

AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1126

**Introduced by Committee on Revenue and Taxation (Corbett
(Chair), Harman (Vice Chair), Alquist, Aroner, Cedillo, Koretz,
Matthews, and Wyland)**

February 23, 2001

An act to add Section 115.1 to the Evidence Code, to amend Section 25205.5 of the Health and Safety Code, to amend Sections 7096, 7651, ~~7652, 7652.5, 7652.7, 7670, 7671, 7675, 8127.5, 8752, 8776, 8781, 9151.5, 7652, 7652.5, 7652.7, 8752, 9274, 30181, 30182, 30183, 30186, 30187, 30188, 30459.4, 32251, 32402, 32474, 40061, 40063, 40214, 41052, 41174, 43151, 43152.6, 43152.7, 43152.9, 43152.13, 43152.14, ~~43201, 43451.5,~~ 43525, 45151, 45652, 45870, 46151, ~~46201, 46202, 46501.5,~~ 46502, 46625, 50109, ~~50113, 50139.5,~~ 50140, 50156.14, 55222, 55335, 60201, 60202, 60203, 60204, 60205, 60205.5, 60206, ~~60310, 60521.5,~~ and 60633.1 of, and to add Sections 7659.93, 8763, 30193, 32263, 40069, 41063, 43173, 45163, 46163, 50112.10, 55040, 55053, and 60253 to, the Revenue and Taxation Code, relating to state levies.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1126, as amended, Committee on Revenue and Taxation. Administration: taxes and fees.

(1) Existing law requires every generator of hazardous waste to pay an annual generator fee to the State Board of Equalization. Existing law provides for a refund of the generator fee paid under certain conditions



and requires an application for a refund to be submitted to the board by March 31 of the fiscal year during which the generator paid the fee.

This bill would instead require that application to be submitted by the September 30 following the fiscal year during which the generator paid the fee.

(2) Existing law provides that a taxpayer may file a claim with the State Board of Equalization for reimbursement of bank charges incurred as the direct result of an erroneous levy or notice to withhold by the board.

This bill would additionally allow reimbursement under those circumstances for any other reasonable 3rd-party check charge fees.

(3) Existing law requires the State Board of Equalization to administer various taxes and fees, including a tax with respect to *vehicle fuel licenses*, cigarettes, alcoholic beverages, and diesel fuel.

This bill would make changes in those administrative provisions with respect to returns or reports filed by electronic media or otherwise, authentication of returns or reports, ~~rates of interest~~, and related items.

This bill would also require that the existence of fraud or intent to evade be proven by clear and convincing evidence for purposes of imposing a penalty under the Revenue and Taxation Code for that fraud or intent to evade.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 115.1 is added to the Evidence Code, to
2 read:

3 115.1. The existence of fraud or intent to evade shall be
4 proven by clear and convincing evidence for purposes of imposing
5 a penalty under the Revenue and Taxation Code for that fraud or
6 intent to evade.

7 SEC. 2. Section 25205.5 of the Health and Safety Code is
8 amended to read:

9 25205.5. (a) In addition to the fee imposed pursuant to
10 Section 25174.1, every generator of hazardous waste, in the
11 amounts specified in subdivision (c), shall pay the board a
12 generator fee for each generator site for each calendar year, or
13 portion thereof, unless the generator has paid a facility fee or



1 received a credit, as specified in Section 25205.2, for each specific
2 site, for the calendar year for which the generator fee is due.

3 (b) The base fee rate for the fee imposed pursuant to
4 subdivision (a) is two thousand seven hundred forty-eight dollars
5 (\$2,748).

6 (c) (1) Each generator who generates an amount equal to, or
7 more than, five tons, but less than 25 tons, of hazardous waste
8 during the prior calendar year shall pay 5 percent of the base rate.

9 (2) Each generator who generates an amount equal to, or more
10 than, 25 tons, but less than 50 tons, of hazardous waste during the
11 prior calendar year shall pay 40 percent of the base rate.

12 (3) Each generator who generates an amount equal to, or more
13 than, 50 tons, but less than 250 tons, of hazardous waste during the
14 prior calendar year shall pay the base rate.

15 (4) Each generator who generates an amount equal to, or more
16 than, 250 tons, but less than 500 tons, of hazardous waste during
17 the prior calendar year shall pay five times the base rate.

18 (5) Each generator who generates an amount equal to, or more
19 than, 500 tons, but less than 1,000 tons, of hazardous waste during
20 the prior calendar year shall pay 10 times the base rate.

21 (6) Each generator who generates an amount equal to, or more
22 than, 1,000 tons, but less than 2,000 tons, of hazardous waste
23 during the prior calendar year shall pay 15 times the base rate.

24 (7) Each generator who generates an amount equal to, or more
25 than, 2,000 tons of hazardous waste during the prior calendar year
26 shall pay 20 times the base rate.

27 (d) The base rate established pursuant to subdivision (b) was
28 the base rate for the 1997 calendar year and the board shall adjust
29 the base rate annually to reflect increases or decreases in the cost
30 of living, during the prior fiscal year, as measured by the
31 Consumer Price Index issued by the Department of Industrial
32 Relations or by a successor agency.

33 (e) The establishment of the annual operating fee pursuant to
34 this section is exempt from Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

36 (f) The following materials are not hazardous wastes for
37 purposes of this section:

38 (1) Hazardous materials which are recycled, and used onsite,
39 and are not transferred offsite.



1 (2) Aqueous waste treated in a treatment unit operating, or
2 which subsequently operates, pursuant to a permit-by-rule, or
3 pursuant to Section 25200.3 or 25201.5. However, hazardous
4 waste generated by a treatment unit treating waste pursuant to a
5 permit-by-rule, by a unit which subsequently obtains a
6 permit-by-rule, or other authorization pursuant to Section 25200.3
7 or 25201.5 is hazardous waste for purposes of this section.

8 (g) The fee imposed pursuant to this section shall be paid in
9 accordance with Part 22 (commencing with Section 43001) of
10 Division 2 of the Revenue and Taxation Code.

11 (h) (1) A generator who pays a hazardous waste generator
12 inspection fee to a certified unified program agency, which is
13 imposed as part of a single fee system and fee accountability
14 program that are both in compliance with the requirements of
15 Section 25404.5, shall be eligible for a refund of all, or part of, the
16 generator fee paid pursuant to subdivision (a) if both of the
17 following conditions apply:

18 (A) The generator received a credit pursuant to Section
19 43152.7 or 43152.11 of the Revenue and Taxation Code for fees
20 paid for hazardous waste generated in 1996.

21 (B) The department certifies, pursuant to subdivision (b) of
22 Section 25205.9, that funds are available to pay all or part of the
23 refund.

24 (2) A generator who is eligible for a refund pursuant to
25 paragraph (1) shall submit an application for that refund to the
26 board by September 30 following the fiscal year during which the
27 generator paid the generator fee pursuant to subdivision (a). An
28 application for a refund postmarked after September 30 is void,
29 shall not be processed by the board, and shall be returned to the
30 applicant.

31 (i) (1) A generator who transfers hazardous materials to an
32 offsite facility for recycling at that offsite facility or another offsite
33 facility shall be eligible for a refund of all, or part of, the generator
34 fee paid pursuant to subdivision (a) if all of the following
35 conditions apply:

36 (A) The offsite facility to which the hazardous materials are
37 manifested pays a facility fee pursuant to Section 25205.2.

38 (B) The amount of hazardous materials transferred to the
39 offsite facility and recycled there, when deducted from the total
40 tonnage of hazardous waste generated at the generator's site,



1 results in the generator becoming eligible for a generator fee that
2 is lower than the fee paid pursuant to subdivision (a).

3 (C) The hazardous materials transferred to the offsite facility
4 are not burned in a boiler, industrial furnace, or an incinerator, as
5 those terms are defined in Section 260.10 of Title 40 of the Code
6 of Federal Regulations, used in a manner constituting disposal, or
7 used to produce products that are applied to land.

8 (D) The department certifies, pursuant to subdivision (b) of
9 Section 25205.9, that funds are available to pay all or part of the
10 refund.

11 (2) A generator who is eligible for a refund pursuant to
12 paragraph (1) shall submit an application for that refund to the
13 board by September 30 following the fiscal year during which the
14 generator paid the generator fee pursuant to subdivision (a). An
15 application for a refund postmarked after September 30 is void,
16 shall not be processed by the board, and shall be returned to the
17 applicant.

18 (j) (1) The amendment of this section made by Chapter 1125
19 of the Statutes of 1991 does not constitute a change in, but is
20 declaratory of, existing law.

21 (2) The amendment of subdivision (a) of this section made by
22 Chapter 259 of the Statutes of 1996 does not constitute a change
23 in, but is declaratory of, existing law.

24 SEC. 3. Section 7096 of the Revenue and Taxation Code is
25 amended to read:

26 7096. (a) A taxpayer may file a claim with the board for
27 reimbursement of bank charges and any other reasonable
28 third-party check charge fees incurred by the taxpayer as the direct
29 result of an erroneous levy or notice to withhold by the board. Bank
30 and third-party charges include a financial institution's or third
31 party's customary charge for complying with the levy or notice to
32 withhold instructions and reasonable charges for overdrafts that
33 are a direct consequence of the erroneous levy or notice to
34 withhold. The charges are those paid by the taxpayer and not
35 waived or reimbursed by the financial institution or third party.
36 Each claimant applying for reimbursement shall file a claim with
37 the board which shall be in such form as may be prescribed by the
38 board. In order for the board to grant a claim, the board shall
39 determine that both of the following conditions have been
40 satisfied:



1 (1) The erroneous levy or notice to withhold was caused by
2 board error.

3 (2) Prior to the levy or notice to withhold, the taxpayer
4 responded to all contacts by the board and provided the board with
5 any requested information or documentation sufficient to establish
6 the taxpayer’s position. This provision may be waived by the board
7 for reasonable cause.

8 (b) Claims pursuant to this section shall be filed within 90 days
9 from the date of the levy or notice to withhold. Within 30 days
10 from the date the claim is received, the board shall respond to the
11 claim. If the board denies the claim, the taxpayer shall be notified
12 in writing of the reason or reasons for the denial of the claim.

13 SEC. 4. Section 7651 of the Revenue and Taxation Code is
14 amended to read:

15 7651. Each supplier shall prepare and file with the board a
16 return in the form as prescribed by the board, which may include,
17 but not be limited to, electronic media showing the total number
18 of gallons of motor vehicle fuel removed, sold, or entered within
19 this state during each calendar month, or that monthly period
20 ended during that calendar month as the board may authorize, the
21 amount of tax due for the month covered by the return, and other
22 information as the board deems necessary for the proper
23 administration of this part. The person shall file the return on or
24 before the last day of the month following the monthly period to
25 which it relates, together with a remittance payable to the
26 Controller for the amount of tax due for that period less whatever
27 amounts may have been paid theretofore for the same period
28 because of returns, prepayment forms, and payments made on a
29 weekly basis. To facilitate the administration of this part, the board
30 may require the filing of the returns for other than monthly
31 periods. Returns shall be authenticated in a form or pursuant to
32 methods as may be prescribed by the board.

33 SEC. 5. Section 7652 of the Revenue and Taxation Code is
34 amended to read:

35 7652. (a) Each throughputter shall prepare and make a report
36 showing the following:

37 (1) The name and license number of the operator of each
38 terminal at which it holds an inventory position in motor vehicle
39 fuel.

40 (2) Any other information required by the board.



1 (b) Each throughputter shall prepare and file with the board a
2 report in the form as prescribed by the board, which may include,
3 but not be limited to, electronic media showing the information in
4 subdivision (a) during each calendar month, or the monthly period
5 ended during that calendar month as the board may authorize. The
6 person shall file the report on or before the last day of the month
7 following the monthly period to which it relates. To facilitate the
8 administration of this part, the board may require the filing of the
9 reports for other than monthly periods. Reports shall be
10 authenticated in a form or pursuant to methods as may be
11 prescribed by the board.

