

## Governor signs AB 1928

The Governor signed AB 1928 (Bocanegra) on July 18<sup>th</sup>. This bill will end the practice of retailers providing discounts on beer to consumers paid for by the supplier (beer manufacturer) in the State of California. Scan backs and instant redeemable coupons (IRCs) will no longer be allowed as of January 1<sup>st</sup>, 2015 when the bill become effective and becomes the law.

This bill does NOT stop retailers from providing consumers discounts on beer; and beer manufacturers will still be able to provide redeemable coupons to consumers. Price “post-offs” will also still be allowed.

### The CCBA Position

The CCBA did not sponsor this bill. However, the association did take a “support” position. There are two important reasons why this bill protects the craft brewers of California.

- 1) Current practice has been deemed a violation of the tied-house laws and could jeopardize the beer manufacturers’ licenses. Scan backs, when used on conjunction with “club cards” and instant redeemable coupons (IRCs), have been determined to be illegal in the State of California by the ABC (as violations of Business and Professions Code (BPC) Sections 25502(a)(2) and 25600).

This determination was recently confirmed by Matthew Botting, General Counsel for the ABC, in a Senate hearing in response to official statements made by the retailer’s representatives in opposition to the bill. Mr. Botting stated that; *“What has been revealed by the testimony of the retailers, is that they rely upon and utilize manufacturer rebates to finance retailer-branded rewards programs. This violates tied-house laws in that manufacturer discounts are used to promote the retailer(s).”*

California is not alone in this interpretation. Many states require that all discounts be initiated by the retailer in the form of an in-store discount without any involvement by the manufacturer.

Further, if the retailer was conducting a scan back program that was not in accordance with applicable law, only the supplier was in violation. This could jeopardize the beer manufacturer’s license, but not necessarily the retailers license.

- 2) The CCBA is committed to a fair marketplace for craft beer. As such, the CCBA is opposed to all forms of retail inducements and incentives of the type prohibited by AB 1928. Such inducements and incentives have the potential to allow those suppliers with superior financial resources to gain or maintain shelf space or marketplace advantage. Moreover, such inducements and incentives have the potential to allow retailers to choose which brands to carry and promote based upon which supplier is willing to pay

more. The CCBA believes in an equal playing field for all, and therefore supports BPC 25502(a)(2), which reads: “No manufacturer . . . shall furnish, give, or lend any money or other thing of value, directly or indirectly, to . . . any person engaged in operating, owning, or maintaining any off-sale licensed premises.”

The CCBA represents the diverse craft brewing industry in California, from the smallest nano to regional packaging breweries. The CCBA mission is to protect our industry as a whole and to preserve the authenticity of craft beer.

During the legislative course of this bill, the CCBA was thoroughly engaged with other key industry stakeholders, including the California Department of Alcoholic Beverage Control. If you have further questions on this issue, please [contact](#) our office.