

Understanding AB 780 (Williams) Mentioning of Retailers on Social Media

AB 780 (Williams) was signed by the Governor in October 2015. This bill authorizes a beer manufacturer to list where their brands are available at retail.

All provisions of this bill take effect January 1st 2016

Summary:

The beer manufacturer may provide, in direct communication with consumers, the name, location, contact info, web site address and social media contact of a licensed retailer where their products are sold as long as two or more licensed retailers are listed. The beer manufacturer or agent no longer is restricted to providing this information only “in direct response to an inquiry.” No promotion of the retailer or laudatory comments are allowed.

The new law takes effect January 1st, 2016

Changes to Existing law

- Prior law required that the non-retail licensee may only provide the specified information in response to a direct consumer inquiry. This is no longer required. What this means is that a non-retail licensee may now provide the authorized information to consumers without first receiving a request for such information.
- **“Direct Communication”** means that there must be some relationship between the non-retail licensee and the consumer(s) to whom the information is provided. For example, ***if a consumer “follows” the non-retail licensee on social media*** (such as Facebook or Twitter) or takes some affirmative act to seek-out the non-retail licensee (such as **viewing the licensee’s website**), the listing of permitted information via such social media or on the non-retailer’s website would be in compliance with the new code section. In contrast taking out an advertisement that identifies retailers in a print publication would NOT be considered a “direct communication”.
- Listing of a licensed retailer where brands are sold in a print ad, billboard or poster/flyer is not allowed

Limitations on this privilege are:

- 1) The listing **cannot contain the retail price** on the product.
- 2) The listing is the only reference to the retailer in the direct communication
- 3) The listing does not reference two retailers that are affiliated, it **must be two or more un-affiliated retailers**.
- 4) The listing is made, or produced, or paid for, exclusively by the nonretail industry member
- 5) An image of the retailers logo, name or place of business is allowed. If the “listing” of retailers is by way of images posted on social media sites, the images must identify two or more unaffiliated retailers, and do no more than provide information concerning the retailers’ addresses, telephone numbers, email addresses, or Internet Web site addresses, or other electronic media.

Understanding AB 780 (Williams) Mentioning of Retailers on Social Media

AB 780 Code Section:

SECTION 1.

Section 25500.1 of the Business and Professions Code is amended to read:

25500.1.

(a) The listing of the names, addresses, telephone numbers, email addresses, or Internet Web site addresses, or other electronic media, of two or more unaffiliated on-sale or off-sale retailers selling beer, wine, or distilled spirits produced, distributed, or imported by a nonretail industry member does not constitute a thing of value or prohibited inducement to the listed on-sale or off-sale retailer, provided all of the following conditions are met:

- (1) The listing does not also contain the retail price of the product.
- (2) The listing is the only reference to the on-sale or off-sale retailers in the direct communication.
- (3) The listing does not refer only to one on-sale or off-sale retailer or only to on-sale or off-sale retail establishments controlled directly or indirectly by the same retailer.
- (4) The listing is made, or produced, or paid for, exclusively by the nonretail industry member.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, brandy manufacturer, rectifier, or distiller of alcoholic beverages or an agent of that entity, or a wholesaler, regardless of any other licenses held directly or indirectly by that person.

(c) The Legislature finds that it is necessary and proper to require a separation among manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

SEC. 2.

Section 25502.1 of the Business and Professions Code is repealed.