



*California State Board of Equalization,  
Legislative and Research Division*

# LEGISLATIVE BULLETIN

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State Capitol Building (from the East) c.1945  
Photo courtesy of California State Archives

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## SPECIAL TAXES AND FEES LEGISLATION 2016

**SPECIAL TAXES AND FEES LEGISLATION**  
**TABLE OF CONTENTS**

<b>CHAPTERED LEGISLATION ANALYSES</b>	<b>PAGE</b>
<a href="#"><u>Assembly Bill 1559 (Dodd) Chapter 257</u></a> <i>Tax Filing Deadline Extension: Disasters</i>	<a href="#"><u>2</u></a>
<a href="#"><u>Assembly Bill 1856 (Dababneh) Chapter 98</u></a> <i>Single Refund Claim: Installment Payments</i>	<a href="#"><u>5</u></a>
<a href="#"><u>Assembly Bill 1901 (Quirk) Chapter 662</u></a> <i>Cigarette Tax: Unaffixed Tax Stamps</i>	<a href="#"><u>7</u></a>
<a href="#"><u>Assembly Bill 2153 (C. Garcia) Chapter 666</u></a> <i>Lead-Acid Battery Fees</i>	<a href="#"><u>9</u></a>
<a href="#"><u>Assembly Bill 2201 (Brough) Chapter 264</u></a> <i>Electronic Payments: Interest: One Day Late</i>	<a href="#"><u>13</u></a>
<a href="#"><u>Assembly Bill 2770 (Nazarian) Chapter 699</u></a> <i>Cigarette and Tobacco Products Licensing Act: Funding and Retailer Renewal Alignment</i>	<a href="#"><u>15</u></a>
<a href="#"><u>Assembly Billx2 11 (Nazarian) Chapter 6</u></a> <i>Cigarette and Tobacco Products Licensing Act: Fees</i>	<a href="#"><u>20</u></a>
<a href="#"><u>Senate Bill 837 (Committee on Budget and Fiscal Review) Chapter 32</u></a> <i>Medical Cannabis Regulation and Safety Act: Technical Changes</i>	<a href="#"><u>22</u></a>
<a href="#"><u>Senate Bill 839 (Committee on Budget and Fiscal Review) Chapter 340</u></a> <i>Hazardous Substances Tax: Flat Rate Activity Fee</i>	<a href="#"><u>26</u></a>
<a href="#"><u>Senate Bill 1481 (Committee on Governance and Finance) Chapter 89</u></a> <i>Prepaid Mobile Telephone Services Surcharge: Technical Clean up</i>	<a href="#"><u>29</u></a>
<a href="#"><u>Senate Billx2 5 (Leno) Chapter 7</u></a> <i>Cigarette and Tobacco Products Licensing Act: eCigarette Retailers</i>	<a href="#"><u>32</u></a>
<b>TABLE OF SECTIONS AFFECTED</b>	<a href="#"><b><u>38</u></b></a>

**[Assembly Bill 1559 \(Dodd\) Chapter 257](#)**  
***Tax Filing Deadline Extension: Disasters***

*Urgency; effective September 9, 2016. Among its provisions, amends Sections 7656, 8754, 30185, 32253, 40065, 41054, 43154, 45152, 46153, 50111, 55041, and 60208 of the Revenue and Taxation Code.*

**Summary:** Authorizes the State Board of Equalization (BOE) to extend for up to three months the time for a tax or fee payer to file a tax return or report, or to pay the tax, in the case of a disaster.

**Sponsor:** Board of Equalization

**Purpose:** To provide business owners in disaster areas more time to file returns and pay tax obligations to the BOE.

**Fiscal Impact Summary:** Minor, penalty-related revenue loss.

**Former Law: Sales and Use Tax Law.** Under existing Sales and Use Tax Law,<sup>1</sup> taxpayers must file sales and use tax returns on or before the last day of the month following the end of the reporting period. Persons who are late paying a tax, fee, or surcharge must pay a 10% penalty, plus interest on the unpaid tax from the tax due date to the date of payment.<sup>2</sup> One month's interest is due for each month or fraction of a month that the payment is late. Similar statutes cover the Motor Vehicle Fuel Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Alcoholic Beverage Tax, Timber Yield Tax, Energy Resources Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Response, Prevention, and Administration Fees, Underground Storage Tank Fee, Fee Collections Procedures, and Diesel Fuel Tax Laws.<sup>3</sup>

Existing RTC Section 6459 allows the BOE for good cause to extend up to one month the time for making any return or paying the tax due. The extension may be granted at any time provided the request is filed with the BOE within or prior to the period for granting the extension. An extension provides the taxpayer additional time to make a return and pay the tax, and relieves the person for any late payment penalty. However, the law continues to impose interest from the due date until the payment date, except in the case of a disaster.<sup>4</sup>

If the BOE finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, a taxpayer will be relieved of interest. [Regulation 1703, Interest and Penalties](#), defines "disaster" to mean fire, flood, storm, tidal wave, earthquake, or a similar public calamity, whether or not it results from natural causes. Taxpayers seeking interest relief must file a statement with the BOE under penalty of perjury stating the facts supporting their claim for relief.

Likewise, a taxpayer, including a disaster-affected taxpayer, may seek penalty relief.<sup>5</sup> Specified penalties are relieved if the BOE finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the

<sup>1</sup> Revenue and Taxation Code (RTC) Section 6451.

<sup>2</sup> RTC Section 6591.

<sup>3</sup> RTC Sections 7656, 8754, 30185, 32253, 38405, 40065, 41054, 43154, 45152, 46153, 50111, 55041, and 60208, respectively.

<sup>4</sup> RTC Section 6593.

<sup>5</sup> RTC Section 6592.