12 SEC. 6. Section 7652.5 of the Revenue and Taxation Code is
13 amended to read:

14 7652.5. (a) Each terminal operator shall prepare and file with
15 the board a report in the form as prescribed by the board, which
16 may include, but not be limited to, electronic media showing, for
17 the calendar month, or that monthly period ended during the
18 calendar month as the board may authorize, the following:

19 (1) The name and license number of each person that is a
20 position holder at each terminal it operates.

21 (2) The amount of motor vehicle fuel received at each terminal
22 it operates.

23 (3) The identity of each position holder with respect to the rack
24 removals of motor vehicle fuel from each terminal it operates and
25 the volume and dates of the removals.

26 (4) The amount of motor vehicle fuel stored at each terminal it
27 operates.

28 (5) The destination (by state) of all motor vehicle fuel removed
29 at a terminal rack of each terminal it operates, to the extent that
30 information has been provided to the terminal operator.

31 (6) Any other information required by the board for the proper
32 administration of this part. The terminal operator shall file the
33 report on or before the last day of the month following the monthly
34 period to which it relates. To facilitate the administration of this
35 part, the board may require the filing of the reports for other than
36 monthly periods. Reports shall be authenticated in a form or
37 pursuant to methods as may be prescribed by the board.

38 (b) Upon written approval of the board, a terminal operator
39 may satisfy the requirements of subdivision (a) above by executing
40 and providing to the board a consent and authorization for the



1 Internal Revenue Service to provide to the board under Section
2 6103 of the Internal Revenue Code, the return filed by the terminal
3 operator under Section 48.4101-2 of Title 26 of the Code of
4 Federal Regulations. The board may, in its sole discretion, rescind
5 its approval and require a terminal operator to file reports as
6 specified in subdivision (a).

7 SEC. 7. Section 7652.7 of the Revenue and Taxation Code is
8 amended to read:

9 7652.7. (a) Each pipeline operator and vessel operator shall
10 prepare and file with the board a report in the form as prescribed
11 by the board, which may include, but not be limited to, electronic
12 media showing, for the calendar month, or that monthly period
13 ended during the calendar month as the board may authorize, all
14 of the following:

15 (1) The amount of motor vehicle fuel delivered to each terminal
16 or refinery.

17 (2) The location of the terminal or refinery where the motor
18 vehicle fuel was delivered.

19 (3) The date of delivery.

20 (4) Any other information required by the board for the proper
21 administration of this part.

22 The pipeline operator and vessel operator shall file the report on
23 or before the last day of the month following the monthly period
24 to which it relates. To facilitate the administration of this part, the
25 board may require the filing of the reports for other than monthly
26 periods. Reports shall be authenticated in a form or pursuant to
27 methods as may be prescribed by the board.

28 (b) Upon written approval of the board, a pipeline operator and
29 vessel operator may satisfy the requirements of subdivision (a) by
30 executing and providing to the board a consent and authorization
31 for the Internal Revenue Service to provide to the board under
32 Section 6103 of the Internal Revenue Code, the return filed by the
33 pipeline operator and vessel operator under Section 48.4101-2 of
34 Title 26 of the Code of Federal Regulations. The board may, in its
35 sole discretion, rescind its approval and require a pipeline operator
36 and vessel operator to file reports as specified in subdivision (a).

37 SEC. 8. Section 7659.93 is added to the Revenue and Taxation
38 Code, to read:

39 7659.93. (a) Any return, report, declaration, statement, or
40 other document required to be made under this part that is filed



1 using electronic media shall be filed and authenticated pursuant to
2 any method or form the board may prescribe.

3 (b) Notwithstanding any other law, any return, report,
4 declaration, statement, or other document otherwise required to be
5 signed that is filed by the taxpayer using electronic media in a form
6 as required by the board shall be deemed to be a signed, valid
7 original document, including upon reproduction to paper form by
8 the board.

9 (c) Electronic media includes, but is not limited to, computer
10 modem, magnetic media, optical disk, facsimile machine, or
11 telephone.

12 ~~SEC. 9.—Section 7670 of the Revenue and Taxation Code is~~
13 ~~amended to read:~~

14 ~~7670.—If the board is not satisfied with the return or returns of~~
15 ~~the tax or the amount of the tax, or other amount, required to be~~
16 ~~paid to the state by any person, it may compute and determine the~~
17 ~~amount required to be paid upon the basis of the facts contained~~
18 ~~in the return or returns or upon the basis of any information within~~
19 ~~its possession or that may come into its possession. The board may~~
20 ~~make a determination for more than one period and may make one~~
21 ~~or more determinations for the same period. When a business is~~
22 ~~discontinued a determination may be made at any time thereafter,~~
23 ~~within the period specified in Section 7675, as to liability arising~~
24 ~~out of that business, irrespective of whether the determination is~~
25 ~~issued prior to the due date of the liability as otherwise specified~~
26 ~~in this part.~~

27 ~~SEC. 10.—Section 7671 of the Revenue and Taxation Code is~~
28 ~~amended to read:~~

29 ~~7671.—The board shall give the person written notice of its~~
30 ~~determination. The notice shall be placed in a sealed envelope,~~
31 ~~with postage paid, addressed to the person at his or her address as~~
32 ~~it appears in the records of the board. The giving of notice shall be~~
33 ~~deemed complete at the time of the deposit of the notice in the~~
34 ~~United States Post Office, or a mailbox, sub-post office,~~
35 ~~substation, mail chute, or other facility maintained or provided by~~
36 ~~the United States Postal Service, without extension of time for any~~
37 ~~reason. In lieu of mailing, a notice may be served personally by~~
38 ~~delivering to the person to be served and service shall be deemed~~
39 ~~complete at the time of such delivery. Personal service to a~~
40 ~~corporation may be made by delivery of a notice to any person~~



1 ~~designated in the Code of Civil Procedure to be served for the~~
2 ~~corporation with summons and complaint in a civil action.~~

3 ~~SEC. 11.—Section 7675 of the Revenue and Taxation Code is~~
4 ~~amended to read:~~

5 ~~7675.—Except in the case of fraud, intent to evade this part or~~
6 ~~authorized rules and regulations, or failure to make a return, every~~
7 ~~notice of a deficiency determination shall be given to the person~~
8 ~~within three years after the 25th day of the calendar month~~
9 ~~following the monthly period for which the amount is proposed to~~
10 ~~be determined or within three years after the return is filed;~~
11 ~~whichever period expires the later. In the case of a failure to make~~
12 ~~a return the notice of determination shall be mailed within eight~~
13 ~~years after the date the return was due.~~

14 ~~SEC. 11.5.—Section 7675 of the Revenue and Taxation Code~~
15 ~~is amended to read:~~

16 ~~7675.—Except in the case of fraud, intent to evade this part or~~
17 ~~authorized rules and regulations, or failure to make a return, every~~
18 ~~notice of a deficiency determination shall be given to the person~~
19 ~~within three years after the last day of the month following the~~
20 ~~monthly period for which the amount is proposed to be determined~~
21 ~~or within three years after the return is filed, whichever period~~
22 ~~expires the later. In the case of a failure to make a return the notice~~
23 ~~of determination shall be mailed within eight years after the date~~
24 ~~the return was due.~~

25 ~~SEC. 12.—Section 8127.5 of the Revenue and Taxation Code~~
26 ~~is amended to read:~~

27 ~~8127.5.—When an amount represented by a person to a~~
28 ~~customer as constituting reimbursement for taxes due under this~~
29 ~~part is computed upon an amount that is not taxable or is in excess~~
30 ~~of the taxable amount and is actually paid by the customer to the~~
31 ~~person, the amount so paid shall be returned by the person to the~~
32 ~~customer upon notification by the board or by the customer that the~~
33 ~~excess has been ascertained. If the person fails or refuses to do so,~~
34 ~~the amount so paid, if knowingly or mistakenly computed by the~~
35 ~~person upon an amount that is not taxable or is in excess of the~~
36 ~~taxable amount, shall be remitted by that person to this state. The~~
37 ~~amount remitted to the state shall include interest at the modified~~
38 ~~adjusted rate per month, or fraction thereof, established pursuant~~
39 ~~to Section 6591.5, from the last day of the month following the~~
40 ~~date the excess tax reimbursement was paid by the customer until~~



1 ~~the date of remittance to the state. Those amounts remitted to the~~
2 ~~state shall be credited by the Controller on any amounts due and~~
3 ~~payable under this part on the same transaction from the person by~~
4 ~~whom it was paid to this state and the balance, if any, shall~~
5 ~~constitute an obligation due from the person to this state.~~

6 SEC. 13. Section 8752 of the Revenue and Taxation Code is
7 amended to read:

8 8752. (a) Except as provided in subdivision (b), on or before
9 the last day of the calendar month following each quarterly period,
10 every user shall, except as otherwise provided in Section 8608, file
11 with the board a return in the form as prescribed by the board,
12 which may include, but not be limited to, electronic media
13 showing the amount of any tax due and any other information as
14 the board may require to carry out the purposes of this part. Returns
15 shall be authenticated in a form or pursuant to methods as may be
16 prescribed by the board.

17 (b) This section shall not be applicable to any user whose sole
18 use of fuel subject to the tax imposed by this part is for the
19 propulsion of a privately operated passenger automobile, provided
20 that the fuel used in this state, except fuel brought into this state in
21 the fuel tank of the vehicle, is purchased from and delivered into
22 the fuel tank of the vehicle by a vendor holding a permit issued
23 under this part.

24 SEC. 14. Section 8763 is added to the Revenue and Taxation
25 Code, to read:

26 8763. (a) Any return, declaration, statement, or other
27 document required to be made under this part that is filed using
28 electronic media shall be filed and authenticated pursuant to any
29 method or form the board may prescribe.

30 (b) Notwithstanding any other law, any return, declaration,
31 statement, or other document otherwise required to be signed that
32 is filed by the taxpayer using electronic media in a form as required
33 by the board shall be deemed to be a signed, valid original
34 document, including upon reproduction to paper form by the
35 board.

36 (c) Electronic media includes, but is not limited to, computer
37 modem, magnetic media, optical disk, facsimile machine, or
38 telephone.

39 ~~SEC. 15. Section 8776 of the Revenue and Taxation Code is~~
40 ~~amended to read:~~



1 ~~8776.— If the board is not satisfied with the return or returns of~~
2 ~~the tax or the amount of the tax, or other amount, required to be~~
3 ~~paid to the state by any person, it may compute and determine the~~
4 ~~amount required to be paid upon the basis of any information~~
5 ~~within its possession or that may come into its possession. One or~~
6 ~~more deficiency determinations may be made of the amount of tax~~
7 ~~due for one or for more than one month. When a business is~~
8 ~~discontinued a determination may be made at any time thereafter,~~
9 ~~within the periods specified in Section 8782, as to liability arising~~
10 ~~out of that business, irrespective of whether the determination is~~
11 ~~issued prior to the due date of the liability as otherwise specified~~
12 ~~in this part.~~

13 ~~SEC. 16.— Section 8781 of the Revenue and Taxation Code is~~
14 ~~amended to read:~~

15 ~~8781.— The board shall give the person written notice of its~~
16 ~~determination. The notice shall be placed in a sealed envelope,~~
17 ~~with postage paid, addressed to the person at his or her address as~~
18 ~~it appears in the records of the board. The giving of notice shall be~~
19 ~~deemed complete at the time of the deposit of the notice in the~~
20 ~~United States Post Office, or a mailbox, sub-post office,~~
21 ~~substation, mail chute, or other facility maintained or provided by~~
22 ~~the United States Postal Service, without extension of time for any~~
23 ~~reason. In lieu of mailing, a notice may be served personally by~~
24 ~~delivering to the person to be served and service shall be deemed~~
25 ~~complete at the time of such delivery. Personal service to a~~
26 ~~corporation may be made by delivery of a notice to any person~~
27 ~~designated in the Code of Civil Procedure to be served for the~~
28 ~~corporation with summons and complaint in a civil action.~~

29 ~~SEC. 17.— Section 9151.5 of the Revenue and Taxation Code~~
30 ~~is amended to read:~~

