

AMENDED IN SENATE MAY 18, 2009
AMENDED IN SENATE APRIL 28, 2009
AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 603

Introduced by Senator Padilla
(Principal coauthor: Assembly Member Beall)
(Coauthors: Senators DeSaulnier, *Leno*, Oropeza, and Romero)

February 27, 2009

An act to amend Sections 22972 and 22973 of, and to add Section 22973.3 to, the Business and Professions Code, relating to retail tobacco sales.

LEGISLATIVE COUNSEL'S DIGEST

SB 603, as amended, Padilla. Retail tobacco sales: licenses.

The California Cigarette and Tobacco Products Licensing Act of 2003 requires a retailer to obtain a license from the State Board of Equalization to engage in the sale of cigarette and tobacco products in this state, and requires retailer licensees to pay a one-time license fee of \$100, no renewal fee, and a reinstatement fee of \$100 if the license is renewed after lapse, and authorizes the board to suspend or revoke the license of any retailer of tobacco products that is in violation of the act.

Existing law requires all moneys collected pursuant to the act to be deposited in the Cigarette and Tobacco Products Compliance Fund, which is 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 limit the number of new retail licenses available, as specified. The bill would set the renewal fee at \$100. *This bill would allow, under specified circumstances, a retailer to transfer an existing license to another person for continued use at the same location upon the sale or transfer of the business holding the license, if the business is in an area where the number of current licenses exceeds the specified limit.*

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

3 22972. (a) Commencing June 30, 2004, a retailer shall have
4 in place and maintain a license to engage in the sale of cigarettes
5 or tobacco products. A retailer that owns or controls more than
6 one retail location shall obtain a separate license for each retail
7 location, but may submit a single application for those licenses.

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

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

15 (d) A license shall be valid for a 12-month period upon issuance
16 of the licence pursuant to Section 22973.1, unless surrendered,
17 suspended, or revoked prior to the end of the 12-month period,
18 and may be renewed annually upon payment of the fee prescribed
19 in subdivision (d) of Section 22973.

20 (e) Any subsequent license issued to a retailer that owns or
21 controls more than one retail location shall be valid for a partial
22 year period from the start date of the new license to the end of the
23 12-month period of the initial license. After a partial year period,
24 all licenses held by a retailer that owns or controls more than one
25 retail local shall be valid for the same 12-month period as a
26 retailer’s initial license.

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

1 22973. (a) An application for a license shall be filed on or
2 before April 15, 2004, on a form prescribed by the board and shall
3 include the following:

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

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

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

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

26 (5) A statement by the applicant that the contents of the
27 application are complete, true, and correct. Any person who signs
28 a statement pursuant to this subdivision that asserts the truth of
29 any material matter that he or she knows to be false is guilty of a
30 misdemeanor punishable by imprisonment of up to one year in the
31 county jail, or a fine of not more than one thousand dollars
32 (\$1,000), or both the imprisonment and the fine.

33 (6) The signature of the applicant.

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

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

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

3 (d) (1) A license fee of one hundred dollars (\$100) shall be
4 submitted with each application and application for renewal. An
5 applicant that owns or controls more than one retail location shall
6 obtain a separate license for each retail location, but may submit
7 a single application or application for renewal for those licenses
8 with a license fee of one hundred dollars (\$100) per location. The
9 fee shall not be ~~prorated~~; *prorated*.

10 (2) If a license is reinstated after its expiration, the retailer, as
11 a condition precedent to its reinstatement, shall also pay a
12 reinstatement fee of one hundred dollars (\$100).

13 (e) An application for renewal shall be in the form as prescribed
14 by the board, which may include, but not be limited to, the name,
15 address, and telephone number of the applicant, business name,
16 address, and telephone number of each retail location, and any
17 other information as the board deems necessary for the proper
18 administration of this division.

19 SEC. 3. Section 22973.3 is added to the Business and
20 Professions Code, to read:

21 22973.3. (a) The number of licenses issued shall be limited to
22 one for each 2,500 persons, or fraction thereof, over 18 years of
23 age in the county in which the retail facilities are situated. No new
24 license shall be issued for a county in which the number of current
25 licenses is more than one for every 2,500 persons, or fraction
26 thereof, 18 years of age or older. Applications shall be granted, if
27 they meet the requirements of this chapter, in the order in which
28 they are received. The subdivision shall not preclude the renewal
29 of any existing license or the transfer of any existing license.

30 ~~(b) In~~

31 *(b) (1) Notwithstanding any other law, subject to approval by*
32 *the board, in an area where the number of current licenses exceeds*
33 *the amount allowed by subdivision (a), a retailer may transfer an*
34 *existing license ~~may be transferred~~ to another person only for the*
35 *continued use at the same location upon the sale or transfer of the*
36 *business holding the ~~license~~; license, only to a person who*
37 *otherwise meets the requirements for the issuance of a new license,*
38 *and only after first providing 30 days notice to the board together*
39 *with an application for transfer, all transfer documents, and*

1 *evidence that the transferee would meet the requirements for the*
2 *issuance of a new license.*

3 (2) *The application for transfer shall be in the form as*
4 *prescribed by the board and contain any information that the board*
5 *may require. A transfer fee of _____ dollars (\$_____) shall be*
6 *submitted with each application.*

7 (c) (1) *Notwithstanding subdivision (a), the State Board of*
8 *Equalization may issue a new license if the local governing body*
9 *of the area in which the applicant's premises are located, or its*
10 *designated subordinate officer or body, determines within 90 days*
11 *of notification of a completed application that public convenience*
12 *or necessity would be served by the issuance. The 90-day period*
13 *shall commence upon receipt by the local governing body of either*
14 *of the following:*

15 (A) *Notification by the State Board of Equalization of an*
16 *application for licensure a license.*

17 (B) *A completed application according to local requirements,*
18 *if any, whichever is later.*

19 (2) *If the local governing body, or its designated subordinate*
20 *officer or body, does not make a determination within the 90-day*
21 *period, then the State Board of Equalization may issue a license*
22 *if the applicant shows the State Board of Equalization that public*
23 *convenience or necessity would be served by the issuance. In*
24 *making its determination, the State Board of Equalization shall*
25 *not attribute any weight to the failure of the local governing body,*
26 *or its designated subordinate officer or body, to make a*
27 *determination regarding public convenience or necessity within*
28 *the 90-day period. period, the license shall be deemed denied.*

29 (d) *This section shall not preempt a local jurisdiction from*
30 *adopting an ordinance that is more restrictive than this section with*
31 *regard to retailers.*

32 (e) *The population in a county shall be determined by the annual*
33 *population estimate for California counties published by the*
34 *Population Research Unit of the Department of Finance.*

35 (f) *In an area where the number of current licenses exceeds the*
36 *number allowed by subdivision (a), the board may reinstate an*
37 *expired license within six months after its expiration.*

38 (g) *The Department of Alcoholic Beverage Control shall, upon*
39 *request, provide to the board any licensure information, including,*
40 *but not limited to, applications, license issuance, license transfers,*

1 *license denials, or any other information necessary to administer*
2 *this chapter. The State Department of Public Health shall, upon*
3 *request, provide to the board any information, including, but not*
4 *limited to, statewide information on the annual Youth Tobacco*
5 *Purchase Survey, STAKE Act compliance checks, California*
6 *retailers and youth tobacco control laws, or any other information*
7 *necessary to administer this chapter.*

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