

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 28, 2009
POSITION: Oppose

BILL NUMBER: SB 602
AUTHOR: A. Padilla
RELATED BILLS: AB 601 - 2008-09, AB 603 - 2008-09

BILL SUMMARY: Retail Tobacco Sales: Licenses

Existing law requires the Board of Equalization (BOE) to administer the Cigarette and Tobacco Products Licensing Act, a statewide cigarette and tobacco products licensing program for the sale of cigarettes and tobacco products. Existing law requires BOE to license manufacturers, distributors, wholesalers, importers and retailers of cigarette or tobacco products in California. Existing law also requires a retailer to have and maintain a license to sell cigarettes or tobacco products.

This bill would prohibit BOE from issuing new retail tobacco licenses in "areas of overconcentration", as defined. The bill also requires both the Department of Public Health and local law enforcement agencies to notify BOE when tobacco retailers are convicted of violations involving the sale of tobacco products to minors.

FISCAL SUMMARY

Finance estimates this bill could decrease the number of new retail licenses, while increasing BOE investigative duties relative to determining whether prospective licensees are located in an area of overconcentration. The increased workload, and the decline in the number of licensees, may cause further shortfalls in tobacco enforcement funding from the Cigarette and Tobacco Products Compliance Fund. This, in turn, could create a presently unquantifiable General Fund cost pressure.

We do not believe there are state-mandated reimbursable costs associated with the requirement that local law enforcement agencies notify BOE when retailers are convicted of selling tobacco products to minors, since this represents the provision of neither a new nor a higher level of service to the public. However, if a reimbursement claim is filed with and upheld by the Commission on State Mandates, unknown General Fund costs may be incurred.

COMMENTS

Finance opposes this bill for the following reasons:

- This bill could reduce the number of retail tobacco sellers, while increasing BOE investigative duties. The increased workload, coupled with the decreased revenues flowing to the Cigarette and Tobacco Products Compliance Fund, could create a corresponding General Fund cost pressure.
This bill could significantly reduce competition by restricting market entry for businesses that typically sell a wide range of products, including tobacco products. If the number of these businesses is limited, impacted communities could see localized price increases for a whole host of products.

Analyst/Principal (0762) C. Hill Date Program Budget Manager Mark Hill Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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April 28, 2009

SB 602

ANALYSIS**A. Programmatic Analysis**

Current law provides that a retailer who sells cigarette and tobacco products is required to have a license. A retail license is not assignable or transferable and cannot be sold.

Existing law requires retailers that own or control more than one retail location where cigarette and tobacco products are sold to obtain a separate license for each location, and to pay a license fee of \$100 per location. A license is valid for a 12-month period, and is renewed annually. BOE is required to issue a license to a retailer upon receipt of a completed application and payment of the fees, unless the applicant is a person or retailer convicted of a felony under the Cigarette and Tobacco Products Tax Law.

This bill would:

- Prohibit BOE from issuing new retail licenses to prospective retailers located in "areas of overconcentration". These are defined as areas where the ratio of retail licensees to population in the census tract is greater than the ratio of retail licenses to population in the county overall.
- Require both the Department of Public Health and local law enforcement agencies to notify BOE when tobacco retailers are convicted of violations involving the sale of tobacco products to minors.

B. Fiscal Analysis

This bill could decrease the number of retail licenses, while increasing BOE investigative duties relative to determining whether prospective licensees are located in an area of overconcentration. The increased workload, and the decline in the number of licensees, may cause further shortfalls in tobacco enforcement funding from the Cigarette and Tobacco Products Compliance Fund.

BOE's current enforcement costs, which are funded by licensing fees paid into the Cigarette and Tobacco Products Compliance Fund, exceed the revenues generated from those licensing fees. The shortfall is made up by the various special funds that receive revenue from the excise taxes on cigarettes and tobacco products, with further backfill from the state General Fund. The backfill funding is proportional to the various funds' share of the 87-cent tax per pack of cigarettes. The General Fund receives 10 cents of the 87-cent tax, and would bear that proportional share of any backfill costs.

We do not believe there are state-mandated reimbursable costs associated with the requirement that local law enforcement agencies notify BOE when retailers are convicted of selling tobacco products to minors, since this represents the provision of neither a new nor a higher level of service to the public. However, if a reimbursement claim is filed with and upheld by the Commission on State Mandates, unknown General Fund costs may be incurred.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2008-2009	FC	2009-2010	FC	2010-2011	
0860/Equalization	SO	No		-----	See Fiscal Analysis	-----			0001
0860/Equalization	SO	No		-----	See Fiscal Analysis	-----			0004
0860/Equalization	SO	No		-----	See Fiscal Analysis	-----			0230
0860/Equalization	SO	No		-----	See Fiscal Analysis	-----			0623
0860/Equalization	SO	No		-----	See Fiscal Analysis	-----			3067

<u>Fund Code</u>	<u>Title</u>
0001	General Fund
0004	Breast Cancer Fund
0230	Cigarette & Tobacco Products Surtax Fund
0623	Children & Families First Trust Fd, Cal
3067	Cigarette & Tobacco Products Compliance