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SB-205 Business licenses: stormwater discharge compliance. (2019-2020)

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Senate Bill No. 205

CHAPTER 470

An act to add Sections 16000.3 and 16100.3 to the Business and Professions Code, and to add Section 13383.10 to the Water Code, relating to business.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 205, Hertzberg. Business licenses: stormwater discharge compliance.

Existing law authorizes the legislative body of an incorporated city and the county board of supervisors, in the exercise of its police power, to license any kind of business not prohibited by law that is transacted and carried on within its jurisdiction, and to impose license fees. Existing law imposes various requirements on cities and counties prior to issuing specified business licenses, including verifying that a person applying for a business license to conduct business as a contractor is licensed by the Contractors' State License Board.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater by municipalities and industries in accordance with the National Pollutant Discharge Elimination System (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law requires regulated municipalities and industries to obtain a stormwater permit.

This bill would require, when applying to a city or a county for an initial business license or business license renewal, a person who conducts a business operation that is a regulated industry to demonstrate enrollment with the NPDES permit program by providing specified information, under penalty of perjury, on the application, including, among other things, the Standard Industrial Classification Code for the business. The bill would apply to all applications for initial business licenses and business license renewals submitted on and after January 1, 2020. The bill would permit a city or county to develop a provisional license procedure for business license renewals that provides businesses 3 months to comply with these provisions. By requiring that the information be submitted under penalty of perjury, this bill would expand the crime of perjury and impose a state-mandated local program.

This bill would require the city or county to determine, as specified, the applicability of any Standard Industrial Classification Code and, if applicable, to confirm that the information submitted to demonstrate enrollment corresponds to the business requesting the initial business license or business license renewal, and would require the city or county to transfer that information to the State Water Resources Control Board upon request, thereby imposing a state-mandated local program. The bill would require the State Water Resources Control Board, on or before April 1, 2020, to post on its internet website a list of applicable Standard Industrial Classification Codes for the purpose of the determinations made by cities or counties, and would require the state board to update that list, as specified.

This bill would also find and declare that the provisions of the bill address the health and safety of drinking water sources throughout the state, a matter of statewide concern, and that these provisions therefore apply to charter cities, charter counties, and charter cities and counties.

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 no reimbursement is required by this act for specified reasons.

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

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

SECTION 1. The Legislature finds and declares that the provisions of this measure address the health and safety of drinking water sources throughout the state, a matter of statewide concern, and that these provisions therefore apply to charter cities, charter counties, and charter cities and counties.

SEC. 2. Section 16000.3 is added to the Business and Professions Code, to read:

16000.3. (a) When applying to a city for an initial business license or business license renewal, a person who conducts a business operation that is a regulated industry, as defined in Section 13383.5 of the Water Code, shall demonstrate enrollment with the National Pollutant Discharge Elimination System (NPDES) permit program by providing all of the following information, under penalty of perjury, on the initial business license or business license renewal application:

- (1) The name and location of facilities operated by the person of that business.
- (2) All primary Standard Industrial Classification Codes, as defined in Section 25244.14 of the Health and Safety Code, for the business.
- (3) Any of the following for each facility operated by the person of that business:
 - (A) The stormwater permit number, known as the Waste Discharger Identification number (WDID), issued for the facility by the State Water Resources Control Board.
 - (B) The WDID application number issued for the facility by the State Water Resources Control Board.
 - (C) The "notice of nonapplicability identification number" (NONA) issued for the facility by the State Water Resources Control Board.
 - (D) The "no exposure" certification identification number (NEC) issued for the facility by the State Water Resources Control Board.

(b) Prior to the issuance or renewal of the business license, the city shall determine whether any of the primary Standard Industrial Classification Codes are applicable to a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5 of the Water Code, and if applicable, the city shall confirm that the WDID, WDID application number, NONA, or NEC corresponds to the business requesting the initial business license or business license renewal. To determine whether any of the primary Standard Industrial Classification Codes are applicable to a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5 of the Water Code, the city may use information provided by the State Water Resources Control Board, including information posted pursuant to Section 13383.10 of the Water Code for these purposes. To confirm the WDID, WDID application number, NONA, or NEC, the city shall only need to keep record of the applicable documentation.

