant: Janelle Miyashiro

Bill Summary: AB 495 allows a distilled spirits manufacturer that is also a beer manufacturer with at least two beer and wine wholesale licenses and at least two manufacturing locations in the state to distribute distilled spirits they own, hold an interest in, or have a license to manufacture.

Fiscal Impact: Unknown, potentially significant fiscal impact to the Department of Alcoholic Beverage Control (ABC) associated with legal costs. The Department of ABC notes it would need to review all of its distilled spirits (DS) licensees and importers to ensure there are no conflicts with the new allowances for a DS license. For those licensees that do have conflicts, the Department of ABC would need to request the licensee to cancel their DS manufacturer or importer license, and if the licensee does not, the Department of ABC would need to initiate administrative action seeking to revoke one of the licenses.

Background: The "tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). In its simplest of forms, this set of laws is designed to separate manufacturers, distributors, and retailers of alcoholic beverages.

Thus, under a strict "three-tier" system, manufacturers would have no privilege to sell alcoholic beverages directly to consumers. Over the years however, the Legislature has expanded the privileges of manufacturers to include, among other things, the ability to sell alcoholic beverages directly to consumers. Some, like winegrowers enjoy not only the ability to sell alcoholic beverages directly to consumers at their licensed premises, but also the ability to ship directly to consumers. Others like craft distillers, are currently only statutorily allowed to sell directly to consumers at their licensed premises.

For beer manufacturers, current law allows both a beer manufacturer and small beer manufacturer to sell directly to consumers in California and ship beer directly to a consumer. In addition, current law allows both a beer manufacturer and small beer manufacturer the ability to sell directly to any licensee whose license allows the sale of beer. This means that both a beer manufacturer and small beer manufacturer can sell and deliver straight to a retailer without the use of a distributor/wholesaler. Generally, beer manufacturers use this privilege to deliver beer to retailers that are in close proximity to the manufacturer as there is no need for a large number of trucks and drivers. However, most beer manufacturers use a wholesaler/distributor given the logistical complexity of deliveries and the significant capital that is required to successfully deliver beer throughout the State of California.

Proposed Law:

- Prohibits a person that holds a specified ownership or interest in an importer's license from holding a distilled spirits manufacturer's license or a distilled spirits manufacturer's agent's license.
- Authorizes a distilled spirits manufacturer to distribute distilled spirits they own, hold an interest in or have a license to manufacture if the license has all of the following characteristics:
 - They are a beer manufacturer with at least two manufacturing locations in this state.
 - They hold at least two beer and wine wholesale licenses in this state.
 - They have a direct or indirect ownership interest in both an in-state and out-of-state distilled spirits manufacturer.
 - They import and distribute only distilled spirits products that meet any of the following criteria:
 - The distilled spirits are manufactured or produced either within or without this state by an entity in which the licensee holds a direct or indirect interest.
 - The distilled spirits are manufactured or produced under a written contract with another manufacturer within or without this state for an entity in which the licensee holds a direct or indirect interest.
 - The distilled spirits are produced and bottled under a written contract with another manufacturer within or without this state for an entity in which the licensee holds a direct or indirect interest.

Staff Comments: The Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

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