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AB-11 Cigarette and tobacco product licensing: fees and funding. (2015-2016)

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Assembly Bill No. 11

CHAPTER 6

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

[Approved by Governor May 04, 2016. Filed with Secretary of State May 04, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 11, 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, 2019, regarding the adequacy of funding for the Cigarette and Tobacco Licensing Act of 2003, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

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

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

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

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

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

(6) The signature of the applicant.

(7) Any other information the board may require.

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

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

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

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

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

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

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

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

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

(c) For calendar years beginning on and after January 1, 2005, and before January 1, 2017, every distributor and every wholesaler shall file an application for renewal of the license prescribed in Section 22977, accompanied with a fee of one thousand dollars (\$1,000) for each location where cigarettes and tobacco products are sold, in the form and manner as prescribed by the board. For calendar years beginning on and after January 1, 2017, the fee accompanying an application for

renewal of the license prescribed in Section 22977 shall be one thousand two hundred dollars (\$1,200) for each location where cigarettes and tobacco products are sold.

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

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