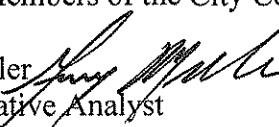


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: March 15, 2013

TO: Honorable Members of the City Council

FROM: Gerry F. Miller 
Chief Legislative Analyst

Council File: 11-1429
Assignment No: 12-05-414

Prohibiting Alcohol Advertising on City Property

Summary

On May 11, 2012, the Public Safety Committee considered a Motion (Alarcon-Huizar-Rosendahl-Cardenas-Koretz) relative to adopting an ordinance that would prohibit alcohol advertising on City owned and controlled property. According to the Motion, the proposed ordinance would be modeled after ordinances adopted in the cities of San Francisco and Philadelphia. The Motion also asked for a report on the financial cost of underage drinking to the City of Los Angeles, with an emphasis on data from the Los Angeles Police Department (LAPD) and Los Angeles Fire Department (LAFD).

The Public Safety Committee subsequently directed this Office and the Office of the City Administrative Officer to report back with additional information requested by the Committee. The Committee submitted a list of questions covering topics such as impacts to existing City contracts, measurable social impacts, potential revenue and operational impacts to City departments, and the scope of ordinances adopted by other cities. This Office contacted City departments which authorize some form of advertising on City property. Some departments authorize advertising through contractual agreements with vendors who sell advertising space and remit a portion of gross revenue to the City. Some other departments permit advertising in the form of signage and sponsor recognition at food and beverage concessions at facilities under their control. These topics are discussed further below.

Recommendation

Request the City Attorney to draft an ordinance which would prohibit the advertising of alcohol products on City owned and controlled property, with exemptions for existing contracts, proprietary departments that control their own property (Los Angeles World Airports, Port of Los Angeles, Recreation and Parks, Library), and City departments which have facilities or uses where the sale or consumption of alcohol is permitted.

Ordinances in Other Cities

The Motion notes the ordinances adopted by the cities of San Francisco and Philadelphia as models for the City of Los Angeles to consider. Both cities' ordinances are similar in that they

(1) prohibit the placement of alcohol advertising on property owned and controlled by the city; (2) provide exemptions for facilities in which the sale and consumption of alcohol is permitted; and (3) apply to contracts executed after the effective date of the ordinance.

The City of Philadelphia's ordinance states: "*Every contract which permits any person to place advertising on City owned or controlled property shall include a provision prohibiting the placement on such property of advertisements for alcohol.*" The ordinance provides an exemption for "*property used to hold professional sporting events.*" In this case, Lincoln Financial Field and Citizens Bank Park, which both house professional sports teams, are owned by the City of Philadelphia. The Philadelphia International Airport is also owned and operated by the City of Philadelphia, and the Airport management reports directly to the Mayor. The Philadelphia Regional Port Authority is an independent agency of the Commonwealth of Pennsylvania and operates separately from the City of Philadelphia.

The City and County of San Francisco's ordinance states: "*No advertising of cigarettes or tobacco products or alcoholic beverages shall be allowed on any property owned by or under the control of the City and County of San Francisco.*" The ordinance provides exemptions for "*City property used for operation of a restaurant, concert or sports venue, or other facility or event where the sale, production or consumption of alcoholic beverages is permitted.*" In this case, the ordinance exemption applies to normal concessions operations and also events or facility uses which are permitted to have alcohol consumption and sales on site. San Francisco International Airport and the Port of San Francisco are departments of the City and County of San Francisco and are overseen by appointed citizen commissions. This is similar to the oversight structure in the City of Los Angeles with Los Angeles World Airports (LAWA) and the Port of Los Angeles.

Proprietary Departments and Beverage Concessions

In a letter to the Public Safety Committee dated October 7, 2012, the Motion's author indicated that the proposed ordinance would exempt concert and sports venues and that it would not affect existing contracts, similar to the exemptions provided by the cities of Philadelphia and San Francisco. The Motion's author subsequently indicated that Los Angeles International Airport (LAX) would also be exempt from the proposed ban. LAX and Port of Los Angeles do not preclude alcohol advertising content; however, all advertising content is subject to the discretion and approval of the Executive Director.

In consideration of these types of exemptions, the City of Los Angeles has multiple departments which permit the sale or consumption of alcohol in conjunction with food and beverage concessions operations or certain types of special events. These departments include LAWA, Port of Los Angeles, Convention Center, Recreation and Parks, and Zoo. At LAWA, alcohol advertising is permitted in interior spaces and concessions areas at LAX and Ontario airports. At the Port of Los Angeles, alcohol signage is permitted in concessions areas such as the Ports O'Call Village. At the Convention Center, advertising is permitted in conjunction with interior signage granted to exhibitors and also concessions operations. At Recreation and Parks and the Zoo, advertising is permitted at concessions areas and at facilities rented for special events that allow the consumption of alcohol.

Taking into account the more specialized needs of these departments, a complete ban on alcohol advertising, signage, or recognition may disrupt their concessions operations and their ability to rent facilities for special events; therefore, it is recommended that they be excluded from a proposed ban on alcohol advertising on City property. This exemption is similar to the exemptions contained in ordinance enacted by the City of San Francisco and City of Philadelphia. It should be noted that for those departments that are headed by independent citizen commissions pursuant to the City Charter (LAWA, Port of Los Angeles, Recreation and Parks, Library), concurrent approval by the Council and the boards that oversee these departments would be required to adopt a similar policy and ordinance.

Council Controlled Departments

Two City departments currently authorize advertising through contractual agreements with outside vendors: Department of Transportation (DOT) and Bureau of Street Services (BSS). DOT's contract for advertising on City-owned transit vehicles states: "*Advertising of all alcohol and tobacco products is prohibited.*" LA Metro also has a similar ban on alcohol advertising on its property.

