

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1238

Introduced by Assembly Member Linder

February 27, 2015

~~An act to add Sections 30004 and 30112 to the Revenue and Taxation Code, relating to taxation. An act to amend Section 103526 of the Health and Safety Code, relating to vital records.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1238, as amended, Linder. ~~Cigarette and tobacco products taxes: premium cigars. Certified copies of marriage, birth, and death certificates: electronic application.~~

Under existing law, a certified copy of a birth, death, marriage, or military service record may only be supplied by the State Registrar, local registrar, or county recorder to an authorized person, as defined, who submits a written, faxed, or digitized image request accompanied by a notarized statement sworn under penalty of perjury that the applicant is an authorized person.

This bill would, if the request for a certified copy of a birth, death, or marriage record is made electronically, authorize the official to accept electronic acknowledgment, sworn under penalty of perjury, that the requester is an authorized person. The bill would require the request to provide a method for the official to establish the identity of the requester electronically and would require the system or product used to process the electronic request and to establish the requester's

identity to comply with specified provisions and protect the personal information of the requester and guard against identity theft.

~~The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) and the California Families and Children Act of 1998 (Proposition 10). That law imposes taxes on other tobacco products, including cigars, measured by wholesale cost, at a rate determined annually by the State Board of Equalization, as provided.~~

~~The Tobacco Tax and Health Protection Act of 1988, and the California Families and Children Act of 1998, each requires that amendments to its provisions be consistent with the act's purposes, and be approved, respectively, by either a $\frac{4}{5}$ or $\frac{2}{3}$ vote of both houses of the Legislature.~~

~~This bill would define a "premium cigar" for purposes of these taxes as any roll of tobacco spiral wrapped in leaf tobacco that does not contain a plastic or wooden filter or tip, and that weighs over 6 pounds per thousand cigars. The bill would also provide that the rate of tax imposed on the distribution of a premium cigar would not exceed \$ _____.~~

~~Vote: $\frac{4}{5}$ -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 103526 of the Health and Safety Code is
- 2 amended to read:
- 3 103526. (a) (1) If the State Registrar, local registrar, or county
- 4 recorder receives a written, faxed, or digitized image of a request
- 5 for a certified copy of a birth, death, or marriage record pursuant
- 6 to Section 103525 that is accompanied by a notarized statement
- 7 sworn under penalty of ~~perjury~~; *perjury* or a faxed copy or digitized
- 8 image of a notarized statement sworn under penalty of ~~perjury~~;
- 9 *perjury* that the requester is an authorized person, as defined in
- 10 this section, that official may furnish a certified copy to the
- 11 applicant pursuant to Section 103525. ~~A~~
- 12 (2) A faxed or digitized image of the notary acknowledgment
- 13 accompanying a faxed request received pursuant to this subdivision
- 14 for a certified copy of a birth, death, or marriage record shall be
- 15 legible and, if the notary's seal is not photographically

1 reproducible, show the name of the notary, the county of the
2 notary's principal place of business, the notary's telephone number,
3 the notary's registration number, and the notary's commission
4 expiration date typed or printed in a manner that is photographically
5 reproducible below, or immediately adjacent to, the notary's
6 signature in the acknowledgment. If a request for a certified copy
7 of a birth, death, or marriage record is made in person, the official
8 shall take a statement sworn under penalty of perjury that the
9 requester is signing his or her own legal name and is an authorized
10 person, and that official may then furnish a certified copy to the
11 applicant.

12 *(3) If a request for a certified copy of a birth, death, or marriage*
13 *record is made electronically, the official may accept an electronic*
14 *acknowledgment, sworn under penalty of perjury, that the requester*
15 *is an authorized person pursuant to this section. The request shall*
16 *also provide a method for the official to establish the identity of*
17 *the requester electronically, pursuant to this section. A system or*
18 *product used to process the electronic request and establish the*
19 *requester's identity shall comply with the provisions of the*
20 *California Uniform Electronic Transactions Act and all other*
21 *applicable state and federal laws and regulations to protect the*
22 *personal information of the requester and guard against identity*
23 *theft. If a requester's identity cannot be established electronically*
24 *pursuant to this paragraph, the requester may accompany his or*
25 *her request with a notarized statement of identity pursuant to*
26 *paragraph (1).*

27 ~~(2)~~

28 (4) For purposes of this subdivision, "digitized image" means
29 an image of an original paper request for a certified copy of a birth,
30 death, or marriage record.

