

AMENDED IN ASSEMBLY MARCH 13, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2344

Introduced by Assembly Member Beall

February 21, 2008

~~An act relating to professions and vocations.~~ *An act to amend Sections 22973 and 22977.1 of the Business and Professions Code, relating to cigarettes and tobacco products.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2344, as amended, Beall. ~~Alcohol and other drug abuse treatment providers.~~ *California Cigarette and Tobacco Products Licensing Act of 2003: fees.*

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. The act also requires distributors and wholesalers to pay the board an annual license fee of \$1,000 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 is solely available for appropriation by the Legislature 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. This bill also makes findings and declarations with regard to the increased costs of administering the California Cigarette and Tobacco Licensing Act of 2003.

~~Existing law provides for the licensure and regulation of various professions and vocations by various boards with the Department of Consumer Affairs.~~

~~This bill would state the intent of the Legislature to enact legislation creating a publicly accessible database of information on alcohol and other drug abuse treatment providers in the state.~~

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

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

- 1 SECTION 1. (a) *The Cigarette and Tobacco Products*
- 2 *Licensing Act of 2003 has contributed to a reduction in cigarette*
- 3 *and tobacco products tax evasion.*
- 4 (b) *Approximately 38,000 retailers maintain an annual license*
- 5 *to engage in the sale of cigarettes or tobacco products in this state.*
- 6 (c) *The one-time fee for a retailer’s license is one hundred*
- 7 *dollars (\$100). Retailers are required to renew their licenses on*
- 8 *a yearly basis.*
- 9 (d) *The one-time fee for a distributor’s or wholesaler’s license*
- 10 *is one thousand dollars (\$1,000). Distributors and wholesalers*
- 11 *are required to renew their licenses on a yearly basis and submit*
- 12 *a one thousand dollar (\$1,000) renewal fee to the State Board of*
- 13 *Equalization.*
- 14 (e) *Retailers, distributors, and wholesalers that sell or distribute*
- 15 *cigarettes or tobacco products without being properly licensed*
- 16 *are subject to citation, specified fines, and possible seizure of those*
- 17 *products.*
- 18 (f) *The State Board of Equalization currently engages in*
- 19 *procedures so that every effort is made to ensure that retailers,*
- 20 *distributors, and wholesalers renew, or reinstate, their license to*
- 21 *continue to engage in the sale or distribution of cigarettes or*
- 22 *tobacco products in this state.*
- 23 (g) *When a retailer allows license to expire, the State Board of*
- 24 *Equalization must suspend or revoke the license, notify the retailer*

1 of the suspension or revocation of the license, and deploy an
2 investigator to the retail location to determine whether the retail
3 location is still engaged in the sale of cigarettes and tobacco
4 products. If the retailer is still engaged in the sale of cigarettes
5 and tobacco products the retailer is required to reinstate the
6 license.

7 (h) State Board of Equalization staff may inspect distributors'
8 and wholesalers' locations and seize any undocumented cigarettes
9 or tobacco products, including cigarettes without tax stamps or
10 with counterfeit tax stamps. State Board of Equalization staff may
11 also review distributors' and wholesalers' sales and purchase
12 records to confirm compliance with the Cigarette and Tobacco
13 Products Licensing Act of 2003.

14 (i) The addition of a renewal fee for retailers and of a change
15 in the amount of the application and renewal fees for distributors
16 and wholesalers constitutes a fee for administrative purposes for
17 the State Board of Equalization to offset the actual cost of staff
18 resources necessary to process new applicants and to administer
19 the retailers', distributors', and wholesalers' licenses, which
20 includes renewal, investigation, suspension, and, if necessary,
21 reinstatement of the licenses.

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

24 22973. (a) An application for a license shall be filed on or
25 before April 15, 2004, on a form prescribed by the board and shall
26 include the following:

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

28 (2) The business name, address, and telephone number of each
29 retail location. For applicants who control more than one retail
30 location, an address for receipt of correspondence or notices from
31 the board, such as a headquarters or corporate office of the retailer,
32 shall also be included on the application and listed on the license.
33 Citations issued to licensees shall be forwarded to all addressees
34 on the license.

