
Commerce & Gaming Committee

SSB 5394

Brief Description: Concerning liquor licensees' use of web sites and social media to promote events.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators King, Conway, Palumbo and Keiser).

Brief Summary of Substitute Bill

- Authorizes liquor manufacturers, distributors, and their licensed representatives to post and share on their websites and social media accounts, promotional information and images, related to certain events at on-premises liquor retailers' premises or licensed special occasion events.
- Requires events to feature a product of the manufacturer's own production or a product sold by the distributor, to qualify for the authorization.
- Specifies that the promotional information posted and shared may include links to purchase event tickets.
- Specifies there is no obligation on liquor manufacturers, distributors, or their licensed representatives to post or share information, and retailers may not require the posting or sharing of information related to retailer events.

Hearing Date: 3/18/19

Staff: Peter Clodfelter (786-7127).

Background:

Built into the post-prohibition legal framework regulating liquor manufacturing, distribution, and sales is a separation between the three tiers of the liquor industry: (1) manufacturing; (2) distributing; and (3) retailing. Liquor licensees in the manufacturing and distributing tiers of the industry, and their authorized representatives, are defined as "industry members" for certain purposes in liquor statutes. The full definition of "industry member" is a licensed manufacturer,

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producer, supplier, importer, wholesaler, distributor, authorized representative, certificate of approval holder, warehouse, and any affiliates, subsidiaries, officers, directors, partners, agents, employees, and representatives of any industry member.

There are two primary prohibitions that provide the separation between the tiers of the industry. First, generally industry members are prohibited from having financial interests in another industry member or a business within the retail tier of the industry, and vice versa. Secondly, industry members are prohibited from providing "money or moneys' worth," under any type of business practice or arrangement, to a business in the retail tier of the industry. Retailers are similarly prohibited from receiving money or moneys' worth from industry members.

In addition to these two general prohibitions, there are numerous specific exceptions authorizing various business practices that may otherwise be prohibited. Examples of exceptions to the moneys' worth prohibition include, among others, the following authorizations:

- for industry members to provide branded promotional items of nominal value to retailers, such as lighters, coasters, glasses, shirts, hats, and similar items, when used exclusively by the retailer or its employees and subject to other restrictions;
- for industry members to perform, and retailers to receive, services of building, rotating, and restocking displays and stock room inventories, as well as rotating and rearranging can and bottle displays of their own products and providing point of sale material and brand signs;
- for special occasion licensees to pay for beer, wine, or spirits immediately following the end of the event; and
- for industry members to list on their websites information related to retailers who sell or promote their products, including direct links to the retailers' websites.

One type of retail liquor license available is a special occasion license, which is available to nonprofit organizations or societies to hold events lasting a day or several days at which beer, wine, or spirits may be sold to adults age 21 and over for on-premises consumption, and which can include booths at which different manufacturers' liquor products may be purchased, consumed, and learned about. With approval from the Liquor and Cannabis Board, a special occasion licensee may also sell spirits, beer, and wine in original, unopened containers for off-premises consumption.

Summary of Bill:

It is provided that the "moneys' worth" prohibition of the liquor industry tied-house laws does not prohibit manufacturers, distributors, or their licensed representatives from using websites or social media accounts in their name to post, repost, or share promotional information or images about events featuring a product of the manufacturer's own production or a product sold by the distributor, held at an on-premises licensed liquor retailer's location or a licensed special occasion event. The promotional information may include links to purchase event tickets.

Manufacturers, distributors, or their licensed representatives may not pay a third party to enhance viewership of a specific post. Industry members, or their licensed representatives, are not obligated to post, repost, or share information or images on a website or on social media. A licensed liquor retailer may not require an industry member or their licensed representative to

post, repost, or share information or images on a website or on social media as a condition for selling any alcohol to the retailer or participating in a retailer's event.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.