

AMENDED IN ASSEMBLY MAY 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2770

Introduced by Assembly Member Nazarian

February 19, 2016

An act to amend Sections 22973 and 22977.1 of the Business and Professions Code, relating to cigarette and tobacco product licensing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2770, as amended, Nazarian. Cigarette and tobacco product licensing: fees and funding.

The Cigarette and Tobacco Products Licensing Act of 2003 requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. That act requires retailers of cigarettes and tobacco products to obtain a separate license for each retail location from the board, which is issued upon receipt of a completed application and payment of a one-time fee, unless specified conditions apply.

This bill would require a fee of \$265 to be submitted with each license application, as described above. The bill would require, for calendar years beginning on and after January 1, 2017, a retailer to file an application for renewal of a retailer's license accompanied with a fee of \$265 per retail location, in the form and manner prescribed by the board.

The Cigarette and Tobacco Products Licensing Act of 2003 requires a wholesaler or distributor that commences business selling or distributing cigarettes or tobacco products, or that commences doing so at a new or different place of business in the state, to apply for a

license accompanied by a required fee of \$1,000 for each location. The act also requires a wholesaler or distributor to file an application for a license renewal accompanied by a required fee of \$1,000 for each location where cigarettes and tobacco products are sold.

The bill would raise the fees described above to \$1,200.

The bill would require the board to report to the Legislature no later than ~~January 1, 2020~~, July 1, 2018, regarding the adequacy of funding for the Cigarette and Tobacco Licensing Act of 2003, as specified.

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 22973 of the Business and Professions
2 Code is amended to read:

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

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

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

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

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

1 (5) A statement by the applicant that the contents of the
2 application are complete, true, and correct. Any person who signs
3 a statement pursuant to this subdivision that asserts the truth of
4 any material matter that he or she knows to be false is guilty of a
5 misdemeanor punishable by imprisonment of up to one year in the
6 county jail, or a fine of not more than one thousand dollars
7 (\$1,000), or both the imprisonment and the fine.

8 (6) The signature of the applicant.

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

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

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

18 (d) A fee of two hundred sixty-five dollars (\$265) shall be
19 submitted with each application. An applicant that owns or controls
20 more than one retail location shall obtain a separate license for
21 each retail location, but may submit a single application for those
22 licenses with an application license fee of two hundred sixty-five
23 dollars (\$265) per location.

24 (e) For calendar years beginning on and after January 1, 2017,
25 every retailer shall file an application for renewal of the license
26 prescribed in Section 22972, accompanied with a fee of two
27 hundred sixty-five dollars (\$265) per retail location, in the form
28 and manner prescribed by the board.

29 (f) (1) The board shall report to the Legislature no later than
30 ~~January 1, 2020~~, *July 1, 2018*, regarding the adequacy of funding
31 for the Cigarette and Tobacco Products Licensing Act of 2003.
32 The report shall include data and recommendations about whether
33 the annual licensing fee funding levels are set at an appropriate
34 level to maintain an effective enforcement program. *The report*
35 *shall also include information on the board's compliance with the*
36 *State Auditor's recommendation in the State Auditor's March 2016*
37 *report to eliminate the excess fund balance in the Cigarette and*
38 *Tobacco Tax Compliance Fund.*

39 (2) The report required by paragraph (1) shall be submitted in
40 compliance with Section 9795 of the Government Code.

1 SEC. 2. Section 22977.1 of the Business and Professions Code
2 is amended to read:

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

10 (b) Every distributor and every wholesaler who commences
11 business after the last day of May 2004, or who commences selling
12 or distributing cigarettes or tobacco products at a new or different
13 place of business in this state after the last day of May 2004, shall
14 file with the board an application as prescribed in Section 22977
15 at least 30 days prior to commencing such business or commencing
16 such sales or distributions; and all distributors and all wholesalers
17 that fail to timely file an application for a license under subdivision
18 (a) shall file with the board an application as prescribed in Section
19 22977. Each application shall be accompanied by a fee of one
20 thousand two hundred dollars (\$1,200) for each location. The fee
21 shall be for a calendar year and may not be prorated. Subject to
22 Section 22977.2, the board, within 30 days after receipt of an
23 application and payment of the proper fee shall issue a license.

24 (c) For calendar years beginning on and after January 1, 2005,
25 and before January 1, 2017, every distributor and every wholesaler
26 shall file an application for renewal of the license prescribed in
27 Section 22977, accompanied with a fee of one thousand dollars
28 (\$1,000) for each location where cigarettes and tobacco products
29 are sold, in the form and manner as prescribed by the board. For
30 calendar years beginning on and after January 1, 2017, the fee
31 accompanying an application for renewal of the license prescribed
32 in Section 22977 shall be one thousand two hundred dollars
33 (\$1,200) for each location where cigarettes and tobacco products
34 are sold.

35 (d) (1) The board shall report to the Legislature no later than
36 ~~January 1, 2020~~, *July 1, 2018*, regarding the adequacy of funding
37 for the Cigarette and Tobacco Products Licensing Act of 2003.
38 The report shall include data and recommendations about whether
39 the annual licensing fee funding levels are set at an appropriate
40 level to maintain an effective enforcement program. *The report*

1 *shall also include information on the board's compliance with the*
2 *State Auditor's recommendation in the State Auditor's March 2016*
3 *report to eliminate the excess fund balance in the Cigarette and*
4 *Tobacco Tax Compliance Fund.*

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6 compliance with Section 9795 of the Government Code.

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