## STATE BOARD OF EQUALIZATION

exercise of ordinary care and the absence of willful neglect. A taxpayer seeking relief under this provision must also file a statement under penalty of perjury supporting the claim for relief.

**Amended Law:** This bill allows the BOE, in the case of a disaster, to extend the time for making any return or paying BOE-administered taxes and fees for a period not to exceed three months. The extension may be granted at any time provided a request for relief is filed with the BOE within or before the period at issue.

“Disaster” is defined to mean fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes.

This bill is operative September 9, 2016.

**In General:** Disasters and emergencies vary from year to year and can differ dramatically with regard to type, geographic size, infrastructure, impact costs, and duration. As discussed above, the BOE considers a disaster for interest relief purposes to include fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes. A disaster includes, but does not require, a Governor declared state of emergency.

Government Code (GC) Section 8625 authorizes the Governor to proclaim a state of emergency under specified circumstances. GC Section 8558 establishes three conditions under which the Governor may proclaim a state of emergency:

- "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.
- "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state.
- "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city.

Generally, major disasters such as earthquake, firestorms, storm damage, or flooding satisfy the second condition described as a "state of emergency."

Since March 2013, Governor Brown has declared [24 states of emergency](#) for fire, rainstorm, oil spill, earthquake, drought, and terrorist attack-related disasters. In 2015 alone, Governor Brown declared 7 states of emergency impacting 25 different counties.

### Commentary:

1. **Summary of Amendments.** The **August 08, 2016 amendments** (1) revised the filing and payment deadline extension provisions from “natural disaster” to “disaster,” (2) added a definition of “disaster,” (3) added an urgency clause, and (4) added co-authors. The **June 21, 2016 amendments** limited the return filing deadline to natural disasters and deleted the urgency clause. **The April 13, 2016 amendments** extended the return filing deadline due to a disaster provisions to both natural and economic disasters.
2. **Peace of mind.** Currently, sales and use taxpayers affected by a disaster have two avenues to avoid penalty: one-month extension (RTC Section 6459) and excusable delay relief (RTC Section 6592). This bill revises the one-month extension to three months in the case of a disaster, thereby providing disaster-affected taxpayers an additional two months to file their return and pay the tax.

Although a taxpayer currently may request penalty relief for periods exceeding one month, they must file their return and pay the tax due before making that request. If a taxpayer does not file their

## STATE BOARD OF EQUALIZATION

return or pay the tax by the due date (varies by tax program), the BOE may commence delinquency-related action. This may include sending late notices, beginning collection action, or revoking permits during that period, adding more stress to an already stressful situation. This bill provides a disaster-affected taxpayer peace of mind and the ability to avoid any BOE delinquency-related action by allowing the taxpayer to file the extension within or prior to the period for which the extension may be granted.

3. **Business tax disaster relief.** BOE Regulation 1703 considers a disaster to include fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes. The definition applies to interest relief purposes in the case of a disaster. This bill makes consistent the “disaster” definition for both interest relief and tax return and payment extension purposes. A uniform definition makes disaster relief equitable for both interest and extensions, and eliminates taxpayer frustration and confusion.
4. **Disaster victims generally require more time.** This bill grants additional time to those who have less presence of mind, resources, and necessary documentation under the circumstances to timely file their return and pay the tax.
5. **Tax and interest still due.** This bill does not automatically relieve a taxpayer of accrued interest, only a potential 10% late filing penalty. However, existing law already provides a taxpayer relief of interest if the BOE finds that a person’s failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. A person seeking interest relief must file a claim with the BOE.

**Assembly Bill 1856 (Dababneh) Chapter 98**  
***Single Refund Claim: Installment Payments***

*Effective January 1, 2017. Among its provisions, adds Sections 9152.3, 30362.2, 32402.3, 40112.3, 41101.3, 43452.3, 45652.3, 46502.3, 50140.3, 55222.3, and 60522.3 to the Revenue and Taxation Code.*

**Summary:** Allows a tax or fee payer (taxpayer) making installment payments on an outstanding tax liability to file a single claim for refund to cover the period.

**Sponsor:** Board of Equalization

**Purpose:** To provide some equitable relief for taxpayers who are barred from receiving a refund for one or more installment payments because they did not file a timely claim for refund for each individual payment.

**Fiscal Impact Summary:** Unknown revenue loss due to refunds currently barred by statute.

**Former Law:** Under existing law,<sup>6</sup> when an overpayment of tax, interest or penalty is made to the BOE, a claim for refund must be filed within a specified period to recover any amounts overpaid. The law requires a claim for refund to be in writing and state the specific grounds for the claim.

Under existing Sales and Use Tax Law, a claim for refund must be filed within the latest of the following periods:

- Three years from the due date of the return for the period for which the claimed overpayment was made;
- Six months from the date of the (claimed) overpayment;
- Six months from the date a determination (billing) became final; or
- Three years from the date the BOE collected an involuntary payment by the use of enforcement procedures, such as levies or liens.

Similar statutes cover the Use Fuel Tax, Cigarette and Tobacco Products Tax, Alcoholic Beverage Tax, Energy Resources Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Response, Prevention, and Administration Fees, Underground Storage Tank Fee, Fee Collections Procedures, and Diesel Fuel Tax Laws.<sup>7</sup>

Unless the taxpayer filed a timely petition for redetermination, no refund may be allowed for an overpayment if the taxpayer does not file a claim for refund with the BOE within the latest of these periods, even if there is a cancellation or reduction of the originally determined amount.

The only recourse for taxpayers who miss a 30-day deadline to file a formal protest of an audit determination is to pay the tax and file a claim for refund. Nonetheless, the BOE may, at its discretion, accept a late petition as an administrative protest. The administrative protest, however, generally does not result in a stay of collection actions. The taxpayer generally is required to make installment payments while the appeals process is pending.

