



## Brewers Brief: AB 1133 Allows Breweries to Giveaway Glassware with Restrictions

NEW LAW ALLOWS BREWERIES TO PROVIDE A MAXIMUM OF 5 CASES OF GLASSWARE TO A RETAILER FREE OF COST, WITH CERTAIN CONDITIONS ON BOTH THE RETAILER AND BREWERY

Assembly Bill 1133, which becomes law January 1, 2020, allows beer manufacturers (type 23 and 01) to provide a limited amount of free glassware to retail licensees with strict limitations.

### **AB 1133 Amended Section 25600.05 of the Business and Professions Code to permit the following:**

- (1) A beer manufacturer, without direct or indirect charge, may give up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year for use at the licensed location.
- (2) An on-sale retail licensee may accept, without direct or indirect charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year for use at the licensed location.
- (c) A beer wholesaler shall not directly or indirectly underwrite, share in, or contribute to the costs of glassware or any costs of transportation or shipping or serve as the agent of the beer manufacturer to deliver, stock, or store glassware for an on-sale retailer.

[The full text of the bill can be viewed here.](#)

### **What Does This Mean for California Craft Brewers?**

Beer manufacturers can provide – free of charge - a maximum of five cases of branded glassware to any on-premise licensed retailer, per licensed location. However, an on-premise licensed retailer may only accept a total of **ten** cases annually. This means a retailer who already accepted ten cases of glassware is not allowed to accept any more glassware.

AB 1133 defines “case” as a box containing up to 24 pieces of glassware. “Glassware” means a single-service glass container or non-glass container capable of holding no more than 23 ounces of liquid volume and which is intended for the service of beer.

Glassware given to retailers must be an “advertising specialty,” which means the glassware is clearly branded with brewery logos or slogans.



Additionally, the giving of glassware must be “unconditional,” which means you **cannot** require the purchase or placement of your product in exchange for the case(s). Conversely, a retailer **cannot** condition the purchase of your product on the basis of whether or not you provide them with free glassware. This is a violation of the law which should be reported to the ABC for investigation.

**For Example:** If Joe’s Tap House accepts five cases of glassware from XYZ Brewing and another five cases from ABC Brewing on January 1, Joe’s is maxed out for the year at that licensed location. If Joe’s Tap House has more than one location, they can accept up to ten additional cases at the separately licensed location.

AB 1133 ONLY applies to glassware. A beer manufacturer is still limited by the “free goods” laws for all other giveaways. A beer manufacturer cannot give a gift, premium or advertising specialty costing more than \$0.25 per unit, or \$15 in the aggregate to a single retail premises per calendar year.

## **AB 1133 Specifically Barred Wholesalers from Participating in Giveaway**

In addition to the branded glassware case limits and reporting requirements AB 1133 makes clear that Type O1 and 23 are the only licensees authorized to participate under the new law. Business and Professions Code Section 25600.05(2)(c) specifically states:

*25600.05(2)(c) A beer wholesaler shall not directly or indirectly underwrite, share in, or contribute to the costs of glassware or any costs of transportation or shipping or serve as the agent of the beer manufacturer to deliver, stock, or store glassware for an on-sale retailer.*

This means that a beer wholesaler cannot deliver the glassware to a retailer on behalf of a beer manufacturer under **any** circumstances. An employee of the beer manufacturer is the only party permitted to oversee and execute the glassware giveaway.

## **Reporting and Record Keeping Requirements**

Beer manufacturers **are required to** submit a report to the ABC within 30 days of supplying glassware to a retailer. This is required every time the glassware is given to a retailer, including a retailer you deal with more than once in a calendar year.

The ABC provided regulatory guidelines on January 3, 2020. You can read the ABC’s industry advisory by following this [link](#).

The reporting requirements include filing out [this form](#) and submitting it electronically to the ABC’s dedicated email address for glassware transactions at [glassware@abc.ca.gov](mailto:glassware@abc.ca.gov). The following information must be submitted to the Department within 30 days of the transaction:



- License Number of the Manufacturer
- Premises Address of the Manufacturer
- Name of Retail Licensee Receiving Glassware
- License Number of Retail Licensee
- Premises Address of Retail Licensee
- Date Glassware Provided
- Number of Glasses Provided
- Style of Glass Provided
- Size of Glass Provided (in ounces)
- Description of Markings on Glassware

**NOTE:** A retailer who accepts the glassware is required to maintain records of the transaction for a period of three years and is **required to produce these records on demand if asked by the ABC**. This dual record requirement increases the chances of exposure if a violation occurs.

## **Additional Background and Expiration Date**

This bill was originally introduced by Anheuser Busch to expand “free goods” laws in California and allow breweries to giveaway glassware. The CCBA viewed this as a first step towards “pay to play” in the marketplace and lobbied on behalf of the California craft brewing community to limit this privilege. One key piece of the final law is its expiration date.

This legislation will “sunset” or expire on December 31, 2022 unless a specific legislative effort is launched to extend the law.

*DISCLAIMER: The CCBA provides information to help California brewers comply with ABC regulations and is intended only as general guidance. The consultation is not legal advice and does not replace the advice or representation of a licensed attorney. The CCBA highly recommends that all licensed beer manufacturers have an attorney or consultant review matters pertaining to ABC compliance.*