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Chapter 18: Expanding Cultural Education for those Under Twenty-One

William Kramer

Code Section Affected

Business and Professions Code § 23039.1 (amended).
AB 23 (Ma); 2008 STAT. Ch. 18 (*Effective June 2, 2008*).

I. INTRODUCTION

Beach Blanket Babylon, “a hilarious, fast-paced, and ever-changing cabaret extravaganza,”¹ has dazzled and amazed Bay Area audiences for thirty-four years.² Generally, a cabaret is “a form of theatrical entertainment, consisting mainly of political satire in the form of skits, songs, and improvisations.”³ Recently, the show decided to give back to the community by offering scholarships to talented high school seniors who compete in various entertainment categories.⁴ California has recognized the importance that visual and performing arts play in a student’s overall education.⁵ However, current law restricts the attendance of cabaret theaters for persons under the age of twenty-one to Sunday matinees.⁶ Consequently, when Club Fugazi, the home of Beach Blanket Babylon, decided to move the competition from Sunday to Monday, high school students were prohibited from watching their classmates compete on stage and to witness an educating cultural experience.⁷ In response, the Legislature enacted Chapter 18 to ameliorate this problem.⁸

1. Mary Ellen Hunt, *Beach Blanket Babylon Salutes San Francisco Ballet*, BALLETS-DANCE MAG., June 6, 2004, <http://www.ballet-dance.com/200407/articles/babylonsfb-20040606.html> (on file with the *McGeorge Law Review*).

2. David Wiegand, ‘*Babylon*’ Competition Winners Pick Up \$10,000 Scholarships, S.F. CHRON., June 11, 2008, at E3.

3. Dictionary.com, Cabaret, <http://dictionary.reference.com/browse/cabaret> (last visited Dec. 31, 2008) (on file with the *McGeorge Law Review*).

4. See Wiegand, *supra* note 2 (noting that scholarships are awarded to the winners of the acting, dance, and voice competitions).

5. Jack O’Connell & Ruth Green, *Foreword to CAL. DEP’T OF EDUC., VISUAL AND PERFORMING ARTS FRAMEWORK*, at v (2004), available at <http://www.cde.ca.gov/ci/cr/ct/documents/vpaframewrk.pdf> (“[T]he importance of the arts extends into other areas of schooling. A 1999 study from the Arts Education Partnership indicated that students with higher levels of arts involvement were more likely to be high achievers on tests, were less likely to drop out by grade ten, and were more engaged with learning during the school day.”).

6. SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 2 (May 13, 2008).

7. Interview with Bill Barnes, Chief of Staff, Office of Assembly Member Fiona Ma, in Sacramento, Cal. (June 20, 2008) [hereinafter Barnes Interview] (notes on file with the *McGeorge Law Review*).

8. SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 3

II. BACKGROUND

A. *Beach Blanket Babylon*

Club Fugazi, located in San Francisco's North Beach district, hosts the Beach Blanket Babylon, a long-running "zany musical spoof of pop culture."⁹ The show is known for its "giant hats and outrageous costumes."¹⁰ The "paper-thin story line" revolves around Snow White's search for prince charming.¹¹ This plot ties together the show's regularly updated and evolving "hilarious parodies of current events and popular icons."¹²

The Club also runs a scholarship program that awards \$10,000 scholarships to three talented high school seniors and provides other students a chance to attend the Beach Blanket Babylon performance.¹³ The scholarship money is intended to allow students to pursue a career in the performing arts and is awarded to students based on their voice, acting, and dance talents.¹⁴ Recently, because Monday is normally a day off from performances, Club Fugazi sought to change the scholarship performance date from Sunday to Monday.¹⁵ However, the law prohibited high school students under the age of twenty-one from attending the show on any day except Sunday.¹⁶

B. *Existing Law*

The regulation of alcohol has a long history in both the United States and California; the Twenty-First Amendment repealed prohibition in 1933,¹⁷ granting the State Board of Equalization the right to regulate the manufacture,

(May 13, 2008).

9. What is Beach Blanket Babylon?, <http://www.beachblanketbabylon.com/what/index.shtml> (last visited Feb. 4, 2009) (on file with the *McGeorge Law Review*).

[T]he longest running musical revue in theatre history, is a zany musical spoof of pop culture with extravagant costumes and outrageously huge hats. Now in its 34th year of sold-out performances, Beach Blanket Babylon is an internationally acclaimed San Francisco institution. With more than 12,000 performances in San Francisco, the show has performed for standing room only during its London and Las Vegas engagements. Beach Blanket Babylon continually evolves in its hilarious parodies of current events and popular icons as today's headlines unfold.

Id.

10. Glenn Rifkin, *Steve Silver, 51, Creator of Revue That Captivated San Francisco*, N.Y. TIMES, June 14, 1995, at 9.

11. *Id.*

12. What is Beach Blanket Babylon?, *supra* note 9.

13. Wiegand, *supra* note 2; Barnes Interview, *supra* note 7.

14. Wiegand, *supra* note 2.

15. Barnes Interview, *supra* note 7.

16. *Id.*

17. See U.S. CONST. amend. XXI, § 1 (repealing the Eighteenth Amendment's prohibition on the transportation, importation, or possession of intoxicating liquors).

distribution, and sale of alcoholic beverages.¹⁸ However, a 1955 amendment to the State Constitution transferred the duty to regulate the manufacture and sale of alcohol to the newly created Department of Alcoholic Beverage Control (ABC).¹⁹ The ABC administers the Alcoholic Beverage Control Act²⁰ and awards alcoholic beverage licenses to various alcohol-related businesses in the state of California, including “on-sale” theaters.²¹