31 ~~9151.5.— When an amount represented by a person to a~~
32 ~~customer as constituting reimbursement for taxes due under this~~
33 ~~part is computed upon an amount that is not taxable or is in excess~~
34 ~~of the taxable amount and is actually paid by the customer to the~~
35 ~~person, the amount so paid shall be returned by the person to the~~
36 ~~customer upon notification by the board or by the customer that the~~
37 ~~excess has been ascertained. If the person fails or refuses to do so,~~
38 ~~the amount so paid, if knowingly or mistakenly computed by the~~
39 ~~person upon an amount that is not taxable or is in excess of the~~
40 ~~taxable amount, shall be remitted by that person to this state. The~~



1 ~~amount remitted to the state shall include interest at the modified~~
2 ~~adjusted rate per month, or fraction thereof, established pursuant~~
3 ~~to Section 6591.5, from the last day of the month following the~~
4 ~~date the excess tax reimbursement was paid by the customer until~~
5 ~~the date of remittance to the state. Those amounts remitted to the~~
6 ~~state shall be credited by the board on any amounts due and~~
7 ~~payable under this part on the same transaction from the person by~~
8 ~~whom it was paid to this state and the balance, if any, shall~~
9 ~~constitute an obligation due from the person to this state.~~

10 SEC. 18. Section 9274 of the Revenue and Taxation Code is
11 amended to read:

12 9274. (a) A taxpayer may file a claim with the board for
13 reimbursement of bank charges and any other reasonable
14 third-party check charge fees incurred by the taxpayer as the direct
15 result of an erroneous levy or notice to withhold by the board. Bank
16 and third-party charges include a financial institution's or third
17 party's customary charge for complying with the levy or notice to
18 withhold instructions and reasonable charges for overdrafts that
19 are a direct consequence of the erroneous levy or notice to
20 withhold. The charges are those paid by the taxpayer and not
21 waived for reimbursement by the financial institution or third
22 party. Each claimant applying for reimbursement shall file a claim
23 with the board that shall be in a form as may be prescribed by the
24 board. In order for the board to grant a claim, the board shall
25 determine that both of the following conditions have been
26 satisfied:

27 (1) The erroneous levy or notice to withhold was caused by
28 board error.

29 (2) Prior to the levy or notice to withhold, the taxpayer
30 responded to all contacts by the board and provided the board with
31 any requested information or documentation sufficient to establish
32 the taxpayer's position. This provision may be waived by the board
33 for reasonable cause.

34 (b) Claims pursuant to this section shall be filed within 90 days
35 from the date of the levy or notice to withhold. Within 30 days
36 from the date the claim is received, the board shall respond to the
37 claim. If the board denies the claim, the taxpayer shall be notified
38 in writing of the reason or reasons for the denial of the claim.

39 SEC. 19. Section 30181 of the Revenue and Taxation Code is
40 amended to read:



1 30181. (a) When any tax imposed upon cigarettes under
2 Article 1 (commencing with Section 30101) or Article 2
3 (commencing with Section 30121) of Chapter 2 is not paid through
4 the use of stamps or meter impressions, the tax shall be due and
5 payable monthly on or before the 25th day of the month following
6 the calendar month in which a distribution of cigarettes occurs, or
7 in the case of a sale of cigarettes on the facilities of a common
8 carrier for which the tax is imposed pursuant to Section 30104, the
9 tax shall be due and payable monthly on or before the 25th day of
10 the month following the calendar month in which a sale of
11 cigarettes on the facilities of the carrier occurs.

12 (b) Each distributor of tobacco products shall file a return in the
13 form as prescribed by the board, which may include, but not be
14 limited to, electronic media for each calendar month. The return
15 shall be filed with the board on or before the 25th day of the
16 calendar month following the close of the monthly period for
17 which it relates, together with a remittance payable to the board,
18 of the amount of tax, if any, due under Article 2 (commencing with
19 Section 30121) of Chapter 2 for that period. To facilitate the
20 administration of this part, the board may require the filing of the
21 returns for longer than monthly periods. Returns shall be
22 authenticated in a form or pursuant to methods as may be
23 prescribed by the board.

24 SEC. 20. Section 30182 of the Revenue and Taxation Code is
25 amended to read:

26 30182. (a) On or before the 25th day of each month, every
27 distributor shall file a report in the form as prescribed by the board,
28 which may include, but not be limited to, electronic media
29 respecting his or her distributions of cigarettes and purchases of
30 stamps and meter register units during the preceding month and
31 other information the board may require to carry out this part.
32 Reports shall be authenticated in a form or pursuant to methods as
33 may be prescribed by the board.

34 (b) On or before the 25th day of each month, each distributor
35 shall file a return in the form as prescribed by the board, which may
36 include, but not be limited to, electronic media respecting his or
37 her distributions of tobacco products and their wholesale cost
38 during the preceding month, and such other information as the
39 board may require to carry out this part. Returns shall be



1 authenticated in a form or pursuant to methods as may be
2 prescribed by the board.

3 SEC. 21. Section 30183 of the Revenue and Taxation Code is
4 amended to read:

5 30183. (a) On or before the 25th day of each month every
6 distributor required under Section 30108 to collect any tax during
7 the preceding month shall file a report with the board in the form
8 as prescribed by the board, which may include, but not be limited
9 to, electronic media showing the number of cigarettes with respect
10 to which he or she was required to collect the tax and other
11 information the board may require to carry out the purposes of this
12 part. Reports shall be authenticated in a form or pursuant to
13 methods as may be prescribed by the board.

14 (b) On or before the 25th day of each month, each distributor
15 required to collect any tax during the preceding month pursuant to
16 Section 30108 shall file a return in the form as prescribed by the
17 board, which may include, but not be limited to, electronic media,
18 which shows the wholesale cost of tobacco products with respect
19 to which he or she was required to collect the tax and other
20 information the board may require to carry out this part. Returns
21 shall be authenticated in a form or pursuant to methods as may be
22 prescribed by the board.

23 SEC. 22. Section 30186 of the Revenue and Taxation Code is
24 amended to read:

25 30186. On or before the 25th day of each month the common
26 carriers and authorized persons specified in Section 30104 shall
27 file with the board a report of the sales of cigarettes or tobacco
28 products made by them on the facilities of the carriers in California
29 in the preceding calendar month in such detail as the board may
30 prescribe and in the form as prescribed by the board, which may
31 include, but not be limited to, electronic media, submitting with
32 the report the amount of the tax due under Section 30104. Reports
33 shall be authenticated in a form or pursuant to methods as may be
34 prescribed by the board.

35 SEC. 23. Section 30187 of the Revenue and Taxation Code is
36 amended to read:

37 30187. Every consumer or user subject to the tax resulting
38 from a distribution of cigarettes or tobacco products within the
39 meaning of subdivision (b) of Section 30008 from whom the tax
40 has not been collected under Section 30108 shall on or before the



1 25th day of the month following receipt of cigarettes or tobacco
2 products file with the board a report of the amount of cigarettes
3 received by him or her in the preceding calendar month in such
4 detail as the board may prescribe and in the form as prescribed by
5 the board, which may include, but not to be limited to, electronic
6 media, submitting with the report the amount of tax due. Reports
7 shall be authenticated in a form or pursuant to methods as may be
8 prescribed by the board.

9 SEC. 24. Section 30188 of the Revenue and Taxation Code is
10 amended to read:

11 30188. On or before the 25th day of each month, every
12 wholesaler shall file a report in the form as prescribed by the board,
13 which ~~shall~~ *may* include, but not be limited to, electronic media
14 respecting his or her inventory, purchases, and sales of cigarettes
15 or tobacco products during the preceding month and other
16 information the board may require to carry out the purposes of this
17 part. Returns shall be authenticated in a form or pursuant to
18 methods as may be prescribed by the board.

19 SEC. 25. Section 30193 is added to the Revenue and Taxation
20 Code, to read:

21 30193. (a) Any return, report, declaration, statement, or
22 other document required to be made under this part that is filed
23 using electronic media shall be filed and authenticated pursuant to
24 any method or form the board may prescribe.

25 (b) Notwithstanding any other law, any return, declaration,
26 statement, or other document otherwise required to be signed that
27 is filed by the taxpayer using electronic media in a form as required
28 by the board shall be deemed to be a signed, valid original
29 document, including upon reproduction to paper form by the
30 board.

31 (c) Electronic media includes, but is not limited to, computer
32 modem, magnetic media, optical disk, facsimile machine, or
33 telephone.

34 SEC. 26. Section 30459.4 of the Revenue and Taxation Code
35 is amended to read:

36 30459.4. (a) A taxpayer may file a claim with the board for
37 reimbursement of bank charges and any other reasonable
38 third-party check charge fees incurred by the taxpayer as the direct
39 result of an erroneous levy or notice to withhold by the board. Bank
40 and third-party charges include a financial institution's or third



1 party's customary charge for complying with the levy or notice to
2 withhold instructions and reasonable charges for overdrafts that
3 are a direct consequence of the erroneous levy or notice to
4 withhold. The charges are those paid by the taxpayer and not
5 waived for reimbursement by the financial institution or third
6 party. Each claimant applying for reimbursement shall file a claim
7 with the board that shall be in a form as may be prescribed by the
8 board. In order for the board to grant a claim, the board shall
9 determine that both of the following conditions have been
10 satisfied:

11 (1) The erroneous levy or notice to withhold was caused by
12 board error.

13 (2) Prior to the levy or notice to withhold, the taxpayer
14 responded to all contacts by the board and provided the board with
15 any requested information or documentation sufficient to establish
16 the taxpayer's position. This provision may be waived by the board
17 for reasonable cause.

18 (b) Claims pursuant to this section shall be filed within 90 days
19 from the date of the levy or notice to withhold. Within 30 days
20 from the date the claim is received, the board shall respond to the
21 claim. If the board denies the claim, the taxpayer shall be notified
22 in writing of the reason or reasons for the denial of the claim.

23 SEC. 27. Section 32251 of the Revenue and Taxation Code is
24 amended to read:

25 32251. The tax is a direct obligation of the taxpayer and is due
26 and payable monthly on or before the fifteenth day of each
27 calendar month. Each taxpayer, on or before the fifteenth day of
28 each month, shall make out a tax return for the preceding calendar
29 month in the form as prescribed by the board, which may include,
30 but not be limited to, electronic media showing the amount of beer
31 or wine or distilled spirits sold in this state, the amount of tax for
32 the period covered by the return, and other information the board
33 deems necessary. The taxpayer shall deliver the return, together
34 with a remittance of the amount of tax due, to the office of the
35 board on or before the fifteenth day of the month. Returns shall be
36 authenticated in a form or pursuant to methods as may be
37 prescribed by the board.

38 SEC. 28. Section 32263 is added to the Revenue and Taxation
39 Code, to read:



1 32263. (a) Any return, declaration, statement, or other
2 document required to be made under this part that is filed using
3 electronic media shall be filed and authenticated pursuant to any
4 method or form the board may prescribe.

5 (b) Notwithstanding any other law, any return, declaration,
6 statement, or other document otherwise required to be signed that
7 is filed by the taxpayer using electronic media in a form as required
8 by the board shall be deemed to be a signed, valid original
9 document, including upon reproduction to paper form by the
10 board.

11 (c) Electronic media includes, but is not limited to, computer
12 modem, magnetic media, optical disk, facsimile machine, or
13 telephone.

14 SEC. 29. Section 32402 of the Revenue and Taxation Code is
15 amended to read:

16 32402. (a) Except as provided in subdivision (b) no refund
17 shall be approved by the board after three years from the 15th day
18 of the calendar month following the close of the period for which
19 the overpayment was made, or, with respect to determinations
20 made under Article 2 (commencing with Section 32271), 3
21 (commencing with Section 32291) or 5 (commencing with
22 Section 32311) of Chapter 6 after six months from the date the
23 determinations become final, or after six months from the date of
24 overpayment, whichever period expires later, unless a claim
25 therefor is filed with the board within that period. No credit shall
26 be approved by the board after the expiration of that period unless
27 a claim for credit is filed with the board within that period, or
28 unless the credit relates to a period for which a waiver is given
29 pursuant to Section 32273.

30 (b) A refund may be approved by the board for any period for
31 which a waiver is given under Section 32273, if a claim therefor
32 is filed with the board before the expiration of the period agreed
33 upon.

34 (c) Every claim for refund or credit shall be in writing and shall
35 state the specific grounds upon which the claim is founded.