<sup>6</sup> Sections 6901, 6902 and 6904 of the Revenue and Taxation Code (RTC).

<sup>7</sup> RTC Sections 9152, 30263, 32402, 40112, 41101, 43452, 45652, 46502, 50140, 55222, and 60522, respectively.

## STATE BOARD OF EQUALIZATION

**New Law:** This bill allows a taxpayer making installment tax payments to file a single claim for refund to cover the period before the outstanding determination is paid in full. This single claim for refund tolls the statute of limitations as of the timely filing of a refund claim on the first installment for all prior payments made within the limitation period (i.e. the previous six months) and covers all subsequent payments applied to that determination.

**Background:** In 2001, the Franchise Tax Board (FTB) sponsored Assembly Bill 1115 (Chapter 920, Committee on Revenue and Taxation, effective January 1, 2002) to allow a taxpayer to file a claim for refund before a liability was fully paid. The claim is accepted as an “informal claim for refund.” The informal claim delays the expiration of the statute of limitations (the later of four years from the original due date of the return or one year from the date of payment) and protects the taxpayer’s right to appeal to the BOE or file suit against the FTB in court. The informal claim is “perfected” and considered filed when the full amount due has been paid. The FTB can take formal action to either allow the claim or deny the claim in whole or in part.

Taxpayers paying their taxes in installments typically pay in full within three years, but may extend payments for as long as seven years. Prior to enactment of Assembly Bill 1115, those taxpayers who waited to file a refund claim until the tax was paid in full under a seven-year payment plan were barred by the statute of limitations and could not recover all of their payments even if they prevailed on appeal.

### Commentary:

1. **The April 6, 2016 amendments** replaced “tax” with “surcharge” or “fee,” as applicable, in the various statutes being amended.
2. **Taxpayers do not understand why they must file a claim for each individual payment.** Assuming all other statutory limitation periods have elapsed or do not apply, the law requires a taxpayer to file a timely claim for refund within six months of *each individual installment payment* made on an outstanding tax liability. Despite the BOE’s letters and publications instructing taxpayers to file a protective refund claim for each individual payment, some taxpayers still fail to do so. Taxpayers who have entered into an installment payment plan often mistakenly believe they need only file one claim for refund at the conclusion of the payment plan, rather than filing protective claims for refund for each payment within six months. Similarly, taxpayers making multiple payments may believe that upon paying the amount due and receiving notice of their appeal rights, each payment will be refunded, regardless of whether they filed claims for each individual payment.
3. **BOE has identified several cases in which taxpayers were not refunded all of their payments.** This bill is prompted by several cases in which a taxpayer was barred by the statute of limitations from recovering the installment payments made to the BOE even though the determination was either cancelled or reduced to an amount less than the total payments received. In each case, the taxpayer did not file a timely petition for redetermination, made multiple payments for one liability, but did not file refund claims for each installment payment.

[Assembly Bill 1901 \(Quirk\) Chapter 662](#)  
***Cigarette Tax: Unaffixed Tax Stamps***

*Effective January 1, 2017. Amends Section 30473.5 of the Revenue and Taxation Code.*

**Summary:** Makes it a crime for a person to possess, sell, or offer to sell, or buy or offer to buy, any “unaffixed” cigarette tax stamp and authorizes the BOE to seize and destroy these stamps aggregated for reuse purposes

**Sponsor:** Board of Equalization

**Purpose:** To combat a used cigarette tax stamp scheme, minimize tax evasion opportunities, and assist in making the marketplace fair and equitable for those that are legitimately paying this excise tax.

**Fiscal Impact Summary:** Possibly deter \$400,000 in cigarette tax evasion annually.

**Former Law:** Existing law<sup>8</sup> imposes an 87-cent excise tax on each pack of cigarettes (generally 20 cigarettes in each pack). The law requires cigarette distributors to pay the tax by purchasing cigarette tax stamps. Distributors are required to attach the stamp to each pack of cigarettes prior to distribution.

Under existing law,<sup>9</sup> any person who possesses, sells, or offers to sell, or buys or offers to buy, any false or fraudulent cigarette tax stamps is guilty of a misdemeanor, punishable by a fine or imprisonment up to one year in a county jail, or by both the fine and imprisonment.

To ensure compliance with the law, existing law<sup>10</sup> authorizes a BOE employee to inspect any place for which there is evidence of a taxpayer’s failure to comply. The law<sup>11</sup> subjects any cigarette product to seizure and forfeiture when the stamp is affixed or the tax is paid in a manner that violates the law, whether or not the violation is subject to a defense, as provided. As a nonsalable product, the law authorizes the BOE to destroy the forfeited cigarettes.

Existing law does not provide for the seizure and destruction of used cigarette tax *stamps* aggregated for reuse purposes on a routine retail inspection. Also, existing law has no criminal sanctions or penalties related to a person’s possession, sale, or purchase of used cigarette tax stamps.

**Amended Law:** This bill makes it a misdemeanor for any person to possess, sell, or offer to sell, or buy or offer to buy, any “unaffixed” cigarette tax stamps. The crime is punishable by a fine of up to \$5,000 for less than 2,000 stamps, or up to \$50,000 for more than 2,000 stamps, or fine and imprisonment for not less than one year. The bill also authorizes the BOE to seize and destroy these stamps aggregated for reuse purposes.

The bill specifies that “unaffixed stamps” means stamps for which the tax has previously been paid by a licensed distributor and previously affixed to a package. The bill provides that the term does not include any unused and unapplied rolls of stamps or loose stamps acquired from the BOE or its authorized agent and in the possession of a licensed distributor.

The bill contains legislative findings and declarations related to the bill’s provisions.

<sup>8</sup> Part 13 (commencing with Section 30001) of Division 2 of the RTC.