(c) The city shall transfer compliance information received in subdivision (a) to the State Water Resources Control Board as requested by the board.

(d) For business license renewals, a city may develop a provisional license procedure that provides businesses three months to comply with the requirements of this section.

(e) "City" includes a charter city and a charter city and county.

(f) This section shall apply to applications for initial business licenses and business license renewals submitted on and after January 1, 2020.

(g) This section shall not apply to a city that does not have an application process for issuing or renewing business licenses or does not issue or renew business licenses.

(h) This section shall not be construed to impose any additional liability on a city under the National Pollutant Discharge Elimination System permit program for nonenrollment under a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities by a person who conducts a business operation that is a regulated industry, as defined in Section 13383.5 of the Water Code.

SEC. 3. Section 16100.3 is added to the Business and Professions Code, to read:

16100.3. (a) When applying to a county for an initial business license or business license renewal, a person who conducts a business operation that is a regulated industry, as defined in Section 13383.5 of the Water Code, shall demonstrate enrollment with the National Pollutant Discharge Elimination System (NPDES) permit program by providing all of the following information, under penalty of perjury, on the initial business license or business license renewal application:

(1) The name and location of facilities operated by the person of that business.

(2) All primary Standard Industrial Classification Codes, as defined in Section 25244.14 of the Health and Safety Code, for the business.

(3) Any of the following for each facility operated by the person of that business:

(A) The stormwater permit number, known as the Waste Discharger Identification number (WDID), issued for the facility by the State Water Resources Control Board.

(B) The WDID application number issued for the facility by the State Water Resources Control Board.

(C) The "notice of nonapplicability identification number" (NONA) issued for the facility by the State Water Resources Control Board.

(D) The "no exposure" certification identification number (NEC) issued for the facility by the State Water Resources Control Board.

(b) Prior to the issuance or renewal of the business license, the county shall determine whether any of the primary Standard Industrial Classification Codes are applicable to a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5 of the Water Code, and if applicable, the county shall confirm that the WDID, WDID application number, NONA, or NEC corresponds to the business requesting the initial business license or business license renewal. To determine whether any of the primary Standard Industrial Classification Codes are applicable to a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5 of the Water Code, the county may use information provided by the State Water Resources Control Board, including information posted pursuant to Section 13383.10 of the Water Code for these purposes. To confirm the WDID, WDID application number, NONA, or NEC, the county shall only need to keep record of the applicable documentation.

(c) The county shall transfer compliance information received in subdivision (a) to the State Water Resources Control Board as requested by the board.

(d) For business license renewals, a county may develop a provisional license procedure that provides businesses three months to comply with the requirements of this section.

(e) "County" includes a charter county and a charter city and county.

(f) This section shall apply to applications for initial business licenses and business license renewals submitted on and after January 1, 2020.

(g) This section shall not apply to a county that does not have an application process for issuing or renewing business licenses or does not issue or renew business licenses.

(h) This section shall not be construed to impose any additional liability on a county under the National Pollutant Discharge Elimination System permit program for nonenrollment under a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities by a person who conducts a business operation that is a regulated industry, as defined in Section 13383.5 of the Water Code.

SEC. 4. Section 13383.10 is added to the Water Code, to read:

13383.10. On or before April 1, 2020, the state board shall post on its internet website, for the purpose of the determinations made by the city pursuant to Section 16000.3 of the Business and Professions Code and a county pursuant to Section 16100.3 of the Business and Professions Code, a list of all Standard Industrial Classification codes applicable to a General Permit for Stormwater Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5,

and known as the Industrial General Permit. The state board shall update that list on its internet website within 90 days of any final updates by the United States Department of Labor or the United States Environmental Protection Agency.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.