36 SEC. 30. Section 32474 of the Revenue and Taxation Code is
37 amended to read:

38 32474. (a) A taxpayer may file a claim with the board for
39 reimbursement of bank charges and any other reasonable
40 third-party check charge fees incurred by the taxpayer as the direct



1 result of an erroneous levy or notice to withhold by the board. Bank
2 and third-party charges include a financial institution's or third
3 party's customary charge for complying with the levy or notice to
4 withhold instructions and reasonable charges for overdrafts that
5 are a direct consequence of the erroneous levy or notice to
6 withhold. The charges are those paid by the taxpayer and not
7 waived for reimbursement by the financial institution or third
8 party. Each claimant applying for reimbursement shall file a claim
9 with the board that shall be in a form as may be prescribed by the
10 board. In order for the board to grant a claim, the board shall
11 determine that both of the following conditions have been
12 satisfied:

13 (1) The erroneous levy or notice to withhold was caused by
14 board error.

15 (2) Prior to the levy or notice to withhold, the taxpayer
16 responded to all contacts by the board and provided the board with
17 any requested information or documentation sufficient to establish
18 the taxpayer's position. This provision may be waived by the board
19 for reasonable cause.

20 (b) Claims pursuant to this section shall be filed within 90 days
21 from the date of the levy or notice to withhold. Within 30 days
22 from the date the claim is received, the board shall respond to the
23 claim. If the board denies the claim, the taxpayer shall be notified
24 in writing of the reason or reasons for the denial of the claim.

25 SEC. 31. Section 40061 of the Revenue and Taxation Code is
26 amended to read:

27 40061. On or before the last day of the month following each
28 calendar quarter a return for the preceding quarterly period shall
29 be filed with the board in the form as prescribed by the board,
30 which may include, but not be limited to, electronic media.

31 A return shall be filed by every electric utility, and by every
32 person purchasing electrical energy the consumption of which is
33 subject to the surcharge and who has not paid the surcharge billed
34 and required to be collected by an electric utility. The return shall
35 be signed by the person required to file the return or by his duly
36 authorized agent. Returns shall be authenticated in a form or
37 pursuant to methods as may be prescribed by the board.

38 SEC. 32. Section 40063 of the Revenue and Taxation Code is
39 amended to read:



1 40063. The board may prescribe the contents of returns of
2 consumers subject to the surcharge. It may require the filing of
3 returns by consumers in addition to those required by Section
4 40061 in circumstances where it finds that consumers' liabilities
5 are not being included in the return of an electric utility or it
6 determines that consumer returns are necessary for the efficient
7 administration of this part. Consumers' returns shall cover such
8 periods as the board may prescribe and in the form as prescribed
9 by the board, which may include, but not be limited to, electronic
10 media. Returns shall be authenticated in a form or pursuant to
11 methods as may be prescribed by the board.

12 SEC. 33. Section 40069 is added to the Revenue and Taxation
13 Code, to read:

14 40069. (a) Any return, declaration, statement, or other
15 document required to be made under this part that is filed using
16 electronic media shall be filed and authenticated pursuant to any
17 method or form the board may prescribe.

18 (b) Notwithstanding any other law, any return, declaration,
19 statement, or other document otherwise required to be signed that
20 is filed by the taxpayer using electronic media in a form as required
21 by the board shall be deemed to be a signed, valid original
22 document, including upon reproduction to paper form by the
23 board.

24 (c) Electronic media includes, but is not limited to, computer
25 modem, magnetic media, optical disk, facsimile machine, or
26 telephone.

27 SEC. 34. Section 40214 of the Revenue and Taxation Code is
28 amended to read:

29 40214. (a) A taxpayer may file a claim with the board for
30 reimbursement of bank charges and any other reasonable
31 third-party check charge fees incurred by the taxpayer as the direct
32 result of an erroneous levy or notice to withhold by the board. Bank
33 and third-party charges include a financial institution's or third
34 party's customary charge for complying with the levy or notice to
35 withhold instructions and reasonable charges for overdrafts that
36 are a direct consequence of the erroneous levy or notice to
37 withhold. The charges are those paid by the taxpayer and not
38 waived for reimbursement by the financial institution or third
39 party. Each claimant applying for reimbursement shall file a claim
40 with the board that shall be in a form as may be prescribed by the



1 board. In order for the board to grant a claim, the board shall
2 determine that both of the following conditions have been
3 satisfied:

4 (1) The erroneous levy or notice to withhold was caused by
5 board error.

6 (2) Prior to the levy or notice to withhold, the taxpayer
7 responded to all contacts by the board and provided the board with
8 any requested information or documentation sufficient to establish
9 the taxpayer's position. This provision may be waived by the board
10 for reasonable cause.

11 (b) Claims pursuant to this section shall be filed within 90 days
12 from the date of the levy or notice to withhold. Within 30 days
13 from the date the claim is received, the board shall respond to the
14 claim. If the board denies the claim, the taxpayer shall be notified
15 in writing of the reason or reasons for the denial of the claim.

16 SEC. 35. Section 41052 of the Revenue and Taxation Code is
17 amended to read:

18 41052. On or before the last day of the second month
19 following each month in which the surcharges were collected, a
20 return for that month shall be filed with the board in the form as
21 prescribed by the board, which may include, but not be limited to,
22 electronic media. Returns shall be authenticated in a form or
23 pursuant to methods as may be prescribed by the board.

24 The service supplier shall include a list of any service users who
25 have refused to pay a cumulative total of three dollars (\$3) or more
26 of the surcharge imposed by this part with each return filing.

27 SEC. 36. Section 41063 is added to the Revenue and Taxation
28 Code, to read:

29 41063. (a) Any return, declaration, statement, or other
30 document required to be made under this part that is filed using
31 electronic media shall be filed and authenticated pursuant to any
32 method or form the board may prescribe.

33 (b) Notwithstanding any other law, any return, declaration,
34 statement, or other document otherwise required to be signed that
35 is filed by the taxpayer using electronic media in a form as required
36 by the board shall be deemed to be a signed, valid original
37 document, including upon reproduction to paper form by the
38 board.



1 (c) Electronic media includes, but is not limited to, computer
2 modem, magnetic media, optical disk, facsimile machine, or
3 telephone.

4 SEC. 37. Section 41174 of the Revenue and Taxation Code is
5 amended to read:

6 41174. (a) A taxpayer may file a claim with the board for
7 reimbursement of bank charges and any other reasonable
8 third-party check charge fees incurred by the taxpayer as the direct
9 result of an erroneous levy or notice to withhold by the board. Bank
10 and third-party charges include a financial institution's or third
11 party's customary charge for complying with the levy or notice to
12 withhold instructions and reasonable charges for overdrafts that
13 are a direct consequence of the erroneous levy or notice to
14 withhold. The charges are those paid by the taxpayer and not
15 waived for reimbursement by the financial institution or third
16 party. Each claimant applying for reimbursement shall file a claim
17 with the board that shall be in a form as may be prescribed by the
18 board. In order for the board to grant a claim, the board shall
19 determine that both of the following conditions have been
20 satisfied:

21 (1) The erroneous levy or notice to withhold was caused by
22 board error.

23 (2) Prior to the levy or notice to withhold, the taxpayer
24 responded to all contacts by the board and provided the board with
25 any requested information or documentation sufficient to establish
26 the taxpayer's position. This provision may be waived by the board
27 for reasonable cause.

28 (b) Claims pursuant to this section shall be filed within 90 days
29 from the date of the levy or notice to withhold. Within 30 days
30 from the date the claim is received, the board shall respond to the
31 claim. If the board denies the claim, the taxpayer shall be notified
32 in writing of the reason or reasons for the denial of the claim.

33 SEC. 38. Section 43151 of the Revenue and Taxation Code is
34 amended to read:

35 43151. (a) The fee imposed pursuant to Section 25174.1 of
36 the Health and Safety Code which is a tax collected and
37 administered under Section 43051 is due and payable to the board
38 monthly on or before the last day of the third calendar month
39 following the end of the calendar month for which the fee is due.
40 Each taxpayer shall, on or before the last day of the third calendar



1 month following the end of the calendar month for which the fee
2 is due, make out a tax return for the calendar month, in the form
3 as prescribed by the board, which may include, but not be limited
4 to, electronic media in accordance with subdivision (c). The
5 taxpayer shall deliver the return, together with a remittance of the
6 amount of fee due, to the office of the board on or before the last
7 day of the third calendar month following the end of the calendar
8 month for which the fee is due. Returns shall be authenticated in
9 a form or pursuant to methods as may be prescribed by the board.

10 (b) With the approval of the board, a taxpayer who has more
11 than one facility subject to the taxes collected and administered
12 under this chapter, may file a combined tax return covering
13 operations at more than one, or all, of those facilities.

14 (c) The form required to be submitted by the taxpayer pursuant
15 to this section shall show, for the taxpayer and for each person from
16 whom the taxpayer accepted hazardous waste for disposal, all of
17 the following:

18 (1) The total amount of hazardous waste subject to the tax and
19 the amount of the tax for the period covered by the return.

20 (2) The amount of hazardous waste disposed during the tax
21 period that is in each of the fee categories described in Section
22 25174.6 of the Health and Safety Code, and the amount of disposal
23 fees paid for each of those categories.

24 (3) The amount of hazardous waste received for disposal by the
25 taxpayer's facility or facilities that is exempt from the payment of
26 disposal fees pursuant to Section 25174.7 of the Health and Safety
27 Code, including a copy of any written documentation provided for
28 any shipment or shipments of hazardous waste received by a
29 facility.

30 (4) The amount of RCRA hazardous waste which is treated by
31 the taxpayer so that the waste is considered to be non-RCRA
32 hazardous waste for purposes of the disposal fee, pursuant to
33 paragraph (2) of subdivision (b) of Section 25174.6.

34 (d) (1) Each taxpayer shall maintain records documenting all
35 of the following information for each person who has submitted
36 hazardous waste for disposal by the taxpayer during each calendar
37 month and shall make those records available for review and
38 inspection at the request of the board or the department:

39 (A) The tonnage of hazardous waste submitted for disposal.



1 (B) The type of hazardous waste disposed as specified by
2 Section 25174.6 of the Health and Safety Code, including both of
3 the following:

4 (i) Any characterization of the hazardous waste made by the
5 person submitting the hazardous waste for disposal.

6 (ii) Any other documentation which the taxpayer maintains
7 regarding the type of hazardous waste disposed to land.

8 (C) Any representation made by the person submitting the
9 hazardous waste regarding any exemptions that may be applicable
10 to the payment of disposal fees.

11 (D) For any RCRA hazardous waste which is treated by the
12 taxpayer so that the waste is considered to be non-RCRA
13 hazardous waste for purposes of the disposal fee, pursuant to
14 paragraph (2) of subdivision (b) of Section 25174.6, all of the
15 following information:

16 (i) The tonnage and type of hazardous waste.

17 (ii) The method or methods used to treat the hazardous waste.

18 (iii) Operating records documenting the treatment activity.

19 (iv) Representative and statistical waste sampling and analysis
20 data demonstrating that the waste is no longer RCRA hazardous
21 waste at the time of disposal.

22 (2) If the hazardous wastes submitted for disposal were
23 accompanied by a manifest, the information specified in
24 paragraph (1) shall be maintained by manifest number for each
25 calendar month.

26 SEC. 39. Section 43152.6 of the Revenue and Taxation Code
27 is amended to read:

28 43152.6. (a) The fee imposed pursuant to Section 25205.2 of
29 the Health and Safety Code which is collected and administered
30 under Section 43053 of this code is due and payable to the board
31 annually on or before the last day of the second month following
32 the end of the calendar year.

33 (b) Every operator of a facility subject to the fee imposed
34 pursuant to Section 25205.2 of the Health and Safety Code shall
35 file an annual return in the form as prescribed by the board, which
36 may include, but not be limited to, electronic media and pay the
37 proper amount of fee due. Returns shall be authenticated in a form
38 or pursuant to methods as may be prescribed by the board.