<sup>9</sup> RTC Section 30473.5.

<sup>10</sup> RTC Section 30435.

<sup>11</sup> RTC Section 30436.

**Commentary:**

1. **Effect of the bill.** This change makes it a crime to possess or sell used “unaffixed” cigarette tax stamps and allows the BOE staff and other law enforcement agents to seize and destroy these stamps.
2. **Summary of amendments.** The **August 1, 2016 amendments** added legislative findings and declarations. The **March 14, 2016 amendments** clarified that “unaffixed stamps” means stamps for which the tax has previously been paid by a licensed distributor and previously affixed to a package.
3. **Used cigarette tax stamp scheme explained.** Cigarette tax stamps, resembling stickers, are encrypted with the date, distributor’s information, and the cigarette brand. The BOE’s inspection teams authenticate tax stamps through the use of specified scanning devices which, among other things, show that the scanned stamps belong to that specific cigarette brand.

The BOE inspection teams have recently identified cigarette tax evasion schemes involving reused cigarette tax stamps. For example, an inspector’s scan revealed that a stamp affixed to a Marlboro-branded pack had originally been applied to a Camel-branded pack. In these situations, while the distributor appropriately paid the cigarette tax through his or her stamp purchase and appropriately affixed the stamp to the product, the stamp itself was subsequently reused and affixed to another cigarette pack.

These used stamps can be acquired simply by retailers searching trash bins or offering to unwrap packs for customers and retaining the wrappers containing the stamps.

By applying used stamps to an untaxed cigarette pack, taxpayers may evade the tax and disguise duty free, counterfeit, stolen, smuggled, and otherwise untaxed cigarettes as legitimate. The majority of these used stamps appear to be affixed to counterfeit and duty free cigarettes.

During inspections and joint operations with other law enforcement agents, staff has found retail shops accumulating a significant number of used stamps and storing them in places such as trash bags located behind the storefront counter or drawers behind the register area.

In a more sophisticated scheme discovered during an enforcement operation, staff found a storage unit containing 205,694 unaffixed used stamps with a tax value of \$178,954 placed on transfer sheets and prepared for affixation to cigarette packs. In this instance, the used stamps were also labeled by the cigarette brand to which they had been affixed originally. As a result, the unsuspecting consumer would receive a counterfeit pack of cigarettes and the tax would be evaded. Within the past year, staff also found an additional, larger collection of used stamps in a separate scheme, as well as numerous smaller collections at retail stores.

4. **No legitimate reason to collect these stamps.** Cigarette tax stamps are generally not used for collectibles, as are postage stamps or trading cards. Therefore, used cigarette tax stamps do not have a value to the person collecting or aggregating them, except for tax evasion purposes.

**Assembly Bill 2153 (C. Garcia) Chapter 666**  
***Lead-Acid Battery Fees***

*Urgency; effective September 26, 2016, but fees operative April 1, 2017. Among its provisions, repeals and adds Article 10.5 (commencing with Section 25215) to Chapter 6.5 of Division 20 of the Health and Safety Code.*

**Summary:** Imposes a BOE-collected \$1 fee on manufacturers and consumers of lead-acid batteries.

**Sponsor:** Author

**Purpose:** To provide long-term funding to Department of Toxic Substances Control (DTSC) for investigation and cleanup of lead-acid battery recycling facilities.

**Fiscal Impact Summary:** Potential annual revenue of \$26 million.

**Former Law:** Existing law does not impose a specific excise tax or fee on the purchase of lead-acid batteries. Sales of such products are subject to the sales and use tax.

The BOE currently administers a California tire fee in partnership with the Department of Resources Recycling and Recovery (CalRecycle) and the Air Resources Board (ARB). Existing law<sup>12</sup> imposes a California tire fee of one dollar and seventy-five cents (\$1.75) per tire on every person who purchases a new tire, as defined.

After deducting 1.5% of the total fees as reimbursement for costs associated with the fee collection, the law requires a retailer to remit the fees to the BOE for deposit in the California Tire Recycling Management Fund.

CalRecycle may contract<sup>13</sup> with an existing state agency, including the BOE, to carry out the California Tire Recycling Act. The section further provides that if CalRecycle contracts with the BOE to collect the California tire fee, the BOE may collect that fee pursuant to the Fee Collection Procedures Law.

**New Law:** This bill adds Health and Safety Code Article 10.5 (commencing with Section 25215) to impose a \$1 fee on manufacturers for each lead-acid battery sold at retail or sold to specified persons for retail sale in California until March 31, 2022. Additionally, this bill imposes a \$1 fee on consumers of lead-acid batteries purchased from a retail dealer in California until April 1, 2022, after which the fee increases to \$2.

**Consumer fee.** On and after April 1, 2017 until March 31, 2022, a \$1 California battery fee is imposed on a person, as defined, for each purchase of a replacement lead-acid battery from a retail dealer. Except for sales to businesses, the retail dealer must separately state the California battery fee on the customer's invoice at the time of sale. The fee is not included in any other fee, charge, or other amounts paid by the customer. Dealers are allowed to bundle the fees on the customer's receipt if the customer purchases more than one lead-acid battery in a single transaction.

On and after April 1, 2022, the California battery fee is increased to \$2.

The retail dealer may also retain 1.5% of collected fees as cost reimbursement. The dealer is required to remit the remainder of the fees to the BOE at the time the return is required to be filed.

<sup>1</sup> Public Resources Code (PRC) Section 42885.

<sup>2</sup> PRC Section 42882.

## STATE BOARD OF EQUALIZATION

The retail dealer's customer is liable for the fee until it has been paid to the BOE, except that payment to a dealer registered with the BOE to collect the fee is sufficient to relieve the dealer's customer from further fee liability.

