

Assembly Bill No. 2344

Passed the Assembly May 29, 2008

Chief Clerk of the Assembly

Passed the Senate August 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22972 and 22973 of the Business and Professions Code, relating to cigarettes and tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 2344, Beall. 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 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. Under existing law, if a license is reinstated after its expiration, the retailer is required to pay a reinstatement fee of \$100.

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 increase the license fee for retailers of cigarettes or tobacco products to \$185, and would require those retailers renewing their license to pay an annual license fee of \$185 with the application for renewal. This bill would increase the fee for reinstatement to \$185, and would provide that a license is valid for a 12-month period unless surrendered, suspended, or revoked prior to that period. This bill would specify that the amendments made by this act become operative January 1, 2010.

This bill also makes findings and declarations with regard to the increased costs of administering the California Cigarette and Tobacco Products Licensing Act of 2003.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Cigarette and Tobacco Products Licensing Act of 2003 has contributed to a reduction in cigarette and tobacco products tax evasion.

(b) Approximately 38,000 retailers maintain an annual license to engage in the sale of cigarettes or tobacco products in this state.

(c) The one-time fee for a retailer's license is one hundred dollars (\$100). Retailers are required to renew their licenses on a yearly basis.

(d) Retailers that sell cigarettes or tobacco products without being properly licensed are subject to citation, specified fines, and possible seizure of those products.

(e) The State Board of Equalization currently engages in procedures so that every effort is made to ensure that retailers renew, or reinstate, their license to continue to engage in the sale of cigarettes or tobacco products in this state.

(f) When a retailer allows its license to expire, the State Board of Equalization must suspend or revoke the license, notify the retailer of the suspension or revocation of the license, and deploy an investigator to the retail location to determine whether the retail location is still engaged in the sale of cigarettes and tobacco products. If the retailer is still engaged in the sale of cigarettes and tobacco products, the retailer is required to reinstate the license.

(g) The addition of a renewal fee for retailers constitutes a fee for administrative purposes for the State Board of Equalization to offset the actual cost of staff resources necessary to process new applicants and to administer the retailers' licenses, which includes renewal, investigation, suspension, and, if necessary, reinstatement of the licenses.

SEC. 2. Section 22972 of the Business and Professions Code is amended to read:

22972. (a) Commencing June 30, 2004, a retailer shall have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses.

(b) The retailer shall conspicuously display the license at each retail location in a manner visible to the public.

(c) A license is not assignable or transferable. A person who obtains a license as a retailer who ceases to do business as specified in the license, or who never commenced business, or whose license is suspended or revoked, shall immediately surrender the license to the board.

(d) A license shall be valid for a 12-month period, unless surrendered, suspended, or revoked prior to the end of the 12-month period, and may be renewed annually upon payment of the fee prescribed in subdivision (d) of Section 22973.

(e) The amendments made to this section by the act adding this subdivision shall become operative January 1, 2010.

SEC. 3. Section 22973 of the Business and Professions Code is amended to read:

22973. (a) An application for a license shall be on a form prescribed by the board and shall include the following:

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

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

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

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

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

(6) The signature of the applicant.

(7) Any other information the board may require.

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

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

(d) (1) A license fee of one hundred eighty-five dollars (\$185) shall be submitted with each application and each application for renewal of a license. This license fee shall be submitted annually thereafter per each retail location. An applicant that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application or application for renewal, as applicable for those licenses with a license fee of one hundred eighty-five dollars (\$185) per location.

(2) If a license is reinstated after its expiration, the retailer, as a condition precedent to its reinstatement, shall also pay a reinstatement fee of one hundred eighty-five dollars (\$185).

(e) The amendments made to this section by the act adding this subdivision shall become operative January 1, 2010.

Approved _____, 2008

Governor