

ASSEMBLY BILL

No. 2088

Introduced by Assembly Member Beall

February 19, 2008

An act to amend Sections 22973, 22977.1, and 22990 of, and to add Section 22990.5 to, the Business and Professions Code, and to add Division 10.11 (commencing with Section 11999.50) to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2088, as introduced, Beall. Public health: tobacco fees: Secretary of Addiction Prevention and Recovery Services.

Existing law, the California Cigarette and Tobacco Products Licensing Act of 2003, provides for and requires the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products that are engaged in business in California. Existing law requires an application for licensure as a retailer of cigarettes or tobacco products to include a one-time license fee of \$100 per retail location, but does not apply this fee to an application for renewal of a license for which the one-time fee has been paid. The act also requires distributors and wholesalers to pay the board a license fee of \$1000 per location.

The act requires all moneys collected pursuant to its provisions to be deposited in the Cigarette and Tobacco Products Compliance Fund in the State Treasury, which would be available for appropriation by the Legislature solely for the purpose of implementing, enforcing, and administering the California Cigarette and Tobacco Products Licensing Act of 2003.

This bill would require a retailer of cigarettes or tobacco products to pay an annual license fee of \$100 and would increase the distributor and wholesaler license fee to \$1,500. The bill would require the annual retailer license fee and \$500 from the distributor and wholesaler license fee to be deposited in the Addiction and Recovery Services Fund, which would be created by the bill in the State Treasury. Moneys in this fund would be available, upon appropriation, to implement the duties of the Secretary of Addiction Prevention and Recovery Services.

Existing law establishes within the California Health and Human Services Agency a State Department of Alcohol and Drug Programs under the control of an executive officer known as the Director of Alcohol and Drug Programs and who is appointed by the Governor.

Existing law requires the department to perform various duties with respect to problems related to alcohol and other drug use.

This bill would require the Governor to appoint a Secretary of Addiction Prevention and Recovery Services to serve within his or her cabinet. It would require the secretary to be responsible for reporting directly to the Governor on issues related to alcohol and drug problems within the state and providing the Legislature with annual reports on these issues.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) There is a need for the establishment and implementation
- 4 of a statewide comprehensive strategy within the state to address
- 5 alcohol and other drug problems in a comprehensive and
- 6 coordinated manner by reshaping existing policies on substance
- 7 abuse treatment and reframing these problems as a chronic health
- 8 condition.
- 9 (b) There is a need to evaluate the state’s performance in
- 10 addressing alcohol and other drug problems against the state’s key
- 11 strategic goals and objectives.
- 12 (c) There is a need to ensure training and development to
- 13 strengthen the corporate and strategic planning framework and
- 14 processes.

1 (d) There is a need for leadership in state planning to deal with
2 these problems and promote a strong commitment to consultation
3 and engagement of alcohol and other drug agencies, as well as the
4 private and nongovernmental sectors.

5 (e) There is a need for an official leader within the substance
6 abuse and addiction profession.

7 SEC. 2. Section 22973 of the Business and Professions Code
8 is amended to read:

9 22973. (a) An application for a license shall be filed on or
10 before April 15, 2004, on a form prescribed by the board and shall
11 include the following:

12 (1) The name, address, and telephone number of the applicant.

13 (2) The business name, address, and telephone number of each
14 retail location. For applicants who control more than one retail
15 location, an address for receipt of correspondence or notices from
16 the board, such as a headquarters or corporate office of the retailer,
17 shall also be included on the application and listed on the license.
18 Citations issued to licensees shall be forwarded to all addressees
19 on the license.

20 (3) A statement by the applicant affirming that the applicant
21 has not been convicted of a felony and has not violated and will
22 not violate or cause or permit to be violated any of the provisions
23 of this division or any rule of the board applicable to the applicant
24 or pertaining to the manufacture, sale, or distribution of cigarettes
25 or tobacco products. If the applicant is unable to affirm this
26 statement, the application shall contain a statement by the applicant
27 of the nature of any violation or the reasons that will prevent the
28 applicant from complying with the requirements with respect to
29 the statement.

30 (4) If any other licenses or permits have been issued by the
31 board or the Department of Alcoholic Beverage Control to the
32 applicant, the license or permit number of those licenses or permits
33 then in effect.

34 (5) A statement by the applicant that the contents of the
35 application are complete, true, and correct. Any person who signs
36 a statement pursuant to this subdivision that asserts the truth of
37 any material matter that he or she knows to be false is guilty of a
38 misdemeanor punishable by imprisonment of up to one year in the
39 county jail, or a fine of not more than one thousand dollars
40 (\$1,000), or both the imprisonment and the fine.

1 (6) The signature of the applicant.

2 (7) Any other information the board may require.

3 (b) The board may investigate to determine the truthfulness and
4 completeness of the information provided in the application. The
5 board may issue a license without further investigation to an
6 applicant for a retail location if the applicant holds a valid license
7 from the Department of Alcoholic Beverage Control for that same
8 location.