**Manufacturer fee.** On and after April 1, 2017 until April 1, 2022, a \$1 fee is imposed on a manufacturer for each lead-acid battery sold at retail to a person in California, or that is sold to a dealer, wholesaler, distributor, or other person for retail sale in California. The manufacturer is required to remit the fees to the BOE at the time the return is required to be filed.

**BOE administration.** The BOE will assess and collect the fee in accordance with the Fee Collection Procedures Law (FCPL).<sup>14</sup> The references in the FCPL to "fee" include the fee imposed by this bill, and the reference to "feepayer" includes a dealer and manufacturer.

The FCPL generally provides for the BOE's administration of fee programs. Among other things, the FCPL provides for collection, reporting, return, refund, and appeals procedures, as well as the BOE's authority to adopt regulations related to the FCPL's administration and enforcement.

Dealers and manufacturers of lead-acid batteries are required to register with the BOE.

Electronically filed quarterly returns with remittances are due on or before the last day of the calendar month following the calendar quarter. The BOE may require returns for other than quarterly periods.

Revenues collected, less refunds and expense reimbursement to the BOE, will be deposited into the Lead-Acid Battery Cleanup Fund (Fund), which this bill creates. Upon appropriation by the Legislature, moneys in the Fund will be used to investigate, evaluate, clean up, remediate, remove, monitor, or otherwise respond to any area in the state that is reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility.

A \$1.2 million special fund loan is made to the BOE for implementation costs with repayment from fee proceeds. Emergency regulation authority is also provided to the BOE.

**Petition for redetermination and claim for refund.** The BOE will handle and decide petitions for redetermination and claims for refund, except for those filed to challenge whether the battery is a lead-acid battery. The BOE will forward such petitions or refund claims to DTSC for a decision.

**Definitions.** This bill defines several key terms, including, but not limited to, the following:

- "Board" means State Board of Equalization.
- "Business" means any "person," as that term is defined, except a natural person or a city, county, city and county, district, commission, the state, or any department, agency, or political subdivision of any of those, or an interstate body, or to the extent permitted by law, the United States and its agencies and instrumentalities.
- "Dealer" means every person who engages in the retail sale of replacement lead-acid batteries directly to persons in California. "Dealer" includes a manufacturer of a new lead-acid battery that sells at retail directly to a person through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or Internet Web site or any other similar electronic means.
- "Lead-acid battery" means any battery weighing over five (5) kilograms that is primarily composed of both lead and sulfuric acid, whether sulfuric acid is in liquid, solid, or gel state, with a capacity of six (6) volts or more that is used for any of the following purposes:
  - As a starting battery that is designed to deliver a high burst of energy to an internal combustion engine until it starts.
  - As a motive power battery that is designed to provide the source power for propulsion or

<sup>14</sup> Part 30 (commencing with Section 55001) of Division 2 of the RTC.

## STATE BOARD OF EQUALIZATION

operation of a vehicle, including a watercraft.

- As a stationary storage or standby battery that is designed to be used in systems where the battery acts as either electrical storage for electricity generation equipment or a source of emergency power, or otherwise serves as a backup in case of failure or interruption in the flow of power from the primary source.
- As a source of auxiliary power to support the electrical systems in a vehicle, as defined in Vehicle Code Section 670, including a vehicle as defined in Vehicle Code Section 36000, or an aircraft.
- “Manufacturer” means either of the following:
  - The person who manufactures the lead-acid battery and who sells, offers for sale, or distributes the lead-acid battery in the state.
  - If there is no person, as described above, who is subject to the state’s jurisdiction, the manufacturer is the person who imports the lead-acid battery into the state for sale or distribution.
- “Person” means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership, limited liability company, or association. “Person” also includes any city, county, city and county, district, commission, the state, or any department, agency, or political subdivision of any of those, interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.
- “Replacement lead-acid battery” means a new lead-acid battery that is sold at retail subsequent to the original sale or lease of the equipment or vehicle in which the lead-acid battery is intended to be used. “Replacement lead-acid battery” does not include a spent, discarded, refurbished, or reused lead-acid battery.
- “Retail sale” or a “sale at retail” has the same meaning as defined in RTC Section 6007. “Retail” sale does not include sales of batteries for which a California battery fee has been paid, sale of battery that is transported and used outside the state, battery sales for incorporation into new equipment for subsequent resale, or the replacement of a lead-acid battery pursuant to a warranty or vehicle service contract described in Insurance Code Section 12800. It also does not include the sale of any battery intended for use with or contained within a medical device, as defined in the federal Food, Drug, and Cosmetic Act (21 USC 321(h)) as that definition may be amended.
- “Used lead-acid battery” means a lead-acid battery no longer fully capable of providing the power for which it was designed or that a person no longer wants for any reason.
- “Wholesaler” means any person who purchases a lead-acid battery from a manufacturer for the purpose of selling the lead-acid battery to a dealer, high-volume customer, or to a person for incorporation into new equipment for resale.

This bill contains an urgency provision and is effective September 26, 2016. However the fee is imposed beginning April 1, 2017.