31 (5) *Willfully obtaining or assisting another person in obtaining*
32 *a vital record when he or she is not authorized to receive that*
33 *record is a crime pursuant to Section 530.5 of the Penal Code.*

34 (b) (1) If the person requesting a certified copy of a birth, death,
35 or nonconfidential marriage record is not an authorized person or
36 is an authorized person who is otherwise unable to satisfy the
37 requirements of subdivision (a), the certified copy provided to the
38 applicant shall be an informational certified copy and shall display
39 a legend that states "INFORMATIONAL, NOT A VALID
40 DOCUMENT TO ESTABLISH IDENTITY." The legend shall

1 be placed on the certificate in a manner that will not conceal
2 information.

3 (2) If the person requesting a certified copy of a confidential
4 marriage record is not an authorized person or is an authorized
5 person who is otherwise unable to satisfy the requirements of
6 subdivision (a), the official shall not release a certified copy of the
7 confidential marriage record unless otherwise authorized by law.

8 (c) For purposes of this section, an “authorized person” means:

9 (1) For purposes of requests for certified copies of confidential
10 marriage records, only a party to the confidential marriage.

11 (2) For purposes of requests for certified copies of birth, death,
12 or nonconfidential marriage records, a person who is any of the
13 following:

14 (A) The registrant or a parent or legal guardian of the registrant.

15 (B) A party entitled to receive the record as a result of a court
16 order, or an attorney or a licensed adoption agency seeking the
17 birth record in order to comply with the requirements of Section
18 3140 or 7603 of the Family Code.

19 (C) A member of a law enforcement agency or a representative
20 of another governmental agency, as provided by law, who is
21 conducting official business.

22 (D) A child, grandparent, grandchild, sibling, spouse, or
23 domestic partner of the registrant.

24 (E) An attorney representing the registrant or the registrant’s
25 estate, or any person or agency empowered by statute or appointed
26 by a court to act on behalf of the registrant or the registrant’s estate.

27 (F) An agent or employee of a funeral establishment who acts
28 within the course and scope of his or her employment and who
29 orders certified copies of a death certificate on behalf of ~~any~~ *an*
30 individual specified in paragraphs (1) to (5), inclusive, of
31 subdivision (a) of Section 7100.

32 (d) A person who asks the agent or employee of a funeral
33 establishment to request a death certificate on his or her behalf
34 warrants the truthfulness of his or her relationship to the ~~decedent~~,
35 *decedent* and is personally liable for all damages occasioned by,
36 or resulting from, a breach of that warranty.

37 (e) Notwithstanding any other law:

38 (1) A member of a law enforcement agency or a representative
39 of a state or local government agency, as provided by law, who
40 orders a copy of a record to which subdivision (a) applies in

1 conducting official business shall not be required to provide the
2 notarized statement required by subdivision (a).

3 (2) An agent or employee of a funeral establishment who acts
4 within the course and scope of his or her employment and who
5 orders death certificates on behalf of individuals specified in
6 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100
7 shall not be required to provide the notarized statement required
8 by subdivision (a).

9 (f) Informational certified copies of birth and death certificates
10 issued pursuant to subdivision (b) shall only be printed from the
11 single statewide database prepared by the State Registrar and shall
12 be electronically redacted to remove any signatures for purposes
13 of compliance with this section. Local registrars and county
14 recorders shall not issue informational certified copies of birth and
15 death certificates from a source other than the statewide database
16 prepared by the State Registrar. This subdivision shall become
17 operative on July 1, 2007, but only after the statewide database
18 becomes operational and the full calendar year of the birth and
19 death indices and images is entered into the statewide database
20 and is available for the respective year of the birth or death
21 certificate for which an informational copy is requested. The State
22 Registrar shall provide written notification to local registrars and
23 county recorders as soon as a year becomes available for issuance
24 from the statewide database.

25 ~~SECTION 1. Section 30004 is added to the Revenue and~~
26 ~~Taxation Code, to read:~~

27 ~~30004. "Premium cigar" means any roll of tobacco spiral~~
28 ~~wrapped in leaf tobacco that does not contain a plastic or wooden~~
29 ~~filter or tip, and that weighs over six pounds per thousand cigars.~~

30 ~~SEC. 2. Section 30112 is added to the Revenue and Taxation~~
31 ~~Code, to read:~~

32 ~~30112. Notwithstanding any other provision of this part, the~~
33 ~~rate of tax imposed on the distribution of a premium cigar shall~~
34 ~~not exceed _____ (\$_____).~~