

AMENDED IN SENATE JANUARY 13, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 330

Introduced by Senator Padilla

February 15, 2011

An act to add Section 22964 to the Business and Professions Code, relating to cigarette and tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

SB 330, as amended, Padilla. Cigarette and tobacco products: retailers: Tobacco License Query System.

Existing law, the Stop Tobacco Access to Kids Enforcement Act, or STAKE Act, establishes various requirements for retailers relating to tobacco sales to minors, and ~~allows~~ *authorizes* enforcing agencies to assess civil penalties against a retailer for violations of the act. Existing law also establishes criminal penalties against a retailer that sells, gives, or furnishes tobacco products to a minor under certain circumstances. ~~Existing law, the Cigarette and Tobacco Licensing Act of 2003, requires a retailer to obtain a license from the State Board of Equalization to engage in the sale of tobacco products in California, and requires the board to take action against a retailer for specified violations of existing law.~~

This bill would require the State Department of Public Health to develop and maintain the Tobacco License Query System that consists of a public, electronic database containing information regarding retailer violations of the STAKE Act and other specified laws intended to prevent illegal sales of tobacco to minors. This bill would require the department to make the Tobacco License Query System available to

the public on the department's Internet Web site by July 1, 2013, 2014, and to update the system on a quarterly basis.

By requiring local enforcing agencies to submit information regarding retailer violations of specified tobacco laws to the department, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

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

3 (a) According to the American Cancer Society, over 80 percent
4 of adults who are regular smokers started smoking at or before 18
5 years of age.

6 (b) A 2009 survey from the *federal* Centers for Disease Control
7 and Prevention found that nearly one-half of high school students
8 had tried cigarette smoking, and more than one in four high school
9 students were current tobacco users.

10 (c) Each day in the United States, approximately 3,600 youths
11 between 12 and 17 years of age initiate cigarette smoking, and an
12 estimated 1,100 youths become daily cigarette smokers.

13 (d) Smoking is the single most preventable cause of death and
14 disease in California. Almost one in six deaths in California is
15 attributable to smoking: more than 35,000 deaths every year.

16 (e) In 1992, Congress passed the Synar Amendment to decrease
17 access to tobacco for minors. The Synar Amendment requires
18 states to adopt and enforce laws prohibiting any manufacturer,
19 retailer, or distributor from selling or distributing tobacco products
20 to minors.

21 (f) In 1994, California adopted the Stop Tobacco Access to Kids
22 Enforcement (STAKE) Act to meet the requirements of the Synar
23 Amendment and to decrease underage tobacco usage. The State

1 Department of Public Health has primary responsibility for
2 enforcing the STAKE Act.

3 (g) State and local law enforcement agencies, including, but not
4 limited to, the Attorney General, ~~the a~~ city attorney, ~~the a~~ district
5 attorney, and county counsel, are also authorized to enforce the
6 STAKE Act.

7 (h) The Cigarette and Tobacco Products Licensing Act of 2003
8 was passed to further reduce illegal sales of tobacco within the
9 state. It requires a retailer to obtain a license from the State Board
10 of Equalization to engage in the sale of cigarette and tobacco
11 products in California.

12 (i) In 2009, the President signed the *federal* Family Smoking
13 Prevention and Tobacco Control Act, which gave the United States
14 Food and Drug Administration (FDA) the authority to regulate the
15 manufacturing, marketing, and sale of tobacco products. Since its
16 passage, the FDA has completed 27,500 undercover checks, many
17 that involved sending minors to stores to buy cigarettes. The
18 undercover operations resulted in 1,200 warning letters issued to
19 retailers.

20 SEC. 2. Section 22964 is added to the Business and Professions
21 Code, to read:

22 22964. (a) The department shall establish and maintain the
23 Tobacco License Query System. The Tobacco License Query
24 System shall consist of an electronic database of all violations
25 attributed to a retailer of any federal, state, or local law intended
26 to prevent the illegal sale of tobacco to minors.

27 ~~(a)~~

28 (b) The Tobacco License Query System shall include, but not
29 be limited to, the following information:

30 (1) All penalties assessed against retailers pursuant to Sections
31 22958, 22962, and 22963 by any enforcing agency.

32 (2) All penalties assessed against retailers pursuant to Section
33 308 of the Penal Code by a city attorney, a county counsel, or a
34 district attorney.

35 ~~(3) All penalties assessed against retailers pursuant to Section~~
36 ~~22974.8 by the State Board of Equalization.~~

37 (3) *The business name, address, and telephone number of the*
38 *retailer.*

1 (4) *The type and amount of penalty assessed, pursuant to this*
2 *division, Section 308 of the Penal Code, or any other law intended*
3 *to prevent the illegal sale of tobacco to minors.*

4 (5) *The number of previous violations.*

5 (6) *The date of assessed violations.*

6 ~~(b)~~

7 (c) An enforcing agency shall submit to the department
8 information regarding all penalties assessed against retailers *in*
9 *adjudicated cases or when the retailer has paid the assessed*
10 *penalty, pursuant to this division, Section 308 of the Penal Code,*
11 ~~the California Cigarette and Tobacco Products Licensing Act of~~
12 ~~2003 (Div. 8.6 (commencing with Section 22970)), and any other~~
13 ~~law intended to prevent the illegal sale of tobacco to minors. The~~
14 ~~department shall create and provide a form for enforcing agencies~~
15 ~~to use to submit the information required by this section.~~

16 ~~(e)~~

17 (d) The department is encouraged to coordinate with the United
18 States Food and Drug Administration to include in the Tobacco
19 License Query System, when possible, information regarding all
20 penalties assessed against retailers pursuant to the federal Family
21 Smoking Prevention and Tobacco Control Act (Public Law
22 111-31), as it is applied in California.

23 ~~(f)~~

24 (e) The department shall make the Tobacco License Query
25 System easily accessible to the public and to all enforcing agencies
26 on the department's Internet Web site by July 1, 2013, 2014, and
27 update the Tobacco License Query System on a quarterly basis
28 thereafter.

29 SEC. 3. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

O