### Commentary:

1. **Effect of this bill.** This bill imposes a BOE-collected \$1 fee on manufacturers and consumers of lead-acid batteries to fund a lead acid battery recycling facility contamination cleanup program. Beginning April 1, 2022, the manufacturer fee terminates and the consumer fee increases to \$2.
2. **Summary of amendments.** The **August 31, 2016 amendments**, among other things, (1) increased the consumer fee to \$2 on and after April 1, 2022, (2) terminated the \$1 manufacturer fee on an after April 1, 2022, (3) deleted the elective wholesaler and manufacturer fee provisions, and (4) authorized

## STATE BOARD OF EQUALIZATION

a \$1.2 million loan from the California Tire Recycling Management Fund to the BOE for implementation costs. **The August 19, 2016 amendments**, among other things, (1) deleted the voluntary payment option but allowed manufacturers to elect to have an additional fee imposed on them, (2) required e-filed returns, (3) specified a Fund floor and ceiling which would trigger fee rates of \$0 or \$1 respectively, and (4) provided a \$1.2 million General Fund or special fund loan to the BOE. **The August 9, 2016 amendments**, among other things, (1) deleted provisions that would have terminated the BOE's authority to collect the manufacturer fee, under specified conditions, (2) deleted certain "liability relief" provisions, and (3) deleted the Fund balance provision related to manufacturer fee suspension and resumption. **The August 1, 2016 amendments**, among other things, (1) revised definitions, (2) added administrative provisions to the consumer fee, (3) terminated the BOE's authority to collect the manufacturer fee under specified conditions, (4) clarified the elective wholesaler process, (5) specified that the FCPL would apply to BOE collection, (6) provided registration, return, and expense reimbursement to BOE, and (7) added a Fund ceiling and floor related to the suspension and resumption of manufacturer battery fees.

3. **The fee is consistent with existing BOE administered fee programs.** The BOE currently administers similar fee programs, including the California tire fee program. In general, a fee is imposed on the purchaser of the tire, with the retailer required to collect and submit the fees to the BOE. The BOE registers the retailer, accepts returns and payments, and conducts audit and enforcement activities. The more centralized the program, and the fewer the registrants, exemptions, and fees, the more efficient and cost effective the program.
4. **DTSC will handle all appeal and refund cases related to whether or not a battery is a lead-acid battery.** The BOE administers other fee programs with partner state agencies. Certain programs require the partner state agency to handle appeal and refund cases related to fee imposition and areas that fall within the partner agency's expertise. Similar to other tax and fee programs, the DTSC will handle any appeal or refund case in which the feepayer claims a battery is not a lead-acid battery subject to the fee.
5. **A core charge is distinct from this fee.** In general, this bill authorizes retail dealers to charge each person who purchases a replacement lead-acid battery and who does not simultaneously provide the retail dealer with a used lead-acid battery of the same type and size a refundable core charge deposit for each battery purchased. The retail dealer is required to separately state the refundable core charge on a receipt. The core charge may be refunded to that person if, within 45 days of the sale of the replacement battery, the person presents a similar used lead-acid battery. Retail dealers may retain the replacement lead-acid battery refundable core charge if it is not properly claimed within 45 days of purchase. The BOE is not responsible for core charge policy and administrative issues; the author may wish to clarify whether DTSC has this responsibility.

**Assembly Bill 2201 (Brough) Chapter 264**  
***Electronic Payments: Interest: One Day Late***

*Effective January 1, 2017. Among its provisions, repeals and adds Sections 7655.5, 8876.5, 12631.5, 30281.5, 32252.5, 40101.5, 41095.5, 43155.5, 45153.5, 46154.5, 50112.1, 55042.5, and 60207.5 to the Revenue and Taxation Code.*

**Summary:** Reinstates expired provisions that, until January 1, 2016, allowed the BOE, under specified circumstances, to prorate the interest due on a tax or fee electronic payment made one day late where the BOE Members, meeting as a public body, found that it would be inequitable to impose interest for the entire month.

**Sponsor:** Board of Equalization

**Purpose:** To continue to provide BOE Members with some limited flexibility to provide equitable interest relief when a payment is only one day late.

**Fiscal Impact Summary:** Annual state and local revenue loss of \$78,000.

**Former Law:** Under certain circumstances, until January 1, 2016, existing law<sup>15</sup> allowed the BOE to prorate the interest on a late tax or fee *electronic* payment where the BOE Members, meeting as a public body, found that it would be inequitable to impose interest for the entire month, provided the payment was only one day late. These circumstances included:

- The tax, fee, or surcharge (“tax”) payment was made no more than one business day after the due date.
- The person was granted relief from all penalties that applied to the payment.
- The person filed a request for an oral hearing before the BOE Members.

Beginning January 1, 2016, existing law requires the BOE to impose a 6% monthly interest rate (plus penalty) for any electronic payments made after the statutory due date. Simple interest accrues on the late tax payment, from the tax due date to the last day of the month in which it is paid. For an electronic payment, if a taxpayer makes a payment even one day late, interest accrues to that month’s end.

Under existing law,<sup>16</sup> for returns and other documents mailed or physically delivered to the BOE by a bona fide commercial delivery service, the BOE is authorized to establish a uniform policy to accept payments and various documents (claims for credit or refund, returns, or other information) as timely when the payment or document’s envelope or delivery document’s stamped cancellation mark shows a date after the statutory due date. Existing law states that this uniform policy shall not be construed as a statutory extension for taxpayers to file or remit taxes and fees. The BOE has adopted a uniform policy that allows the BOE to accept as timely payments or documents mailed or delivered to the BOE when the envelope or delivery document’s postmark date shows a date one day after the due date. These provisions do not apply, however, to returns, payments, or documents *electronically* submitted to the BOE.

**Electronic Funds Transfer requirements.** Existing law requires taxpayers who have an average monthly sales or use tax liability of \$10,000 or more, and special taxes accounts that have average monthly tax payments of at least \$20,000, to remit amounts due by an electronic funds transfer (EFT). For these

<sup>15</sup> As added by SB 1028 (Stats. 2010, Ch. 316).

<sup>16</sup> Government Code Section 15620.5.

## STATE BOARD OF EQUALIZATION

taxpayers, the law requires that their EFT payments be deposited in the state's account on the next banking day following the tax due date. The law requires the BOE to impose a late payment penalty and interest when a taxpayer fails to initiate an EFT payment in sufficient time for the funds to be deposited in the state's account as the law requires. For the most commonly used EFT payment method (ACH debit), taxpayers must initiate their payments by 3 pm on the tax due date in order for that payment to be timely deposited in the state's bank account. Beginning January 1, 2016, if a taxpayer misses the 3 pm deadline, the payment is considered late, and an entire month's interest charge is due (along with the applicable penalty).