BSS administers two separate contracts which permit advertising on City property: one for bus benches, and the other for street furniture. Both contracts are long-term in nature and provide the City with a percentage of the vendor's gross advertising revenue. For advertising on bus benches, the City contracts with Martin Outdoor Media and the list of prohibited content specified in the contract includes "*labeled and/or branded alcohol.*" This contract has a 10-year term, beginning October 2011 and ending October 2021.

For advertising on street furniture (consisting of bus shelters, public amenity kiosks, and public toilets), the City contracts with CBS Decaux and the contract does not specify a ban on alcohol content. However, the contract with CBS Decaux requires that the contractor abide by its policy to "*limit alcohol advertising to furniture locations that are in non-sensitive areas and that follow the City's zoning laws.*" BSS indicated that sensitive areas are defined most commonly as areas adjacent to schools, houses of worship, and public parks. Further, although not specifically defined in the contract, the practice of CBS Decaux is to limit placement of alcohol-related advertising to at least 500 feet from these sensitive areas. This contract has a 20-year term, beginning January 2002 and ending December 2021.

In consideration of a proposed ban, the Public Safety Committee also requested information on whether City advertising contracts require public service announcements (PSAs). DOT's contract for transit vehicles requires public service announcements for both interior bus space (50% of available space) and exterior bus space (5% of available space). For bus benches with contractor Martin Outdoor Media, 10% of bench-ad displays are available to the City for PSAs. For street furniture with contractor CBS Decaux, one panel of any public amenity kiosk and both panels on automated public toilets are available for PSAs at all times. Display spaces on public amenity kiosks may also contain one of several other options mentioned in the contract which vary based on the type of use (examples of public amenity kiosks include computer terminals, public phones, and recycling bins). CBS Decaux also displays PSAs on other furniture media

panels on a space available basis; at any given time up to 10% of furniture media panels are available for PSAs. For all three of these contracts, the PSA message is controlled by the City through the departments responsible for administering the contracts.

Of these three City contracts, the only contract that does not specifically ban all advertising content relating to alcohol is the contract with CBS Decaux for advertising on street furniture. The recommendation to prohibit the public advertising of alcohol products on City owned and controlled property, with exemptions for City departments which have facilities or uses where the sale or consumption of alcohol is permitted, would therefore apply only to this contract and only upon the execution of a new contract for this purpose. Since there are eight years remaining in the current contract period, the near term impacts to the City and the vendor would be minimal. However, as described further below, there will likely be reduced revenue impacts upon the execution of a subsequent contract for street furniture advertising.

Social Impacts

This Office received data from the LAPD and LAFD regarding underage drinking and alcohol abuse. LAPD conducts the Operation Alcoholic Beverage Control (ABC) program using grant funding provided by the State of California. The major objective of Operation ABC is to enforce alcohol laws and to prevent and discourage sales of alcoholic beverages to minors, intoxicated patrons, illegal solicitation of alcohol, and other related criminal activities in ABC-licensed businesses. Operation ABC also provides training for alcohol retailers to educate licensees and their employees in promoting the responsible sale, service, and distribution of alcoholic beverages.

Operation ABC contains two different methods of enforcement: Minor Decoy Operations and Shoulder Tap Operations. For Minor Decoy Operations, persons under the legal drinking age are used as decoys to purchase alcoholic beverages from ABC-licensed stores. For Shoulder Tap Operations, persons under the legal drinking age solicit adults outside ABC-licensed stores to buy them alcoholic beverages. Both operations are conducted under the direct supervision of law enforcement officers.

LAPD submitted the following data regarding Operation ABC:

Year	Total ABC Arrests	Minor Decoy Operations			Shoulder Tap Operations			
		Locations Operated	Total Violations	Total Operations	ABC Locations Operated	Adults Asked	Total Violations	Total Operations
2012	2355	912	135	96	270	1694	174	70
2011	2026	1191	214	120	287	2009	177	73
2010	1958	1287	218	125	212	1239	139	51
2009	1757	1377	232	117	266	1966	158	67

LAFD submitted data relative to the number of medical responses involving patients under age 21 where alcohol was a factor in the patient assessment. Due to LAFD's recent shift to an electronic records management system, the only available full-year data covers the period of June 2011 through July 2012. The data covering this period is broken down by age of patient:

Age of Patient	12	13	14	15	16	17	18	19	20	Total
Number of Patients	5	18	61	94	93	112	168	204	173	928

In addition to data from LAPD and LAFD, the Committee directed this Office to respond to more in depth questions relative to identifying the association between outdoor alcoholic beverage advertising and youth consumption; defining how this association can be measured; identifying the impact that banning alcoholic beverage advertising will have on underage drinking; and defining how the impact would be measured. In this context, the Committee also asked whether the City has the in-house expertise to conduct this type of research. Additional time and/or expertise would be required for these questions to be addressed more thoroughly. If it is the desire of Council to obtain this information, this Office and the Office of the CAO should be instructed to prepare and release a request for proposals to obtain the necessary subject matter expertise.

Fiscal Impact

Relative to the contract with CBS Decaux for advertising on street furniture, BSS indicated that the fiscal impact to the City would be reduced annual revenue of approximately \$400,000 to \$600,000. This amount is based on information provided to BSS by the vendor which estimated that the lost revenue associated with alcohol advertising would be \$2-3 million (10-15%) annually. Based on the City's share of the vendor's gross revenue (20%), this translates to a reduction of approximately \$400,000 to \$600,000 in annual revenue for the City. Since the effective date of the next contract for street furniture is several years away, it is likely that some portion of this lost revenue could be replaced by selling additional advertising to other buyers.



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