9 (c) The board shall provide electronic means for applicants to
10 download and submit applications.

11 (d) (1) A ~~one-time~~ license fee of one hundred dollars (\$100)
12 shall be submitted with each application. *This license fee shall be*
13 *submitted annually thereafter per location.* An applicant that owns
14 or controls more than one retail location shall obtain a separate
15 license for each retail location, but may submit a single application
16 for those licenses with a ~~one-time~~ license fee of one hundred dollars
17 (\$100) per location.

18 (2) ~~The one-time fee required by this subdivision does not apply~~
19 ~~to an application for renewal of a license for a retail location for~~
20 ~~which the one-time license fee has already been paid.~~ If a license
21 is reinstated after its expiration, the retailer, as a condition
22 precedent to its reinstatement, shall *also* pay a reinstatement fee
23 of one hundred dollars (\$100).

24 SEC. 3. Section 22977.1 of the Business and Professions Code
25 is amended to read:

26 22977.1. (a) Every distributor and every wholesaler shall file
27 an application, as prescribed in Section 22977, on or before April
28 15, 2004. Each application shall be accompanied by a fee of one
29 thousand *five hundred* dollars ~~(\$1,000)~~ (*\$1,500*) for each location.
30 The fee shall be for a calendar year and may not be prorated.
31 Subject to meeting the requirements of this section and Section
32 22977.2, the board shall issue a license.

33 (b) Every distributor and every wholesaler who commences
34 business after the last day of May 2004, or who commences selling
35 or distributing cigarettes or tobacco products at a new or different
36 place of business in this state after the last day of May 2004, shall
37 file with the board an application as prescribed in Section 22977
38 at least 30 days prior to commencing such business or commencing
39 such sales or distributions; and all distributors and all wholesalers
40 that fail to timely file an application for a license under subdivision

1 (a) shall file with the board an application as prescribed in Section
2 22977. Each application shall be accompanied by a fee of one
3 thousand *five hundred* dollars ~~(\$1,000)~~ *(\$1,500)* for each location.
4 The fee shall be for a calendar year and ~~may~~ *shall* not be prorated.
5 Subject to Section 22977.2, the board, within 30 days after receipt
6 of an application and payment of the proper fee shall issue a
7 license.

8 (c) For calendar years beginning on and after January 1, ~~2005,~~
9 *2009*, every distributor and every wholesaler shall file an
10 application for renewal of the license prescribed in Section 22977,
11 accompanied with a fee of one thousand *five hundred* dollars
12 ~~(\$1,000)~~ *(\$1,500)* for each location where cigarettes and tobacco
13 products are sold, in the form and manner as prescribed by the
14 board.

15 SEC. 4. Section 22990 of the Business and Professions Code
16 is amended to read:

17 22990. (a) All moneys collected pursuant to this division,
18 *except for annual retail license fees and five hundred dollars (\$500)*
19 *from each distributor and wholesaler renewal fee*, shall be
20 deposited in the Cigarette and Tobacco Products Compliance Fund,
21 which is hereby created in the State Treasury. No moneys in the
22 Cigarette and Tobacco Products Compliance Fund shall be used
23 to supplant state or local General Fund money for any purpose.

24 (b) All moneys in the Cigarette and Tobacco Products
25 Compliance Fund are available for expenditure, upon appropriation
26 by the Legislature, solely for the purpose of implementing,
27 enforcing, and administering the California Cigarette and Tobacco
28 Products Licensing Act of 2003.

29 SEC. 5. Section 22990.5 is added to the Business and
30 Professions Code, to read:

31 22990.5. (a) All moneys collected pursuant to this division
32 from annual retail license fees and five hundred dollars (\$500)
33 from each distributor and wholesaler renewal fee, shall be deposited
34 in the Addiction and Recovery Services Fund, which is hereby
35 created in the State Treasury. Notwithstanding Section 16305.7
36 of the Government Code, interest and dividends earned on money
37 in the fund shall accrue to the fund.

38 (b) All moneys in the Addiction and Recovery Services Fund
39 are available for expenditure, upon appropriation by the
40 Legislature, to the Secretary of Addiction Prevention and Recovery

1 Services solely for the purpose of administering his or her statutory
2 duties including those prescribed in Division 10.11 (commencing
3 with Section 11995.501 of the Health and Safety Code.

4 SEC. 6. Division 10.11 (commencing with Section 11999.50)
5 is added to the Health and Safety Code, to read:

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7 DIVISION 10.11. SECRETARY OF ADDICTION
8 PREVENTION AND RECOVERY SERVICES

9

10 11999.50. The Governor shall appoint a Secretary of Addiction
11 Prevention and Recovery Services to serve within his or her
12 cabinet. The secretary shall be responsible for reporting directly
13 to the Governor on issues related to alcohol and drug problems
14 within the state and providing the Legislature with annual reports
15 on these issues.