

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN ASSEMBLY MAY 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2770**

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**Introduced by Assembly Member Nazarian**

February 19, 2016

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An act to amend Sections 22973 and 22977.1 ~~of~~ of, and to add Sections 22990.5 and 22990.7 to, 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, and imposes various licensing fees. That act requires the moneys collected to be deposited in the Cigarette and Tobacco Products Compliance Fund, which are available for expenditure, upon appropriation by the Legislature, solely for the purpose of implementing, enforcing, and administering the licensing program under the act. The act requires the board to report to the Legislature no later than January 1, 2019, regarding the adequacy of funding for the licensing program .*

*This bill would instead require the board to report to the Legislature on or before January 1, 2019, and on and before January 1 annually thereafter. The bill would also require the report to include information on the board's compliance with the State Auditor's recommendation*

*in the State Auditor's March 2016 report to eliminate the excess fund balance in the Cigarette and Tobacco Tax Compliance Fund, which would be required until the excess fund balance is eliminated.*

*The Cigarette and Tobacco Products Tax Law imposes a tax on distributors of cigarettes and tobacco products, and authorizes the reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the tax.*

*This bill would prohibit, on or after January 1, 2017, the appropriation of revenues derived from the taxes imposed upon the distribution of cigarettes and tobacco products to the board for the purpose of implementing, enforcing, or administering the California Cigarette and Tobacco Products Licensing Act of 2003.*

~~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 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.

28     (5) A statement by the applicant that the contents of the  
29 application are complete, true, and correct. Any person who signs  
30 a statement pursuant to this subdivision that asserts the truth of  
31 any material matter that he or she knows to be false is guilty of a  
32 misdemeanor punishable by imprisonment of up to one year in the  
33 county jail, or a fine of not more than one thousand dollars  
34 (\$1,000), or both the imprisonment and the fine.

35     (6) The signature of the applicant.

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

37     (b) The board may investigate to determine the truthfulness and  
38 completeness of the information provided in the application. The

1 board may issue a license without further investigation to an  
2 applicant for a retail location if the applicant holds a valid license  
3 from the Department of Alcoholic Beverage Control for that same  
4 location.

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

7 (d) A fee of two hundred sixty-five dollars (\$265) shall be  
8 submitted with each application. An applicant that owns or controls  
9 more than one retail location shall obtain a separate license for  
10 each retail location, but may submit a single application for those  
11 licenses with an application license fee of two hundred sixty-five  
12 dollars (\$265) per location.

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

18 ~~(f) (1) The board shall report back to the Legislature no later~~  
19 ~~than January 1, 2019, regarding the adequacy of funding for the~~  
20 ~~Cigarette and Tobacco Products Licensing Act of 2003. The report~~  
21 ~~shall include data and recommendations about whether the annual~~  
22 ~~licensing fee funding levels are set at an appropriate level to~~  
23 ~~maintain an effective enforcement program.~~

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

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

28 22977.1. (a) Every distributor and every wholesaler shall file  
29 an application, as prescribed in Section 22977, on or before April  
30 15, 2004. Each application shall be accompanied by a fee of one  
31 thousand dollars (\$1,000) for each location. The fee shall be for a  
32 calendar year and may not be prorated. Subject to meeting the  
33 requirements of this section and Section 22977.2, the board shall  
34 issue a license.

35 (b) Every distributor and every wholesaler who commences  
36 business after the last day of May 2004, or who commences selling  
37 or distributing cigarettes or tobacco products at a new or different  
38 place of business in this state after the last day of May 2004, shall  
39 file with the board an application as prescribed in Section 22977  
40 at least 30 days prior to commencing such business or commencing

1 such sales or distributions; and all distributors and all wholesalers  
2 that fail to timely file an application for a license under subdivision  
3 (a) shall file with the board an application as prescribed in Section  
4 22977. Each application shall be accompanied by a fee of one  
5 thousand two hundred dollars (\$1,200) for each location. The fee  
6 shall be for a calendar year and may not be prorated. Subject to  
7 Section 22977.2, the board, within 30 days after receipt of an  
8 application and payment of the proper fee shall issue a license.

9 (c) For calendar years beginning on and after January 1, 2005,  
10 and before January 1, 2017, every distributor and every wholesaler  
11 shall file an application for renewal of the license prescribed in  
12 Section 22977, accompanied with a fee of one thousand dollars  
13 (\$1,000) for each location where cigarettes and tobacco products  
14 are sold, in the form and manner as prescribed by the board. For  
15 calendar years beginning on and after January 1, 2017, the fee  
16 accompanying an application for renewal of the license prescribed  
17 in Section 22977 shall be one thousand two hundred dollars  
18 (\$1,200) for each location where cigarettes and tobacco products  
19 are sold.

