

## Beer Dinner Bill

### History

AB 2134 (Chesbro). Sponsored by CCBA. Signed by Gov. Brown. Went into law Jan 1<sup>st</sup>, 2011

This law allows both beer manufacturers and beer importers the privilege of conducting “Beer Maker Dinners”; instructional events for consumers held at a licensed on-sale retail premises. These events provide the opportunity for tastings and descriptions of products and this law allows the organizer to communicate the date, time and location of these events to their customers.

In the past, the presence of a representative from a brewery or an importer at such an event was considered to be a “service” to the retailer and therefore construed as “something of value” since it promoted the retailers business. Therefore, the retailer would be required to compensate the representative for their time. These events also fell under the advertising restriction of the ABC code and could not be advertised in any way by the brewer.

### The bill changes the law in two distinct ways:

- 1) The brewery or importer representative or agent can conduct an educational event without having to be compensated by the retail account; and
- 2) The event can be advertised, with restrictions. The law states specifically: *“The listing of the retailer’s name and address is the only reference to the retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole. Pictures or illustrations of the retailer’s premises and laudatory references to the retailer in these advertisements are not hereby authorized.”*

### Important things to know:

- Distributor representatives are not included in the statute and therefore do not have the privileges of the brewer.
- You may not give beer to the retailer. The retailer must purchase the beer through ordinary channels, either from a licensed wholesaler or a brewery/importer with distribution privileges.
- The beer must meet all requirements of ordinary distribution and sales; i.e. price posting, label requirements, etc.
- Free samples cannot be given out by the brewer in connection with the instructional event (unless you fall under the provisions of the on-premise sampling law, in which case you would need to comply with those separate requirements and cannot advertise the event).
- All beer poured during the event must be in the possession of the retailer. They must have purchased all of the beer through ordinary channels.
- The beer must be sold by the retailer to the consumer, either in a dinner cost or by the serving.

**Questions:**

Q. I have a special beer that I just bottled and want to serve it at the dinner. Since we don't sell it to the trade yet there's no label. Is that OK?

*A. No. All beer must meet all the requirements for sales and distribution to the retail tier, including label approval and price posting.*

Q. I have a limited number of cases of a beer that I sell only in San Diego County and I want to include it at my beer dinner in San Francisco. Is that OK?

*A. No, unless the beer is price posted in the territory of the retailer conducting the dinner.*

Q. How would I go about it then?

*A. If you have a type 23 license you have self-distribution privileges and can sell the beer to the retailer. You can bring the beer with you and sell the beer to the retailer prior to the event but you must price post the beer with the ABC for that territory first. The retailer must have record of purchasing all beers being consumed during the event*

Q. I'm doing a pint night. Doesn't that fall under this new law so I can therefore advertise the event?

*A. Maybe. You must have a representative at the retail account during the event to "instruct consumers." The brewery rep may not provide sampling (such as under the on-premise sampling provision). If you fit into all of the provisions of the new law, then yes, you may advertise the event within the stated restrictions.*

Q. Do I have to serve food or a "dinner?"

*A. Nope. There is nothing in the new law that states you must serve food of any kind.*

Q. Can I post these events using social media?

*A. Yes, again as long as it falls under the advertising restrictions. You cannot promote the retailer and "the advertisement (shall) not contain the retail price of the beers." Also, the statute states that you cannot provide "laudatory references to the retailer."*

**25503.45.**

**License holders allowed to instruct consumers at on-sale retail licensed premises; Conditions; Advertisements**

- (a) Notwithstanding any other provision of this division, a licensed beer manufacturer or a holder of beer and wine importer's general license, or any director, partner, officer, agent, or representative of that person, may instruct consumers at an on-sale retail licensed premises authorized to sell its product with the permission of the on-sale retail licensee. The instruction may include serving beer sold by the on-sale retail licensee to the consumer and providing information on the history, nature, values, and characteristics of the beer, and methods of presenting and serving the beer. Orders for the sale of beer may be accepted by the beer manufacturer conducting an instructional event if the sales transaction is completed at the beer manufacturer's licensed premises.
- (b) A person authorized by subdivision (a), in advance of an authorized instructional event, may list in an advertisement the name and address of the on-sale retail licensee, the names of the beers being featured at the instructional event, and the time, date, and location of, and other information about, the instructional event, subject to the following limitations:
- (1) The advertisement does not also contain the retail price of the beers.
  - (2) The listing of the retailer's name and address is the only reference to the retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole. Pictures or illustrations of the retailer's premises and laudatory references to the retailer in these advertisements are not hereby authorized.
- (c) An on-sale retail licensee's advertisement of an authorized instructional event may include the name, address, and brand names of the person authorized by subdivision (a), however nothing in this section allows that person to share in the costs of the on-sale retail licensee's advertisement.
- (d) For purposes of this section, a licensed beer and wine wholesaler shall not be a representative of a beer manufacturer or a holder of a beer and wine importer's general license.
- (e) Notwithstanding any other provision of this division, no alcoholic beverage may be given away in connection with the instructional event authorized by this section.
- Added Stats 2010 ch 149 § 1 (AB 2134), effective January 1, 2011