35 (3) A statement by the applicant affirming that the applicant
36 has not been convicted of a felony and has not violated and will
37 not violate or cause or permit to be violated any of the provisions
38 of this division or any rule of the board applicable to the applicant
39 or pertaining to the manufacture, sale, or distribution of cigarettes
40 or tobacco products. If the applicant is unable to affirm this

1 statement, the application shall contain a statement by the applicant
 2 of the nature of any violation or the reasons that will prevent the
 3 applicant from complying with the requirements with respect to
 4 the statement.

5 (4) If any other licenses or permits have been issued by the
 6 board or the Department of Alcoholic Beverage Control to the
 7 applicant, the license or permit number of those licenses or permits
 8 then in effect.

9 (5) A statement by the applicant that the contents of the
 10 application are complete, true, and correct. Any person who signs
 11 a statement pursuant to this subdivision that asserts the truth of
 12 any material matter that he or she knows to be false is guilty of a
 13 misdemeanor punishable by imprisonment of up to one year in the
 14 county jail, or a fine of not more than one thousand dollars
 15 (\$1,000), or both the imprisonment and the fine.

16 (6) The signature of the applicant.

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

18 (b) The board may investigate to determine the truthfulness and
 19 completeness of the information provided in the application. The
 20 board may issue a license without further investigation to an
 21 applicant for a retail location if the applicant holds a valid license
 22 from the Department of Alcoholic Beverage Control for that same
 23 location.

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

26 (d) (1) A ~~one-time~~ license fee of one hundred dollars (\$100)
 27 shall be submitted with each application. *This license fee shall be*
 28 *submitted annually thereafter per each retail location.* An applicant
 29 that owns or controls more than one retail location shall obtain a
 30 separate license for each retail location, but may submit a single
 31 application for those licenses with a ~~one-time~~ license fee of one
 32 hundred dollars (\$100) per location.

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

39 *SEC. 3. Section 22977.1 of the Business and Professions Code*
 40 *is amended to read:*

1 22977.1. (a) Every distributor and every wholesaler shall file
2 an application, as prescribed in Section 22977, on or before April
3 15, 2004. Each application shall be accompanied by a fee of one
4 thousand *five hundred* dollars ~~(\$1,000)~~ *(\$1,500)* for each location.
5 The fee shall be for a calendar year and may not be prorated.
6 Subject to meeting the requirements of this section and Section
7 22977.2, the board shall issue a license.

8 (b) Every distributor and every wholesaler who commences
9 business after the last day of May 2004, or who commences selling
10 or distributing cigarettes or tobacco products at a new or different
11 place of business in this state after the last day of May 2004, shall
12 file with the board an application as prescribed in Section 22977
13 at least 30 days prior to commencing such business or commencing
14 such sales or distributions; and all distributors and all wholesalers
15 that fail to timely file an application for a license under subdivision
16 (a) shall file with the board an application as prescribed in Section
17 22977. Each application shall be accompanied by a fee of one
18 thousand *five hundred* dollars ~~(\$1,000)~~ *(\$1,500)* for each location.
19 The fee shall be for a calendar year and ~~may~~ *shall* not be prorated.
20 Subject to Section 22977.2, the board, within 30 days after receipt
21 of an application and payment of the proper fee shall issue a
22 license.

23 (c) For calendar years beginning on and after January 1, ~~2005,~~
24 *2009*, every distributor and every wholesaler shall file an
25 application for renewal of the license prescribed in Section 22977,
26 accompanied with a fee of one thousand *five hundred* dollars
27 ~~(\$1,000)~~ *(\$1,500)* for each location where cigarettes and tobacco
28 products are sold, in the form and manner as prescribed by the
29 board.

30 ~~SECTION 1. It is the intent of the Legislature to enact~~
31 ~~legislation creating a publicly accessible database of information~~
32 ~~on alcohol and other drug abuse treatment providers in the state.~~