



CCBA Fact Sheet: Guidelines for On-Premise Educational Events

Summary:

Section 25503.45 of the Business and Professions Code allows both beer manufacturers and beer importers the privilege of conducting, at an on-premise licensed retailer, an educational event such as a beer dinner or other event in which a brewery representative is present to educate the consumer.

Background

- This law went into effect on January 1st, 2011 with the passage of AB 2134 (Chesbro). AB 2134 was sponsored by the California Craft Brewers Association
- This law is often referred to as the “Beer Maker Dinner law” because it was intended to allow brewers to conduct a beer dinner without being in violation of tied house laws which restrict a supplier from giving anything of value, including a service such as conducting a beer dinner, to a licensed retailer.

Details

- This law allows the participating brewery to communicate the type of event, beers being served, date, time and location of the event via social media or other methods. Generally, mentioning the name of a retailer is considered to be providing something of value to that retailer, and therefore not allowed under tied house laws. This provision allows for an exception, only if the event meets the criteria of an educational event.
 - The retailer's name and address is the only reference to the retailer that may be communicated by the participating brewery when advertising the event
 - You may not include pictures or illustrations of the retailer's premises in any communications
 - The retailer may advertise the event without restrictions, but the participating brewery may not share in the cost of those advertisements
- Must meet the following criteria to be considered an educational event;
 - May only be conducted at a permanent on-premise retail licensee
 - No beer may be given away in conjunction with the event
 - All beer served at the event must be purchased by the retailer
 - A distributor representative may not qualify as a representative of the brewery

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