39 (c) For purposes of subdivision (a), except as provided in
40 subdivision (d), the operator of a facility shall pay the applicable



1 fee based on the type and size of the facility, as specified in
2 Sections 25205.1 and 25205.4 of the Health and Safety Code. The
3 board shall credit the prepayment of the fee made pursuant to
4 Section 43152.12 against the amount due with the annual return.

5 (d) Notwithstanding subdivision (c), the fee for the 1991
6 reporting period, which is from July 1, 1991, to December 31,
7 1991, inclusive, is 50 percent of the fee specified in Section
8 25205.4 of the Health and Safety Code, based on the type and size
9 of the facility, as specified in Section 25205.4 of the Health and
10 Safety Code.

11 SEC. 40. Section 43152.7 of the Revenue and Taxation Code
12 is amended to read:

13 43152.7. (a) The fee imposed pursuant to Section 25205.5 of
14 the Health and Safety Code which is collected and administered
15 under Section 43053 is due and payable on the last day of the
16 second month following the end of the calendar year.

17 (b) Every generator subject to the fee imposed pursuant to
18 Section 25205.5 of the Health and Safety Code shall file an annual
19 return in the form as prescribed by the board, which may include,
20 but not be limited to, electronic media and pay the proper amount
21 of fee due. The board shall credit the prepayment made pursuant
22 to Section 43152.15 against the amount due with the annual return.
23 Returns shall be authenticated in a form or pursuant to methods as
24 may be prescribed by the board.

25 (c) The fee imposed by Section 25205.5 of the Health and
26 Safety Code shall be offset by any fees paid by the generator for
27 the preceding calendar year for a local hazardous waste
28 management program conducted by a local agency pursuant to a
29 memorandum of understanding with the department. The amount
30 of the credit provided under this subdivision shall not exceed an
31 amount equal to the fees paid to the local agency or the generator
32 fee due under Section 25205.5 of the Health and Safety Code,
33 whichever is less. The credit for local fees paid shall not include
34 fees required under Chapter 6.7 (commencing with Section
35 25280) or Chapter 6.95 (commencing with Section 25500) of
36 Division 20 of the Health and Safety Code.

37 SEC. 41. Section 43152.9 of the Revenue and Taxation Code
38 is amended to read:

39 43152.9. (a) The fee imposed pursuant to Section 25205.6 of
40 the Health and Safety Code, which is collected and administered



1 under Section 43053, is due and payable on the last day of the
2 second month following the end of the calendar year.

3 (b) Every corporation subject to the fee imposed pursuant to
4 Section 25205.6 of the Health and Safety Code shall file an annual
5 return in the form as prescribed by the board, which may include,
6 but not be limited to, electronic media and pay the proper amount
7 of fee due. Returns shall be authenticated in a form or pursuant to
8 methods as may be prescribed by the board.

9 SEC. 42. Section 43152.13 of the Revenue and Taxation Code
10 is amended to read:

11 43152.13. (a) The fee imposed pursuant to Section 105190 of
12 the Health and Safety Code, which is collected and administered
13 under Section 43056, is due and payable on the last day of the
14 second month following the end of the calendar year.

15 (b) Every employer subject to the fee imposed pursuant to
16 Section 105190 of the Health and Safety Code shall file an annual
17 return in the form as prescribed by the board, which may include,
18 but not be limited to, electronic media and pay the proper amount
19 of fee due. Returns shall be authenticated in a form or pursuant to
20 methods as may be prescribed by the board.

21 SEC. 43. Section 43152.14 of the Revenue and Taxation Code
22 is amended to read:

23 43152.14. The fee imposed pursuant to Section 105310 of the
24 Health and Safety Code, that is collected and administered under
25 Section 43057, is due and payable on or before April 1 of each year
26 for the previous calendar year. A feepayer shall file a return in the
27 form as prescribed by the board, which may include, but not be
28 limited to, electronic media. Returns shall be authenticated in a
29 form or pursuant to methods as may be prescribed by the board.

30 SEC. 44. Section 43173 is added to the Revenue and Taxation
31 Code, to read:

32 43173. (a) Any return, declaration, statement, or other
33 document required to be made under this part that is filed using
34 electronic media shall be filed and authenticated pursuant to any
35 method or form the board may prescribe.

36 (b) Notwithstanding any other law, any return, declaration,
37 statement, or other document otherwise required to be signed that
38 is filed by the taxpayer using electronic media in a form as required
39 by the board shall be deemed to be a signed, valid original



1 document, including upon reproduction to paper form by the
2 board.

3 (c) Electronic media includes, but is not limited to, computer
4 modem, magnetic media, optical disk, facsimile machine, or
5 telephone.

6 ~~SEC. 45.—Section 43201 of the Revenue and Taxation Code is~~
7 ~~amended to read:~~

8 ~~43201. —(a) If the board is dissatisfied with the return or report~~
9 ~~filed or the amount of tax paid to the state by any taxpayer, or other~~
10 ~~amount required to be paid to the state by any person, or if no return~~
11 ~~or report has been filed or no payment or payments of the taxes~~
12 ~~have been made to the state by a taxpayer, the board may compute~~
13 ~~and determine the amount to be paid, based upon any information~~
14 ~~available to it. One or more additional determinations may be~~
15 ~~made of the amount of tax due for one, or for more than one,~~
16 ~~period. The amount of tax so determined shall bear interest at the~~
17 ~~modified adjusted rate per month, or fraction thereof, established~~
18 ~~pursuant to Section 6591.5, from the date the amount of the tax,~~
19 ~~or any portion thereof, became due and payable until the date of~~
20 ~~payment. In making a determination, the board may offset~~
21 ~~overpayments for a period or periods against underpayments for~~
22 ~~another period or periods and against the interest and penalties on~~
23 ~~the underpayments.~~

24 ~~(b) If any part of the deficiency for which a determination of an~~
25 ~~additional amount due is made is found to have been occasioned~~
26 ~~by negligence or intentional disregard of this part or authorized~~
27 ~~regulations, a penalty of 10 percent of the amount of the~~
28 ~~determination shall be added, plus interest as provided above.~~

29 ~~(c) If any part of the deficiency for which a determination of an~~
30 ~~additional amount due is made is found to be occasioned by fraud~~
31 ~~or an intent to evade this part or authorized regulations, a penalty~~
32 ~~of 25 percent of the amount of the determination shall be added,~~
33 ~~plus interest as provided in subdivision (a).~~

34 ~~(d) The board shall give to the person written notice of its~~
35 ~~determination. The notice shall be placed in a sealed envelope,~~
36 ~~with postage paid, addressed to the person at his or her address as~~
37 ~~it appears in the records of the board. The giving of notice shall be~~
38 ~~deemed complete at the time of the deposit of the notice in a United~~
39 ~~States Post Office, or a mailbox, sub-post office, substation, mail~~
40 ~~chute, or other facility regularly maintained or provided by the~~



1 ~~United States Postal Service without extension of time for any~~
2 ~~reason. In lieu of mailing, a notice may be served personally by~~
3 ~~delivering to the person to be served, and service shall be deemed~~
4 ~~complete at the time of delivery. Personal service to a corporation~~
5 ~~may be made by delivery of a notice to any person designated in~~
6 ~~the Code of Civil Procedure to be served for the corporation with~~
7 ~~summons and complaint in a civil action.~~

8 ~~SEC. 46.—Section 43451.5 of the Revenue and Taxation Code~~
9 ~~is amended to read:~~

10 ~~43451.5. When an amount represented by a person to a~~
11 ~~customer as constituting reimbursement for fees due under this~~
12 ~~part is computed upon an amount that is not subject to that fee or~~
13 ~~is in excess of that fee amount due and is actually paid by the~~
14 ~~customer to the person, the amount so paid shall be returned by the~~
15 ~~person to the customer upon notification by the board or by the~~
16 ~~customer that the excess has been ascertained. If the person fails~~
17 ~~or refuses to do so, the amount so paid, if knowingly or mistakenly~~
18 ~~computed by the person upon an amount that is not subject to the~~
19 ~~fee or is in excess of the fee due, shall be remitted by that person~~
20 ~~to this state. The amount remitted to the state shall include interest~~
21 ~~at the modified adjusted rate per month, or fraction thereof,~~
22 ~~established pursuant to Section 6591.5, from the last day of the~~
23 ~~month following the date the excess tax reimbursement was paid~~
24 ~~by the customer until the date of remittance to the state. Those~~
25 ~~amounts remitted to the state shall be credited by the board on any~~
26 ~~amounts due and payable under this part on the same activity from~~
27 ~~the person by whom it was paid to this state and the balance, if any,~~
28 ~~shall constitute an obligation due from the person to this state.~~

29 ~~SEC. 47. Section 43525 of the Revenue and Taxation Code is~~
30 ~~amended to read:~~

31 ~~43525. (a) A taxpayer may file a claim with the board for~~
32 ~~reimbursement of bank charges and any other reasonable~~
33 ~~third-party check charge fees incurred by the taxpayer as the direct~~
34 ~~result of an erroneous levy or notice to withhold by the board. Bank~~
35 ~~and third-party charges include a financial institution's or third~~
36 ~~party's customary charge for complying with the levy or notice to~~
37 ~~withhold instructions and reasonable charges for overdrafts that~~
38 ~~are a direct consequence of the erroneous levy or notice to~~
39 ~~withhold. The charges are those paid by the taxpayer and not~~
40 ~~waived for reimbursement by the financial institution or third~~



1 party. Each claimant applying for reimbursement shall file a claim
2 with the board that shall be in a form as may be prescribed by the
3 board. In order for the board to grant a claim, the board shall
4 determine that both of the following conditions have been
5 satisfied:

6 (1) The erroneous levy or notice to withhold was caused by
7 board error.

8 (2) Prior to the levy or notice to withhold, the taxpayer
9 responded to all contacts by the board and provided the board with
10 any requested information or documentation sufficient to establish
11 the taxpayer's position. This provision may be waived by the board
12 for reasonable cause.

13 (b) Claims pursuant to this section shall be filed within 90 days
14 from the date of the levy or notice to withhold. Within 30 days
15 from the date the claim is received, the board shall respond to the
16 claim. If the board denies the claim, the taxpayer shall be notified
17 in writing of the reason or reasons for the denial of the claim.

18 SEC. 48. Section 45151 of the Revenue and Taxation Code is
19 amended to read:

20 45151. (a) The fee imposed pursuant to Section 48000 of the
21 Public Resources Code is due and payable to the board quarterly
22 on or before the 25th day of the calendar month following the
23 quarterly period for which the fee is due. Each fee payer shall
24 prepare a return in the form as prescribed by the board, which may
25 include, but ~~may~~ not be limited to, electronic media showing the
26 total amount of solid waste subject to the fee, the amount of fee for
27 the period covered by the return, and any other information that the
28 board determines to be necessary. Returns shall be authenticated
29 in a form or pursuant to methods as may be prescribed by the
30 board.

31 (b) The fee payer shall deliver the return, together with a
32 remittance of the amount of fee due, to the office of the board on
33 or before the 25th day of the calendar month following the
34 quarterly period for which the fee is due.

35 SEC. 49. Section 45163 is added to the Revenue and Taxation
36 Code, to read:

37 45163. (a) Any return, declaration, statement, or other
38 document required to be made under this part that is filed using
39 electronic media shall be filed and authenticated pursuant to any
40 method or form the board may prescribe.



1 (b) Notwithstanding any other law, any return, declaration,
2 statement, or other document otherwise required to be signed that
3 is filed by the taxpayer using electronic media in a form as required
4 by the board shall be deemed to be a signed, valid original
5 document, including upon reproduction to paper form by the
6 board.

7 (c) Electronic media includes, but is not limited to, computer
8 modem, magnetic media, optical disk, facsimile machine, or
9 telephone.

10 SEC. 50. Section 45652 of the Revenue and Taxation Code is
11 amended to read:

12 45652. (a) Except as provided in subdivision (b), no refund
13 shall be approved by the board after three years from the due date
14 of the payment for the period for which the overpayment was
15 made, or, with respect to determinations made under Article 2
16 (commencing with Section 45201) of Chapter 3, after six months
17 from the date the determinations have become final, or after six
18 months from the date of overpayment, whichever period expires
19 later, unless a claim therefor is filed with the board within that
20 period. No credit shall be approved by the board after the
21 expiration of that period, unless a claim for credit is filed with the
22 board within that period or unless the credit relates to a period for
23 which a waiver is given pursuant to Section 45204.