In 1987, the Legislature passed a law permitting persons under the age of twenty-one to attend cabaret theaters during matinee performances on Sundays, so long as no alcoholic beverages were “sold, served, or consumed” at the theater during the performance.²²

III. CHAPTER 18

With respect to regulation of attendance to cabaret theatres, Chapter 18 deletes the reference to Sunday matinee-only attendance for those under twenty-one years of age.²³ Chapter 18 allows cabaret theaters that seat up to 375 patrons and have had an on-sale beer and wine public-premises license for at least ten years to admit persons under twenty-one years of age at any time, “provided that alcoholic beverages are not sold, served, or consumed on the premises during those performances.”²⁴ Chapter 18 is an urgency statute and therefore must be enforced immediately.²⁵

18. California Department of Alcoholic Beverage Control, Mission Statement, <http://www.abc.ca.gov/mission.html> (last visited Feb. 3, 2009) (on file with the *McGeorge Law Review*).

19. CAL. CONST. art. XX, § 22 (amended 1954).

20. CAL. BUS. & PROF. CODE §§ 23000 *et seq.* (West 1997 & Supp. 2009). The purpose of the Alcoholic Beverage Control Act is to protect the “safety, welfare, health, peace, and morals of the people of the State, to eliminate the evils of unlicensed and unlawful manufacture, selling, and disposing of alcoholic beverages, and to promote temperance in the use and consumption of alcoholic beverages.” *Id.* § 23001 (West 1997). The Act grants ABC the power to regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages in California. *Id.* §§ 23050-51 (West 1997 & Supp. 2009).

21. SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 1 (May 13, 2008); *see also* CAL. BUS. & PROF. CODE § 23320 (listing categories of licenses and fees); California Alcohol Beverage Control, Frequently Asked Questions, http://www.abc.ca.gov/questions/licenses_faq.html#Q.%205 (last visited Oct. 12, 2008) (on file with the *McGeorge Law Review*) (explaining that “on-sale” establishments sell alcohol which is to be consumed on the premises).

22. SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 3 (May 13, 2008).

23. CAL. BUS. & PROF. CODE § 23039.1 (amended by Chapter 18).

24. *Id.*

25. *See* Letter from Fiona Ma, Assembly Member, Cal. State Assembly, to Don Perata, Senator, Cal. State Senate (May 7, 2008) [hereinafter Perata Letter] (on file with the *McGeorge Law Review*) (requesting that the Senate Rules Committee add an urgency clause to AB 23 so that the law would be enacted “in time for the local community to benefit”).

IV. ANALYSIS

To keep persons under twenty-one shielded from the consumption of alcohol, prior law limited underage persons from attending cabarets to only Sunday matinee performances when no alcohol is being served.²⁶ Chapter 18 preserves the intention of prior law by allowing those who are underage to attend cabarets only when alcohol is not being served, but Chapter 18 also gives cabaret theaters more flexibility in deciding the appropriate time to admit underage customers.²⁷ By simply deleting the reference to Sunday matinee performances, Chapter 18 continues to protect California's youth from alcohol consumption, while granting cabaret theaters more flexibility and allowing high school students more access to the performing arts.²⁸ Additionally, while students benefit by experiencing new activities, cabaret theaters also enjoy a wider range of attendees.²⁹ Thus, the Legislature overwhelmingly passed Chapter 18 without opposition.³⁰

Chapter 18 provides any cabaret theater in the state an opportunity to follow Club Fugazi's example and open up performances to high school students and others under the age of twenty-one.³¹ Theaters in other metropolitan areas of California, such as Los Angeles or San Diego, can offer scholarship programs to talented high school students without worrying about restrictive attendance laws.³² Furthermore, the statute's urgency clause enables the legislation to take effect immediately and permits students from the 2007-08 and 2008-09 school years the opportunity to enjoy cabaret performances.³³

V. CONCLUSION

Young students deserve the opportunity to witness educational and culturally-enriching events such as Beach Blanket Babylon and other cabaret performances.³⁴ Moreover, high school students who want to support their fellow

26. See SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 3 (May 13, 2008).

27. CAL. BUS. & PROF. CODE § 23039.1 (amended by Chapter 18).

28. *Id.*; see also O'Connell & Green, *supra* note 5, at v (recognizing how "the importance of the arts extends into other areas of schooling").

29. See SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 2 (May 13, 2008) ("[T]his measure is intended to expand opportunities for students to attend theater performances which are a part of an educational program designed to broaden their educational and extracurricular activities.").

30. See Complete Bill History of AB 23, http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0001-0050/ab_23_bill_2008_0602_history.html (last visited Feb. 4, 2009) (on file with the *McGeorge Law Review*) (providing a detailed history of the actions taken on AB 23).

31. SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 2 (May 13, 2008).

32. See generally *id.*; see also Barnes Interview, *supra* note 7 ("In order to allow students to see the Monday show the law needed to change so that those under twenty-one could attend.").

33. See AB 23, 2008 Leg., 2007-2008 Reg. Sess. § 2 (Cal. 2008); Perata Letter, *supra* note 25.

34. SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF AB 23, at 2

classmates should have the opportunity to do so regardless of the day of the week.³⁵ Chapter 18 allows those under age twenty-one to attend Beach Blanket Babylon and other cabaret performances anytime alcohol is not being served, thus giving high school students the opportunity to support their classmates and experience an important and world-renowned cultural event, while still ensuring that minors are not exposed to alcohol consumption.³⁶

(May 13, 2008).

35. *Id.*

36. CAL. BUS. & PROF. CODE § 23039.1 (amended by Chapter 18).