20 ~~(d) (1) The board shall report back to the Legislature no later~~  
21 ~~than January 1, 2019, regarding the adequacy of funding for the~~  
22 ~~Cigarette and Tobacco Products Licensing Act of 2003. The report~~  
23 ~~shall include data and recommendations about whether the annual~~  
24 ~~licensing fee funding levels are set at an appropriate level to~~  
25 ~~maintain an effective enforcement program.~~

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

28 *SEC. 3. Section 22990.5 is added to the Business and*  
29 *Professions Code, to read:*

30 *22990.5. Notwithstanding Sections 30124 and 30131.3 or any*  
31 *other law, on or after January 1, 2017, no revenues derived from*  
32 *the taxes imposed upon the distribution of cigarettes and tobacco*  
33 *products by Article 1 (commencing with Section 30101), Article*  
34 *2 (commencing with Sections 30121), and Article 3 (commencing*  
35 *with Section 30131) of Chapter 2 of Part 13 of Division 2 of the*  
36 *Revenue and Taxation Code shall be appropriated to the State*  
37 *Board of Equalization for the purpose of implementing, enforcing,*  
38 *or administering the California Cigarette and Tobacco Products*  
39 *Licensing Act of 2003.*

1 SEC. 4. Section 22990.7 is added to the Business and  
2 Professions Code, to read:

3 22990.7. (a) The board shall report to the Legislature on or  
4 before January 1, 2019, and on and before January 1 annually  
5 thereafter, regarding the adequacy of funding for the Cigarette  
6 and Tobacco Products Licensing Act of 2003. The report shall  
7 include data and recommendations about whether the annual  
8 licensing fee funding levels are set at an appropriate level to  
9 maintain an effective enforcement program. The report shall also  
10 include information on the board's compliance with the State  
11 Auditor's recommendation in the State Auditor's March 2016  
12 report to eliminate the excess fund balance in the Cigarette and  
13 Tobacco Tax Compliance Fund, which shall be required until the  
14 excess fund balance is eliminated.

15 (b) The report required by subdivision (a) shall be submitted  
16 in compliance with Section 9795 of the Government Code.

17 SECTION 1. ~~Section 22973 of the Business and Professions~~  
18 ~~Code is amended to read:~~

19 ~~22973. (a) An application for a license shall be filed on or~~  
20 ~~before April 15, 2004, on a form prescribed by the board and shall~~  
21 ~~include the following:~~

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

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

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

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

5 ~~(5) A statement by the applicant that the contents of the~~  
6 ~~application are complete, true, and correct. Any person who signs~~  
7 ~~a statement pursuant to this subdivision that asserts the truth of~~  
8 ~~any material matter that he or she knows to be false is guilty of a~~  
9 ~~misdemeanor punishable by imprisonment of up to one year in the~~  
10 ~~county jail, or a fine of not more than one thousand dollars~~  
11 ~~(\$1,000), or both the imprisonment and the fine.~~

12 ~~(6) The signature of the applicant.~~

13 ~~(7) Any other information the board may require.~~

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

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

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

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

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

1 ~~report to eliminate the excess fund balance in the Cigarette and~~  
2 ~~Tobacco Tax Compliance Fund.~~

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

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

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

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

28 ~~(c) For calendar years beginning on and after January 1, 2005,~~  
29 ~~and before January 1, 2017, every distributor and every wholesaler~~  
30 ~~shall file an application for renewal of the license prescribed in~~  
31 ~~Section 22977, accompanied with a fee of one thousand dollars~~  
32 ~~(\$1,000) for each location where cigarettes and tobacco products~~  
33 ~~are sold, in the form and manner as prescribed by the board. For~~  
34 ~~calendar years beginning on and after January 1, 2017, the fee~~  
35 ~~accompanying an application for renewal of the license prescribed~~  
36 ~~in Section 22977 shall be one thousand two hundred dollars~~  
37 ~~(\$1,200) for each location where cigarettes and tobacco products~~  
38 ~~are sold.~~

39 ~~(d) (1) The board shall report to the Legislature no later than~~  
40 ~~July 1, 2018, regarding the adequacy of funding for the Cigarette~~

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2 ~~include data and recommendations about whether the annual~~  
3 ~~licensing fee funding levels are set at an appropriate level to~~  
4 ~~maintain an effective enforcement program. The report shall also~~  
5 ~~include information on the board's compliance with the State~~  
6 ~~Auditor's recommendation in the State Auditor's March 2016~~  
7 ~~report to eliminate the excess fund balance in the Cigarette and~~  
8 ~~Tobacco Tax Compliance Fund.~~  
9 (2) ~~The report required by paragraph (1) shall be submitted in~~  
10 ~~compliance with Section 9795 of the Government Code.~~