24 (b) A refund may be approved by the board for any period for
25 which a waiver is given under Section 45204 if a claim therefor is
26 filed with the board before the expiration of the period agreed
27 upon.

28 (c) Every claim for refund or credit shall be in writing and shall
29 state the specific grounds upon which the claim is founded.

30 SEC. 51. Section 45870 of the Revenue and Taxation Code is
31 amended to read:

32 45870. (a) A fee payer may file a claim with the board for
33 reimbursement of bank charges and any other reasonable
34 third-party check charge fees incurred by the taxpayer as the direct
35 result of an erroneous levy or notice to withhold by the board. Bank
36 and third-party charges include a financial institution's or third
37 party's customary charge for complying with the levy or notice to
38 withhold instructions and reasonable charges for overdrafts that
39 are a direct consequence of the erroneous levy or notice to
40 withhold. The charges are those paid by the fee payer and not



1 waived for reimbursement by the financial institution or third
2 party. Each claimant applying for reimbursement shall file a claim
3 with the board that shall be in a form as may be prescribed by the
4 board. In order for the board to grant a claim, the board shall
5 determine that both of the following conditions have been
6 satisfied:

7 (1) The erroneous levy or notice to withhold was caused by
8 board error.

9 (2) Prior to the levy or notice to withhold, the fee payer
10 responded to all contacts by the board and provided the board with
11 any requested information or documentation sufficient to establish
12 the fee payer's position. This provision may be waived by the
13 board for reasonable cause.

14 (b) Claims pursuant to this section shall be filed within 90 days
15 from the date of the levy or notice to withhold. Within 30 days
16 from the date the claim is received, the board shall respond to the
17 claim. If the board denies the claim, the fee payer shall be notified
18 in writing of the reason or reasons for the denial of the claim.

19 SEC. 52. Section 46151 of the Revenue and Taxation Code is
20 amended to read:

21 46151. (a) The fees collected and administered under
22 Sections 46051 and 46052 are due and payable to the board
23 monthly on or before the 25th day of the calendar month following
24 the monthly period for which the fee is due. Each feepayer, on or
25 before the 25th day of the month following each monthly period,
26 shall make out a return in the form as prescribed by the board,
27 which may include, but not be limited to, electronic media for the
28 preceding monthly period showing the information required to be
29 reported by Sections 8670.40 and 8670.48 of the Government
30 Code and any other information that the board determines to be
31 necessary to carry out this part. Returns shall be authenticated in
32 a form or pursuant to methods as may be prescribed by the board.

33 (b) The feepayer shall deliver the return, together with a
34 remittance of the amount of fee due, if any, to the office of the
35 board on or before the 25th day of the month following the
36 monthly period for which the fee is due.

37 (c) In addition to the returns due pursuant to subdivision (a),
38 each feepayer shall provide an annual information return, in the
39 form as prescribed by the board, which may include, but not be
40 limited to, electronic media showing the information required to



1 be reported by Section 8670.48 of the Government Code and any
2 other information that the board determines to be necessary to
3 carry out this part. The feepayer shall deliver the return containing
4 the required information for the preceding calendar year to the
5 office of the board on or before February 1st of each year. Returns
6 shall be authenticated in a form or pursuant to methods as may be
7 prescribed by the board.

8 SEC. 53. Section 46163 is added to the Revenue and Taxation
9 Code, to read:

10 46163. (a) Any return, declaration, statement, or other
11 document required to be made under this part that is filed using
12 electronic media shall be filed and authenticated pursuant to any
13 method or form the board may prescribe.

14 (b) Notwithstanding any other law, any return, declaration,
15 statement, or other document otherwise required to be signed that
16 is filed by the taxpayer using electronic media in a form as required
17 by the board shall be deemed to be a signed, valid original
18 document, including upon reproduction to paper form by the
19 board.

20 (c) Electronic media includes, but is not limited to, computer
21 modem, magnetic media, optical disk, facsimile machine, or
22 telephone.

23 ~~SEC. 54. Section 46201 of the Revenue and Taxation Code is~~
24 ~~amended to read:~~

25 ~~46201. (a) If the board is not satisfied with the return or~~
26 ~~returns of the fee or the amount of the fee, or other amount,~~
27 ~~required to be paid to the state by any person, it may compute and~~
28 ~~determine the amount required to be paid upon the basis of the facts~~
29 ~~contained in the return or returns or upon the basis of any~~
30 ~~information within its possession or that may come into its~~
31 ~~possession. One or more deficiency determinations may be made~~
32 ~~of the amount of fee due for one or for more than one period. When~~
33 ~~a business is discontinued, a determination may be made at any~~
34 ~~time thereafter, within the period specified in Section 46204, as to~~
35 ~~liability arising out of that business, irrespective of whether the~~
36 ~~determination is issued prior to the due date of the liability as~~
37 ~~otherwise specified in this part. In making a determination, the~~
38 ~~board may offset overpayments for a period or periods against~~
39 ~~underpayments for another period or periods and against the~~
40 ~~interest and penalties on the underpayments.~~



1 ~~(b) The amount of fee so determined shall bear interest at the~~
2 ~~modified adjusted rate per month, or fraction thereof, established~~
3 ~~pursuant to Section 6591.5, from the date the amount of the fee,~~
4 ~~or any portion thereof, became due and payable until the date of~~
5 ~~payment.~~

6 ~~(c) If any part of the deficiency for which a determination of an~~
7 ~~additional amount due is made is found to have been occasioned~~
8 ~~by negligence or intentional disregard of this part or regulations~~
9 ~~adopted pursuant thereto, a penalty of 10 percent of the amount of~~
10 ~~the determination shall be added, plus interest as provided in~~
11 ~~subdivision (b).~~

12 ~~(d) If any part of the deficiency for which a determination of an~~
13 ~~additional amount due is made is found to be occasioned by fraud~~
14 ~~or an intent to evade this part or regulations adopted pursuant~~
15 ~~thereto, a penalty of 25 percent of the amount of the determination~~
16 ~~shall be added, plus interest as provided in subdivision (b).~~

17 ~~SEC. 55.—Section 46202 of the Revenue and Taxation Code is~~
18 ~~amended to read:~~

19 ~~46202.—The board shall give to the person written notice of its~~
20 ~~determination. The notice shall be placed in a sealed envelope,~~
21 ~~with postage paid, addressed to the person at his or her address as~~
22 ~~it appears in the records of the board. The giving of notice shall be~~
23 ~~deemed complete at the time of the deposit of the notice in a United~~
24 ~~States Post Office, or a mailbox, subpost office, substation, mail~~
25 ~~chute, or other facility regularly maintained or provided by the~~
26 ~~United States Postal Service without extension of time for any~~
27 ~~reason. In lieu of mailing, a notice may be served personally by~~
28 ~~delivering to the person to be served, and service shall be deemed~~
29 ~~complete at the time of delivery. Personal service to a corporation~~
30 ~~may be made by delivery of a notice to any person designated in~~
31 ~~the Code of Civil Procedure to be served for the corporation with~~
32 ~~summons and complaint in a civil action.~~

33 ~~SEC. 56.—Section 46501.5 of the Revenue and Taxation Code~~
34 ~~is amended to read:~~

35 ~~46501.5.—When an amount represented by a person to a~~
36 ~~customer as constituting reimbursement for fees due under this~~
37 ~~part is computed upon an amount that is not subject to that fee or~~
38 ~~is in excess of that fee amount due and is actually paid by the~~
39 ~~customer to the person, the amount so paid shall be returned by the~~
40 ~~person to the customer upon notification by the board or by the~~



1 ~~customer that the excess has been ascertained. If the person fails~~
2 ~~or refuses to do so, the amount so paid, if knowingly or mistakenly~~
3 ~~computed by the person upon an amount that is not subject to the~~
4 ~~fee or is in excess of the fee due, shall be remitted by that person~~
5 ~~to this state. The amount remitted to the state shall include interest~~
6 ~~at the modified adjusted rate per month, or fraction thereof,~~
7 ~~established pursuant to Section 6591.5, from the 25th day of the~~
8 ~~month following the date the excess tax reimbursement was paid~~
9 ~~by the customer until the date of remittance to the state. Those~~
10 ~~amounts remitted to the state shall be credited by the board on any~~
11 ~~amounts due and payable under this part on the same activity from~~
12 ~~the person by whom it was paid to this state and the balance, if any,~~
13 ~~shall constitute an obligation due from the person to this state.~~

14 SEC. 57. Section 46502 of the Revenue and Taxation Code is
15 amended to read:

16 46502. (a) Except as provided in subdivision (b), no refund
17 shall be approved by the board after three years from the due date
18 of the payment for the period for which the overpayment was
19 made, or, with respect to determinations made under Article 2
20 (commencing with Section 46201), Article 3 (commencing with
21 Section 46251) or Article 4 (commencing with Section 46301) of
22 Chapter 3, after six months from the date the determinations
23 become final, or after six months from the date of overpayment,
24 whichever period expires later, unless a claim therefor is filed with
25 the board within that period. No credit shall be approved by the
26 board after the expiration of that period, unless a claim for credit
27 is filed with the board within that period or unless the credit relates
28 to a period for which a waiver is given pursuant to Section 46205.

29 (b) A refund may be approved by the board for any period for
30 which a waiver is given pursuant to Section 46205 if a claim
31 therefor is filed with the board before the expiration of the period
32 agreed upon.

33 (c) If the board has made a determination under Article 2
34 (commencing with Section 46201), Article 3 (commencing with
35 Section 46251), or Article 4 (commencing with Section 46301) of
36 Chapter 3, and if a person's claim for refund was filed timely
37 within the applicable six-month period specified by subdivision
38 (a) or (b), that claim for refund shall be deemed to also apply to that
39 person's later payments in full or partial satisfaction of that
40 determination.



1 SEC. 58. Section 46625 of the Revenue and Taxation Code is
2 amended to read:

3 46625. (a) A feepayer may file a claim with the board for
4 reimbursement of bank charges and any other reasonable
5 third-party check charge fees that are incurred by the feepayer as
6 the direct result of an erroneous levy or notice to withhold by the
7 board. Bank and third-party charges include a financial
8 institution's or third party's customary charge for complying with
9 either a levy or instructions in a notice to withhold, and reasonable
10 charges for overdrafts that are a direct consequence of the
11 erroneous levy or notice to withhold. Bank charges include only
12 those charges that are paid by the feepayer and not waived for
13 reimbursement by the financial institution or third party. Each
14 claimant applying for reimbursement pursuant to this section shall
15 file a claim with the board that shall be in the form as may be
16 prescribed by the board. The board shall not grant a claim unless
17 it determines that both of the following conditions have been
18 satisfied:

19 (1) The erroneous levy or notice to withhold resulted from
20 board error.

21 (2) Prior to the levy or notice to withhold, the feepayer
22 responded to all contacts by the board and provided the board with
23 any requested information or documentation that was sufficient to
24 establish the feepayer's position. The requirement of this
25 paragraph may be waived by the board for reasonable cause.

26 (b) Claims pursuant to this section shall be filed within 90 days
27 from the date of the levy or notice to withhold that is asserted to
28 be erroneous. The board shall respond to a claim filed pursuant to
29 this section within 30 days of receipt. If the board denies a claim,
30 the taxpayer shall be notified in writing of the reason or reasons for
31 denial.

32 SEC. 59. Section 50109 of the Revenue and Taxation Code is
33 amended to read:

34 50109. The fee collected under Section 50108 is due and
35 payable to the board quarterly on or before the 25th day of the
36 month following the end of each calendar quarter. Each feepayer,
37 on or before the 25th day of the month following the quarterly
38 period for which the fee is due, shall prepare a fee return for the
39 preceding quarterly period, in the form as prescribed by the board,
40 which may include, but not be limited to, electronic media



1 showing the total number of gallons of petroleum placed into
2 underground storage tanks which he or she owns during the period,
3 the amount of the fee for the period covered by the return, and any
4 other information that the board determines to be necessary. The
5 feepayer shall deliver the return, together with a remittance of the
6 amount of the fee due, to the office of the board on or before the
7 25th day of the month following the quarterly period for which the
8 fee is due. Returns shall be authenticated in a form or pursuant to
9 methods as may be prescribed by the board.