**New Law:** This bill reinstates these expired provisions.

### **Commentary:**

- 1. Effect of the bill.** This BOE-sponsored measure allows BOE Members to prorate interest for an electronic tax payment when the tax payment is no more than one day late and the late payment is due to reasonable cause or circumstances beyond the taxpayer's control.
- 2. Other agencies compute interest on a daily basis.** Both the Franchise Tax Board and the Employment Development Department compute interest on a daily basis, and the BOE should continue to have that ability when the facts and circumstances warrant.
- 3. Bill could encourage taxpayers paying late to pay more promptly.** Interest is imposed on outstanding amounts of tax due to compensate the State for its inability to use the funds and to encourage timely tax remittances. This bill is consistent with that principle, as it will continue to impose interest on the late payment, but only for the one day that the payment is late. Moreover, it will encourage those otherwise law-abiding taxpayers who, due to unique situations, inadvertently missed the payment deadline to pay the tax the next day to avoid the interest charge for the entire remaining portion of the month. (Currently, if a taxpayer misses the payment due date, there's no real financial incentive to quickly remit the payment, since an entire month's interest is charged regardless of whether the payment arrives one day late or 28 days late.)

[Assembly Bill 2770 \(Nazarian\) Chapter 699](#)

***Cigarette and Tobacco Products Licensing Act: Funding and Retailer Renewal Alignment***

*Effective January 1, 2017. Amends Sections 22972, 22973, 22973.3, and 22977.1 of, and adds Sections 22990.5 and 22990.7 to, the Business and Professions Code.*

**Summary:** This bill:

- Prohibits cigarette and tobacco products tax revenues from being appropriated to the BOE for Cigarette & Tobacco Products Licensing Act (Licensing Act) administration and enforcement;
- Requires the BOE to report to the Legislature, Governor, and Department of Finance (DOF) regarding the funding adequacy of the Licensing Act; and
- Aligns license renewal dates to a single date for retailers with multiple retail locations.

**Sponsor:** Author

**Purpose:** To provide additional funding for cigarette and tobacco products tax compliance enforcement and make technical changes that allow for the effective implement the ABx2 11-established annual retailer license fee.

**Fiscal Impact Summary:** None.

**Former Law: Cigarette and Tobacco Products Licensing Act of 2003.**<sup>17</sup> The Licensing Act requires the BOE to administer a statewide program to license cigarette and tobacco products manufacturers, importers, distributors, wholesalers, and retailers. BPC Section 22972 requires a retailer to have a license to sell cigarettes and tobacco products in this state. Section 22972 further requires a retailer to obtain a separate license for each retail location that sells cigarettes and tobacco products. Similar license requirements are imposed on distributors and wholesalers under Section 22977.

BPC Section 22973 requires a \$265 license fee to be paid with each retailer license application. A retailer must obtain a separate license for each retail location, but may submit one application for those licenses. A retailer must annually renew their license, but until December 31, 2016, no fee is charged. Operative January 1, 2017, a \$265 per retail location renewal fee will be imposed.

BPC Section 22977.1 requires distributors and wholesalers to pay a \$1,000 fee with each license application or renewal application submitted, as required under Section 22977. A license is also required for each location. Operative January 1, 2017, the distributor and wholesaler license fee increases to \$1,200 per location. A distributor and wholesaler license is valid for a calendar year without proration of the fee for additional locations. Accordingly, all distributor and wholesaler licenses are valid for a calendar year, regardless of the start date for a location where cigarettes and tobacco products are sold.

BPC Sections 22973 and 22977.1 require the BOE to report back to the Legislature, no later than January 1, 2019, regarding the adequacy of funding for the Licensing Act. 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.

<sup>17</sup> Division 8.6 (commencing with Section 22970) of the BPC.

## STATE BOARD OF EQUALIZATION

**Cigarette and Tobacco Products Tax Law<sup>18</sup> (CTPTL).** Existing law imposes an 87-cent per package of 20 (43 ½ mills per cigarette) cigarette tax. The CTPTL requires tax payment through the use of stamps or meter impressions that a distributor affixes on each cigarette package prior to the distribution.

RTC Section 30123 imposes a tax upon the distribution of tobacco products, based on the wholesale cost of these products at a tax rate that is equivalent to the combined rate of tax imposed on cigarettes. In addition, Section 30131.2 imposes an additional tobacco products tax at a rate equivalent to the \$0.50 per pack cigarette tax. The BOE annually determines the tobacco products tax rate based on the March 1 wholesale cost of cigarettes. The tobacco products rate is 27.30% for fiscal year 2016-17. Distributors pay the tobacco products tax through the use of a tax return that reports the wholesale cost of the tobacco products distributed and calculates the tax due.

**Amended Law: Licensing Act Funding.** This bill amends BPC Sections 22973 and 22977.1 to relocate to BPC Section 22990.7 the requirement for the BOE to submit a report to the Legislature, Governor, and DOF on or before January 1, 2019, and on or before January 1 annually thereafter, regarding the adequacy of funding for the Licensing Act. The report shall contain data and recommendations about whether the annual retailer, distributor, and wholesaler licensing fees are set at an adequate level to maintain an effective enforcement program.

This bill adds BPC Section 22990.5 to prohibit, on or after January 1, 2017, cigarette and tobacco products tax revenues from being appropriated to the BOE for the purpose of implementing, enforcing, or administering the Licensing Act.

