
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Isadore Hall, III

Chair

2015 - 2016 Regular

Bill No: AB 866 **Hearing Date:** 5/10/2016
Author: Eduardo Garcia
Version: 3/30/2016 Amended
Urgency: Yes **Fiscal:** Yes
Consultant: Arthur Terzakis

SUBJECT: Alcoholic beverages: advertising: San Diego

DIGEST: This bill extends an existing tied-house exception in the Alcoholic Beverage Control (ABC) Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego (Petco Park – home of the San Diego Padres Major League Baseball team).

ANALYSIS:

Existing law:

- 1) Establishes the Department of 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 in this state and the collection of license fees for this purpose.
- 2) Separates the alcoholic beverage industry into three component parts, or tiers (referred to as the “tied-house” law or “three-tier” system), of manufacturer (including breweries, wineries and distilleries), wholesaler, and retailer (both on-sale and off-sale). The original policy rationale for this body of law was to: (a) promote the state’s interest in an orderly market; (b) prohibit the vertical integration and dominance by a single producer in the market place; (c) prohibit commercial bribery and to protect the public from predatory marketing practices; and, (d) discourage and/or prevent the intemperate use of alcoholic beverages. Generally, other than exceptions granted by the Legislature, the holder of one type of license is not permitted to do business as another type of licensee within the “three-tier” system.

- 3) Prohibits, in general, an alcohol manufacturer, wholesaler, or any officer, director, or agent of any such person from owning, directly, or indirectly, any interest in any on-sale license, or from providing anything of value to retailers, be it free goods, services, or advertising.
- 4) Prohibits paid advertising by winegrowers, beer manufacturers and distilled spirits producers in cases where a retail licensee also owns a sports or entertainment venue. Over the years numerous exceptions to this prohibition have been added to the ABC Act [e.g., Sleep Train Arena (formerly known as ARCO Arena) in Sacramento, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Event Center in San Bernardino, California Speedway in Fontana, Grizzly Stadium in downtown Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, the Home Depot Center in the City of Carson, the Forum in the City of Inglewood, Levi's Stadium in the City of Santa Clara, and other venues].

This bill:

- 1) Extends an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego.
- 2) Contains an urgency clause to take effect immediately.

Background

Purpose of AB 866. According to the author's office, the home of the San Diego Padres Major League Baseball team is Petco Park which is located in downtown San Diego. This state of the art facility is owned by the City of San Diego and operated under the auspices of the San Diego Padres Baseball Club LP, the holder of the alcoholic beverage on-sale retail license. The author's office notes that existing ABC laws contain numerous exceptions to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees. This bill will include Petco Park on the list of exemptions in the law, thereby allowing the Padres LP to develop certain alcoholic beverage sponsorships with various manufacturers and distributors. The author's office emphasizes that this exemption would put Petco Park on an even playing field with other arenas and stadiums in California. Additionally, the author's office notes that AB 866 contains an urgency clause because Petco Park is hosting the 87th Major League Baseball All-Star Week July 10-12, 2016.

Petco Park. Petco Park is a baseball park, but also known as a venue for concerts, football, rugby sevens and other events. It opened in 2004, replacing Jack Murphy/Qualcomm Stadium as the home park of the San Diego Padres, the city's Major League Baseball (MLB) franchise. The ballpark seats approximately 43,000 and is named after the pet supplies retailer Petco, which is based in San Diego and paid for the naming rights. The Padres previously shared Jack Murphy/Qualcomm Stadium with the National Football League's San Diego Chargers. The construction cost of over \$450 million was partially funded by the Center City Development Corporation and the San Diego Redevelopment Agency. The ballpark was intended to be part of a comprehensive plan to revitalize San Diego's aging downtown. The ballpark is located across Harbor Drive from the San Diego Convention Center and its main entrance behind home plate is located two blocks from the downtown terminal of the San Diego Trolley light rail system. The official address of Petco Park is 19 Tony Gwynn Way, in honor of the eight-time National League batting champion who wore that uniform number during his entire major league career with the Padres. A 10-foot statue of Gwynn was unveiled on the park grounds in July of 2007 – Gwynn passed in June of 2014 after battling salivary gland cancer. Gwynn's .338 career batting average over 20 seasons is the highest since Ted Williams (the “Splendid Splinter”) retired from the Red Sox in 1960 with a .344 career batting average.

Comments. Although the stated purpose of this bill is to provide an exemption for Petco Park, Qualcomm Stadium seats approximately 70,000 and therefore meets the exemption threshold of 43,000 fixed seats at an outdoor stadium in the City of San Diego thus making it eligible for the same exemption.

Author's amendments. The author will offer the following amendments in committee on Tuesday, May 10, 2016:

1. Add Senator Hall and Senator Hueso as co-authors.
2. On page 5, between lines 11 & 12, add, *(R) an outdoor stadium with a fixed seating capacity of at least 70,000 seats located in the City of Inglewood.* (new stadium for the Los Angeles Rams National Football League team)

Prior/Related Legislation

AB 1767 (Bigelow, 2016) expands the specified conditions under which designated alcoholic beverage licensees may purchase advertising space or time in connection with events held on the premises of an exposition, park, stadium or

arena owned by the on-sale licensee to include circumstances in which the premises are “leased” by the on-sale licensee. (Pending in Assembly Appropriations Committee)

SB 557 (Hall, Chapter 420, Statutes of 2015) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a fairgrounds with a horse racetrack and equestrian and sports facilities located in the County of San Diego.

SB 462 (Wolk, Chapter 315, Statutes of 2015) among other things, extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a specified entertainment complex, known as the Green Music Center, located on the campus of Sonoma State University.

AB 600 (Bonta, Chapter 139, Statutes of 2014) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 68,000 seats located in the City of Santa Clara (Levi’s Stadium – new home of the San Francisco 49ers).

SB 324 (Wright, Chapter 164, Statutes of 2013) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include a fully enclosed arena with a fixed seating capacity in excess of 13,000 seats (the Forum) in the City of Inglewood.

SB 351 (Negrete-McLeod, 2007) would have extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees so that alcoholic beverage manufacturers may purchase advertising from on-sale retail licensees in order to promote “safe ride home programs” at specified stadiums and arenas. (Placed on Assembly inactive file)

AB 776 (Aghazarian, Chapter 221, Statutes of 2007) created a new tied-house exception by authorizing a beer manufacturer to sponsor or purchase advertising space and time from, or on behalf of, an off-sale retail licensee that is an owner or co-owner of a professional sports team (California Cougars indoor soccer team) that plays its home games, in an arena with a fixed seating capacity of 10,000 seats (Stockton Arena) located in San Joaquin County.

AB 663 (Galgiani, Chapter 745, Statutes of 2007) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor professional sports facility with a fixed seating capacity of at least 4,200 (Banner Island Ballpark – home of the Stockton Ports Class A baseball team) located in San Joaquin County.

AB 3046 (Chavez, Chapter 587, Statutes of 2006) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to the HP Pavilion in Santa Clara County.

AB 1442 (Horton, Chapter 617, Statutes of 2005) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to the Home Depot Center, a sports and athletic complex within the City of Carson in Los Angeles and the Nokia Theater, located within the Los Angeles Sports and Entertainment District, adjacent to STAPLES Center.

SB 1647 (Perata, Chapter 275, Statutes of 2004) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to the Oakland Coliseum in Alameda County.

SB 1189 (Costa, Chapter 47, Statutes of 2002) extended an existing tied-house exception pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to the Visalia Oaks Stadium in Visalia and the California Speedway in Fontana.

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

SUPPORT:

San Diego Padres

OPPOSITION:

None received