10 SEC. 60. Section 50112.10 is added to the Revenue and
11 Taxation Code, to read:

12 50112.10. (a) Any return, declaration, statement, or other
13 document required to be made under this part that is filed using
14 electronic media shall be filed and authenticated pursuant to any
15 method or form the board may prescribe.

16 (b) Notwithstanding any other law, any return, declaration,
17 statement, or other document otherwise required to be signed that
18 is filed by the taxpayer using electronic media in a form as required
19 by the board shall be deemed to be a signed, valid original
20 document, including upon reproduction to paper form by the
21 board.

22 (c) Electronic media includes, but is not limited to, computer
23 modem, magnetic media, optical disk, facsimile machine, or
24 telephone.

25 ~~SEC. 61. Section 50113 of the Revenue and Taxation Code is~~
26 ~~amended to read:~~

27 ~~50113. (a) If the board is not satisfied with the return or~~
28 ~~returns of the fee or the amount of the fee, or other amount,~~
29 ~~required to be paid to the state by any person, or if no report has~~
30 ~~been filed or no payment or payments of the fees have been made~~
31 ~~to the state by a fee payer, the board may compute and determine~~
32 ~~the amount required to be paid upon the basis of the facts contained~~
33 ~~in the return or returns or upon the basis of any information within~~
34 ~~its possession or that may come into its possession. One or more~~
35 ~~additional determinations may be made of the amount of fee due~~
36 ~~for one, or for more than one, period. The amount of fee so~~
37 ~~determined shall bear interest at the modified rate per month, or~~
38 ~~fraction thereof, established pursuant to Section 6591.5, from the~~
39 ~~date the amount of the fee, or any portion thereof, became due and~~
40 ~~payable until the date of payment. In making a determination, the~~



1 ~~board may offset overpayments for a period or periods against~~
2 ~~underpayments for another period or periods and against the~~
3 ~~interest and penalties on the underpayments.~~

4 (b) ~~If any part of the deficiency for which a determination of an~~
5 ~~additional amount due is made is found to have been occasioned~~
6 ~~by negligence or intentional disregard of this part or regulations~~
7 ~~adopted by the board pursuant to this part, a penalty of 10 percent~~
8 ~~of the amount of that determination shall be added, plus interest as~~
9 ~~provided in subdivision (a).~~

10 (c) ~~If any part of the deficiency for which a determination of an~~
11 ~~additional amount due is made is found to be occasioned by fraud~~
12 ~~or an intent to evade this part or regulations adopted pursuant to~~
13 ~~this part, a penalty of 25 percent of the amount of the determination~~
14 ~~shall be added, plus interest as provided in subdivision (a).~~

15 (d) ~~The board shall give to the person written notice of its~~
16 ~~determination. The notice shall be placed in a sealed envelope,~~
17 ~~with postage paid, addressed to the person at his or her address as~~
18 ~~it appears in the records of the board. The giving of the notice shall~~
19 ~~be deemed complete at the time of the deposit in a United States~~
20 ~~Post Office, or a mailbox, subpost office, substation, mail chute,~~
21 ~~or other facility regularly maintained or provided by the United~~
22 ~~States Postal Service, without extension of time for any reason. In~~
23 ~~lieu of mailing, the board may serve notice personally by~~
24 ~~delivering to the person to be served, and service shall be deemed~~
25 ~~complete at the time of delivery. The board may make personal~~
26 ~~service to a corporation by delivering a notice to any person~~
27 ~~designated in the Code of Civil Procedure to be served for the~~
28 ~~corporation with a summons and complaint in a civil action.~~

29 ~~SEC. 62.—Section 50139.5 of the Revenue and Taxation Code~~
30 ~~is amended to read:~~

31 ~~50139.5.—When an amount represented by a person to a~~
32 ~~customer as constituting reimbursement for fees due under this~~
33 ~~part is computed upon an amount that is not subject to that fee or~~
34 ~~is in excess of that fee amount due and is actually paid by the~~
35 ~~customer to the person, the amount so paid shall be returned by the~~
36 ~~person to the customer upon notification by the board or by the~~
37 ~~customer that the excess has been ascertained. If the person fails~~
38 ~~or refuses to do so, the amount so paid, if knowingly or mistakenly~~
39 ~~computed by the person upon an amount that is not subject to the~~
40 ~~fee or is in excess of the fee due, shall be remitted by that person~~



1 ~~to this state. The amount remitted to the state shall include interest~~
2 ~~at the modified adjusted rate per month, or fraction thereof,~~
3 ~~established pursuant to Section 6591.5, from the 25th day of the~~
4 ~~month following the date the excess tax reimbursement was paid~~
5 ~~by the customer until the date of remittance to the state. Those~~
6 ~~amounts remitted to the state shall be credited by the board on any~~
7 ~~amounts due and payable under this part on the same activity from~~
8 ~~the person by whom it was paid to this state and the balance, if any,~~
9 ~~shall constitute an obligation due from the person to this state.~~

10 SEC. 63. Section 50140 of the Revenue and Taxation Code is
11 amended to read:

12 50140. (a) Except as provided in subdivision (b), the board
13 shall not approve a refund three years after the due date of the
14 payment for the period for which the overpayment was made, or,
15 with respect to determinations made under Article 2 (commencing
16 with Section 50113) of Chapter 3, after six months from the date
17 the determinations have become final, or after six months from the
18 date of overpayment, whichever period expires later, unless a
19 claim therefor is filed with the board within that period. The board
20 shall not approve a credit after the expiration of that period, unless
21 a claim for credit is filed with the board within that period.

22 (b) A refund may be approved by the board for any period for
23 which a waiver is given under Section 50113.2 if a claim is filed
24 with the board before the expiration of the period agreed upon.

25 (c) Every claim for refund or credit shall be in writing and shall
26 state the specific grounds upon which the claim is founded.

27 SEC. 64. Section 50156.14 of the Revenue and Taxation Code
28 is amended to read:

29 50156.14. (a) A feepayer may file a claim with the board for
30 reimbursement of bank charges and any other reasonable
31 third-party check charge fees incurred by the taxpayer as the direct
32 result of an erroneous levy or notice to withhold by the board. Bank
33 and third-party charges include a financial institution's or third
34 party's customary charge for complying with the levy or notice to
35 withhold instructions and reasonable charges for overdrafts that
36 are a direct consequence of the erroneous levy or notice to
37 withhold. The charges are those paid to the feepayer and not
38 waived for reimbursement by the financial institution or third
39 party. Each claimant applying for reimbursement shall file a claim
40 with the board that shall be in a form as may be prescribed by the



1 board. In order for the board to grant a claim, the board shall
2 determine that both of the following conditions have been
3 satisfied:

4 (1) The erroneous levy or notice to withhold was caused by
5 board error.

6 (2) Prior to the levy or notice to withhold, the feepayer
7 responded to all contacts by the board and provided the board with
8 any requested information or documentation sufficient to establish
9 the feepayer's position. This provision may be waived by the board
10 for reasonable cause.

11 (b) Claims pursuant to this section shall be filed within 90 days
12 from the date of the levy or notice to withhold. Within 30 days
13 from the date the claim is received, the board shall respond to the
14 claim. If the board denies the claim, the feepayer shall be notified
15 in writing of the reason or reasons for the denial of the claim.

16 SEC. 65. Section 55040 is added to the Revenue and Taxation
17 Code, to read:

18 55040. A feepayer shall file a return in the form as prescribed
19 by the board, which may include, but not be limited to, electronic
20 media. Returns shall be authenticated in a form or pursuant to
21 methods as may be prescribed by the board.

22 SEC. 66. Section 55053 is added to the Revenue and Taxation
23 Code, to read:

24 55053. (a) Any return, declaration, statement, or other
25 document required to be made under this part that is filed using
26 electronic media shall be filed and authenticated pursuant to any
27 method or form the board may prescribe.

28 (b) Notwithstanding any other law, any return, declaration,
29 statement, or other document otherwise required to be signed that
30 is filed by the taxpayer using electronic media in a form as required
31 by the board shall be deemed to be a signed, valid original
32 document, including upon reproduction to paper form by the
33 board.

34 (c) Electronic media includes, but is not limited to, computer
35 modem, magnetic media, optical disk, facsimile machine, or
36 telephone.

37 SEC. 67. Section 55222 of the Revenue and Taxation Code is
38 amended to read:

39 55222. (a) Except as provided in subdivision (b), no refund
40 shall be approved by the board after three years from the due date



1 of the payment for the period for which the overpayment was
2 made, or, with respect to determinations made under Article 2
3 (commencing with Section 55061) of Chapter 3, after six months
4 from the date the determinations have become final, or six months
5 from the date of overpayment, whichever period expires later,
6 unless a claim therefor is filed with the board within that period.
7 No credit shall be approved by the board after the expiration of that
8 period, unless a claim for credit is filed with the board within that
9 period or unless the credit relates to a period for which a waiver
10 is given pursuant to Section 55064.

11 (b) A refund may be approved by the board for any period for
12 which a waiver is given under Section 55064 if a claim therefor is
13 filed with the board before the expiration of the period agreed
14 upon.

15 (c) Every claim for refund or credit shall be in writing and shall
16 state the specific grounds upon which the claim is founded.

17 SEC. 68. Section 55335 of the Revenue and Taxation Code is
18 amended to read:

19 55335. (a) A taxpayer may file a claim with the board for
20 reimbursement of bank charges and any other reasonable
21 third-party check charge fees incurred by the taxpayer as the direct
22 result of an erroneous levy or notice to withhold by the board. Bank
23 and third-party charges include a financial institution's or third
24 party's customary charge for complying with the levy or notice to
25 withhold instructions and reasonable charges for overdrafts that
26 are a direct consequence of the erroneous levy or notice to
27 withhold. The charges are those paid by the taxpayer and not
28 waived for reimbursement by the financial institution or third
29 party. Each claimant applying for reimbursement shall file a claim
30 with the board that shall be in a form as may be prescribed by the
31 board. In order for the board to grant a claim, the board shall
32 determine that both of the following conditions have been
33 satisfied:

34 (1) The erroneous levy or notice to withhold was caused by
35 board error.

36 (2) Prior to the levy or notice to withhold, the taxpayer
37 responded to all contacts by the board and provided the board with
38 any requested information or documentation sufficient to establish
39 the taxpayer's position. This provision may be waived by the board
40 for reasonable cause.



1 (b) Claims pursuant to this section shall be filed within 90 days
2 from the date of the levy or notice to withhold. Within 30 days
3 from the date the claim is received, the board shall respond to the
4 claim. If the board denies the claim, the taxpayer shall be notified
5 in writing of the reason or reasons for the denial of the claim.

6 SEC. 69. Section 60201 of the Revenue and Taxation Code is
7 amended to read:

8 60201. Each supplier shall prepare and file with the board a
9 return in the form as prescribed by the board, which may include,
10 but not be limited to, electronic media showing the total number
11 of gallons of diesel fuel removed, entered, or sold by him or her
12 within this state during each calendar month, or the monthly period
13 ended during that calendar month as the board may authorize, the
14 amount of tax due for the month covered by the return, and any
15 other information as the board deems necessary for the proper
16 administration of this part. The person shall file the return on or
17 before the last day of the calendar month following the monthly
18 period to which it relates, together with a remittance payable to the
19 board for the amount of tax due for that period, less whatever
20 amounts may have been paid theretofore for the same period
21 because of weekly returns. To facilitate the administration of this
22 part, the board may require the filing of the returns for other than
23 monthly periods. Returns shall be authenticated in a form or
24 pursuant to methods as may be prescribed by the board.

