



INDUSTRY ADVISORY

Sales of Beer by Beer Manufacturers

Over the past several years, the Department has received numerous inquiries concerning the ability of licensed beer manufacturers to sell beer that is not produced and bottled by, or produced and packaged for, that beer manufacturer to consumers at the manufacturer's licensed premises.

Recently enacted legislation (Assembly Bill 779, Statutes 2013, effective January 1, 2014) amended Business and Professions Code section 23357 to remove any ambiguity. A licensed beer manufacturer (Type-01 or Type-23) may sell **only** beer that it produces and bottles itself or beer that is produced and packaged for it, to consumers for consumption on or off the licensed premises of production or at a location holding a duplicate license for a branch office pursuant to section 23389.

It is **not permissible** to sell other beer manufacturers' beer to consumers for consumption on or off the premises. However, if a bona fide eating place (restaurant) is operated on or contiguous to the beer manufacturer's licensed premises, then the beer manufacturer may sell beer and wine, regardless of source, to consumers for consumption on the premises of such bona fide eating place.

This does not affect the ability of a beer manufacturer to hold a beer and wine wholesaler license if the beer manufacturer wishes to sell other beer manufacturers' beer to licensees authorized to sell beer. Nor does it alter the ability of a beer manufacturer to hold an off-sale beer and wine license.

The full text of section 23357, as amended, is below:

(a) A licensed beer manufacturer may, at the licensed premises of production, sell to consumers for consumption off the premises beer that is produced and bottled by, or produced and packaged for, that manufacturer. Licensed beer manufacturers may also exercise any of the following privileges:

- (1) Sell such beer to any person holding a license authorizing the sale of beer.
- (2) Sell such beer to consumers for consumption on the manufacturer's licensed premises or on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer.
- (3) Sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide public eating place on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer.

(b) Notwithstanding any other provision of this division, licensed beer manufacturers and holders of out-of-state beer manufacturer's certificates may be issued and may hold retail package off-sale beer and wine licenses. Alcoholic beverage products sold at or from the off-sale premises which are not produced and bottled by, or produced and packaged for, the beer manufacturer shall be purchased by the beer manufacturer only from a licensed wholesaler.

(c) Notwithstanding any other provision of this division, a licensed beer manufacturer that produces more than 60,000 barrels of beer a year may manufacture cider or perry at the licensed premises of production and may sell cider or perry to any licensee authorized to sell wine. For purposes of this subdivision, "cider" and "perry" have the meanings provided in Section 4.21(e) (5) of Title 27 of the Code of Federal Regulations. This subdivision does not alter or amend the classification of cider or perry as wine for any purpose other than that provided by this section.