25 SEC. 70. Section 60202 of the Revenue and Taxation Code is
26 amended to read:

27 60202. (a) Each interstate user shall prepare and file with the
28 board a return in the form as prescribed by the board, which may
29 include, but not be limited to, electronic media showing the
30 amount of diesel fuel used during the quarterly reporting period by
31 the interstate user in this state, the amount of any tax due, and any
32 other information as the board may require for the administration
33 of this part. The return shall be filed with the board on or before
34 the last day of the calendar month following the close of the
35 quarterly period to which it relates, together with a remittance
36 payable to the board of the amount of tax due. To facilitate the
37 administration of this part, the board may require the filing of
38 returns for other than quarterly periods. Returns shall be
39 authenticated in a form or pursuant to methods as may be
40 prescribed by the board.



1 (b) An interstate user subject to the tax imposed by Section
2 60115 shall be allowed a credit against the amount of tax due on
3 his or her return for an amount equal to the tax imposed by Section
4 60115 on diesel fuel purchased in this state in that same return
5 period for use in the operation of a qualified motor vehicle. No
6 credit shall be allowed unless the tax imposed by Section 60050
7 and the taxes imposed by Part 1 (commencing with Section 6001)
8 and Part 1.5 (commencing with Section 7200) of Division 2 of the
9 Revenue and Taxation Code and Section 35 of Article XIII of the
10 California Constitution have been paid upon the purchase of the
11 diesel fuel by the interstate user to a diesel vendor in this state.
12 When the amount of the credit for any return period exceeds the
13 amount of tax due for the return period, the excess shall be allowed
14 as a credit against the amount of tax due for succeeding reporting
15 periods or shall be refunded.

16 (c) Credits and refunds allowed pursuant to subdivision (b)
17 shall be charged against the Motor Vehicle Fuel Account to the
18 extent the total amount of credits and refunds allowed to all
19 taxpayers for the fiscal year does not exceed the combined
20 amounts due under subdivisions (a) and (b) of Section 60115. To
21 the extent the total amount of credits and refunds allowed to all
22 taxpayers for the fiscal year pursuant to subdivision (b) exceeds
23 the combined amounts due under subdivisions (a) and (b) of
24 Section 60115, the credits and refunds shall be charged against the
25 Motor Vehicle Fuel Account as to the amount of the credits and
26 refunds established under subdivision (a) of Section 60115 and
27 shall be charged against the Retail Sales Tax Fund as to the amount
28 of the credits and refunds established under subdivision (b) of
29 Section 60115.

30 SEC. 71. Section 60203 of the Revenue and Taxation Code is
31 amended to read:

32 60203. (a) Each throughputter shall prepare and make a
33 report showing the following:

34 (1) The name and permit number of the operator of each
35 terminal at which it holds an inventory position in taxable diesel
36 fuel.

37 (2) Any other information required by the board.

38 (b) Each throughputter shall prepare and file with the board a
39 report in the form as prescribed by the board, which may include,
40 but not be limited to, electronic media showing the information in



1 subdivision (a) during each calendar month, or the monthly period
2 ended during that calendar month as the board may authorize. The
3 person shall file the report on or before the last day of the calendar
4 month following the monthly period to which it relates. To
5 facilitate the administration of this part, the board may require the
6 filing of the reports for other than monthly periods. Reports shall
7 be authenticated in a form or pursuant to methods as may be
8 prescribed by the board.

9 SEC. 72. Section 60204 of the Revenue and Taxation Code is
10 amended to read:

11 60204. (a) Each terminal operator shall prepare and file with
12 the board a report in the form as prescribed by the board, which
13 may include, but not be limited to, electronic media showing, for
14 the calendar month, or that monthly period ended during the
15 calendar month as the board may authorize, the following:

16 (1) The name and license number of each person that is a
17 positionholder at each terminal it operates.

18 (2) The amount of diesel fuel received at each terminal it
19 operates.

20 (3) The identity of each positionholder with respect to the rack
21 removals of diesel fuel from each terminal it operates and the
22 volume and dates of the removals.

23 (4) The amount of diesel fuel stored at each terminal it operates.

24 (5) The destination, by state, of all diesel fuel removed at a
25 terminal rack of each terminal it operates, to the extent that
26 information has been provided to the terminal operator.

27 (6) Any other information required by the board for the proper
28 administration of this part. The terminal operator shall file the
29 report on or before the last day of the month following the monthly
30 period to which it relates. To facilitate the administration of this
31 part, the board may require the filing of the reports for other than
32 monthly periods. Reports shall be authenticated in a form or
33 pursuant to methods as may be prescribed by the board.

34 (b) Upon written approval of the board, a terminal operator
35 may satisfy the requirements of subdivision (a) above by executing
36 and providing to the board a consent and authorization for the
37 Internal Revenue Service to provide to the board under Section
38 6103 of the Internal Revenue Code, the return filed by the terminal
39 operator under Section 48.4101-2 of Title 26 of the Code of
40 Federal Regulations. The board may, in its sole discretion, rescind



1 its approval and require a terminal operator to file reports as
2 specified in subdivision (a).

3 SEC. 73. Section 60205 of the Revenue and Taxation Code is
4 amended to read:

5 60205. Each exempt bus operator shall prepare and file with
6 the board a return in the form as prescribed by the board, which
7 may include, but not be limited to, electronic media showing the
8 total number of gallons of diesel fuel used in the exempt bus
9 operation by him or her within this state during each calendar
10 month, or the monthly period ended during that calendar month as
11 the board may authorize, the amount of tax pursuant to Section
12 60502.2 due for the month covered by the return, and any other
13 information as the board deems necessary for the proper
14 administration of this part. The person shall file the return on or
15 before the last day of the calendar month following the monthly
16 period to which it relates, together with a remittance payable to the
17 board for the amount of tax due for that period. To facilitate the
18 administration of this part, the board may require the filing of the
19 returns for other than monthly periods. Returns shall be
20 authenticated in a form or pursuant to methods as may be
21 prescribed by the board.

22 SEC. 74. Section 60205.5 of the Revenue and Taxation Code
23 is amended to read:

24 60205.5. (a) Each government entity shall prepare and file
25 with the board a return in the form as prescribed by the board,
26 which may include, but not be limited to, electronic media
27 showing the total number of gallons of dyed diesel fuel and undyed
28 diesel fuel used in a diesel-powered highway vehicle during each
29 calendar month, or the monthly period ending during the calendar
30 month covered by the return, and any other information as the
31 board deems necessary for the proper administration of this part.
32 The person shall file the return on or before the last day of the
33 calendar month following the monthly period to which it relates,
34 together with a remittance payable to the board for the amount of
35 tax due for that period. To facilitate the administration of this part,
36 the board may require the filing of the returns for other than
37 monthly periods. Returns shall be authenticated in a form or
38 pursuant to methods as may be prescribed by the board.



1 (b) A government entity that has paid diesel fuel tax to a retail
2 vendor that sold the diesel fuel to the government entity shall be
3 allowed a credit on its tax return for the tax paid to the retail vendor.

4 SEC. 75. Section 60206 of the Revenue and Taxation Code is
5 amended to read:

6 60206. Each highway vehicle operator shall prepare and file
7 with the board a return in the form as prescribed by the board,
8 which may include, but not be limited to, electronic media
9 showing the total number of gallons of diesel fuel subject to the
10 backup tax that was delivered into the fuel tank of a
11 diesel-powered highway vehicle or sold by him or her within this
12 state during each calendar month, or the monthly period ended
13 during that calendar month as the board may authorize, the amount
14 of tax due for the month covered by the return, and any other
15 information as the board deems necessary for the proper
16 administration of this part. The person shall file the return on or
17 before the last day of the calendar month following the monthly
18 period to which it relates, together with a remittance payable to the
19 board for the amount of tax due for that period. To facilitate the
20 administration of this part, the board may require the filing of the
21 returns for other than monthly periods. Returns shall be
22 authenticated in a form or pursuant to methods as may be
23 prescribed by the board.

24 SEC. 76. Section 60253 is added to the Revenue and Taxation
25 Code, to read:

26 60253. (a) Any return, ~~report~~, declaration, statement, or
27 other document required to be made under this part that is filed
28 using electronic media shall be filed and authenticated pursuant to
29 any method or form the board may prescribe.

30 (b) Notwithstanding any other law, any return, report,
31 declaration, statement, or other document otherwise required to be
32 signed that is filed by the taxpayer using electronic media in a form
33 as required by the board shall be deemed to be a signed, valid
34 original document, including upon reproduction to paper form by
35 the board.

36 (c) Electronic media includes, but is not limited to, computer
37 modem, magnetic media, optical disk, facsimile machine, or
38 telephone.

39 ~~SEC. 77. Section 60310 of the Revenue and Taxation Code is~~
40 ~~amended to read:~~

1 ~~60310.—If the board is not satisfied with the return or returns~~
2 ~~of the tax or the amount of tax, or other amount, required to be paid~~
3 ~~to the state by any person, it may compute and determine the~~
4 ~~amount required to be paid upon the basis of the facts contained~~
5 ~~in the return or returns or upon the basis of any information within~~
6 ~~its possession or that may come into its possession. The board may~~
7 ~~make a determination for more than one period and may make one~~
8 ~~or more determinations for the same period. When a business is~~
9 ~~discontinued, a determination may be made at any time thereafter~~
10 ~~within the period specified in Section 60315, as to liability arising~~
11 ~~out of that business, irrespective of whether the determination is~~
12 ~~issued prior to the due date of the liability as otherwise specified~~
13 ~~in this part.~~

14 ~~SEC. 78.—Section 60521.5 of the Revenue and Taxation Code~~
15 ~~is amended to read:~~

16 ~~60521.5.—When an amount represented by a person to a~~
17 ~~customer as constituting reimbursement for taxes due under this~~
18 ~~part is computed upon an amount that is not taxable or is in excess~~
19 ~~of the taxable amount and is actually paid by the customer to the~~
20 ~~person, the amount so paid shall be returned by the person to the~~
21 ~~customer upon notification by the State Board of Equalization or~~
22 ~~by the customer that the excess has been ascertained. If the person~~
23 ~~fails or refuses to do so, the amount so paid, if knowingly or~~
24 ~~mistakenly computed by the person upon an amount that is not~~
25 ~~taxable or is in excess of the taxable amount, shall be remitted by~~
26 ~~that person to this state. The amount remitted to the state shall~~
27 ~~include interest at the modified adjusted rate per month, or fraction~~
28 ~~thereof, established pursuant to Section 6591.5, from the last day~~
29 ~~of the month following the date the excess tax reimbursement was~~
30 ~~paid by the customer until the date of remittance to the state. Those~~
31 ~~amounts remitted to the state shall be credited by the board on any~~
32 ~~amounts due and payable under this part on the same transaction~~
33 ~~from the person by whom it was paid to this state and the balance,~~
34 ~~if any, shall constitute an obligation due from the person to this~~
35 ~~state.—~~

36 ~~SEC. 79. Section 60633.1 of the Revenue and Taxation Code~~
37 ~~is amended to read:~~

38 ~~60633.1. (a) A taxpayer may file a claim with the board for~~
39 ~~reimbursement of bank charges and any other reasonable~~
40 ~~third-party check charge fees incurred by the taxpayer as the direct~~



1 result of an erroneous levy or notice to withhold by the board. Bank
2 and third-party charges include a financial institution's or third
3 party's customary charge for complying with the levy or notice to
4 withhold instructions and reasonable charges for overdrafts that
5 are a direct consequence of the erroneous levy or notice to
6 withhold. The charges are those paid by the taxpayer and not
7 waived for reimbursement by the financial institution or third
8 party. Each claimant applying for reimbursement shall file a claim
9 with the board that shall be in a form as may be prescribed by the
10 board. In order for the board to grant a claim, the board shall
11 determine that both of the following conditions have been
12 satisfied:

13 (1) The erroneous levy or notice to withhold was caused by
14 board error.

15 (2) Prior to the levy or notice to withhold, the taxpayer
16 responded to all contacts by the board and provided the board with
17 any requested information or documentation sufficient to establish
18 the taxpayer's position. This provision may be waived by the board
19 for reasonable cause.

20 (b) Claims pursuant to this section shall be filed within 90 days
21 from the date of the levy or notice to withhold. Within 30 days
22 from the date the claim is received, the board shall respond to the
23 claim. If the board denies the claim, the taxpayer shall be notified
24 in writing of the reason or reasons for the denial of the claim.