**Retailer License Renewal.** This bill amends BPC Section 22972 to align a retailer's license renewal dates for each new additional retail location to a single date based on the same 12-month period beginning in the month the retailer obtained its first retail location license. The bill amends BPC Sections 22973 and 22973.3 to provide that the \$265 per retail location fee applies to a 12-month period, or for the period beginning in the month a retailer obtained its first retail location license for additional retail locations, and shall not be prorated.

**Background:** In 2003, Assembly Bill 71 (J. Horton, Ch. 890) enacted the Licensing Act, which established a statewide licensure program administered by the BOE to help stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products. Currently, the BOE licenses approximately 37,000 retailers and 921 distributors and wholesalers to engage in the sale of cigarettes and tobacco products in California.

As AB 71 was developed and made its way through the Legislature, it was determined that the licensure fees would not permanently sustain the Licensing Act program. Since the Licensing Act enforces the CTPTL and directly benefits the funds established pursuant to that program, the funding for the Licensing Act would eventually shift to the cigarette and tobacco products tax funds: General Fund, Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund (Prop. 99) and California Children and Families Trust Fund (Prop. 10). However, there was concern about the Licensing Act program and the impact it would have on the cigarette and tobacco products tax funds if the Licensing Act expenses were more than the revenues generated. To address this concern, a sunset date of January 1, 2010 was incorporated into the Licensing Act to make sure the Licensing Act would not harm the cigarette and tobacco products tax funds. Furthermore, AB 71 included uncodified language to clarify that all revenues and expenses generated by the Licensing Act are to be allocated in the same manner as those revenues and expenses are allocated under the Cigarette and Tobacco Products Tax Law to make sure no one cigarette and tobacco product fund benefited or was burdened when the funding shift took place. In 2006, AB 1749 (J. Horton, Ch. 501) repealed the sunset date for the Licensing Act due to the amount of additional excise tax revenues generated. The BOE has estimated that the Licensing Act and enhanced cigarette tax stamp generates an

<sup>18</sup> Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code (RTC).

## STATE BOARD OF EQUALIZATION

additional \$66.8 million in cigarette excise tax annually. The Licensing Act generates an additional \$24.5 million in additional tobacco products tax. The resulting additional sales and use tax revenue is estimated to be \$44.4 million annually.<sup>19</sup>

This year [ABx2 11](#) (Ch. 6, Stats. 2016, Nazarian) revised the Licensing Act to change a retailer's license fee from a one-time \$100 fee to an annual \$265 fee and increased the distributor/wholesaler license fee from \$1,000 to \$1,200, operative January 1, 2017. For new retailer and distributor/wholesaler licenses, the license application fee increase became effective June 9, 2016, and removed the retailer reinstatement fee. That bill also requires the BOE to report back to the Legislature no later than January 1, 2019, regarding the adequacy of funding for the Licensing Act.

**In General:** The [State Auditor's March 2016 report](#) states that although it is legally permissible to use cigarette and tobacco products tax revenues to fund the Licensing Act, options exist to make the program self-supporting. The options include, among other things, retailer, wholesaler, and distributor license fee changes and increases, which the report includes as a recommendation. ABx2 11 increased the retailer, wholesaler, and distributor license fees.

The state audit also found that as of June 2015, the Compliance Fund accumulated more than \$9 million in license fee revenues even though the Licensing Act has a continuing funding shortfall. The report notes that these funds could be used to offset the Licensing Act costs and reduce the Compliance Fund shortfall. The audit report recommends that "unless the Legislature directs the board to eliminate the compliance fund's excess fund balance within a time frame of more than a year, the board should eliminated the excess fund balance by June 30, 2017 by using it to offset the licensing program's annual funding shortfall."

### Commentary:

- 1. Summary of amendments.** The **August 15, 2016 amendments** (1) extended the date that cigarette and tobacco products tax revenues may no longer backfill the Compliance Fund, from January 1, 2017 to July 1, 2019, (2) aligned license renewal dates to a single date for retailers with multiple locations, and (3) deleted the requirement that the BOE's report to the Legislature include information on the BOE's compliance with the State Auditor's recommendation to eliminate the excess Compliance Fund balance. The **June 16, 2016 amendments** prohibited cigarette and tobacco products tax revenues from being appropriated to the BOE for Licensing Act administration and enforcement and revised the due date of the funding adequacy report, from January 1, 2018 to January 1, 2019, and then annually thereafter. The **May 12, 2016 amendments** revised the date by which the BOE must report to the Legislature the funding adequacy for the Licensing Act, from January 1, 2020 to July 1, 2018. The amendments also required the report to include information on the BOE's compliance with the State Auditor's recommendation to eliminate the excess fund balance in the Compliance Fund.
- 2. Licensing Act funding.** The BOE's costs to enforce and administer the Licensing Act are funded with revenues deposited into the Compliance Fund, which includes license fee revenues, penalties and fines. The Compliance Fund fully reimbursed those costs through fiscal year 2005-06. In 2006-07, the BOE's administrative costs were partially offset with cigarette and tobacco products tax revenues. As of 2007-08, substantially all of the BOE's costs will be funded in this manner in order to cover the difference between Compliance Fund revenues and expenses. Below is a funding summary for the Licensing Act program (in thousands):

<sup>19</sup> <http://www.boe.ca.gov/legdiv/pdf/CigaretteEvasion.pdf>.

STATE BOARD OF EQUALIZATION

Fund	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
<b>Taxes from License Fees, Fines and Penalties</b>									
Cigarette and Tobacco Products Compliance Fund	\$6,716	\$1,198	\$1,130	\$648	\$777	\$846	\$1,189	\$1,557	\$1,912
<b>Cigarette and Tobacco Products Tax</b>									
General Fund	\$378	\$928	\$970	\$883	\$884	\$933	\$1,313	\$925	\$913
Breast Cancer Fund	57	186	193	176	176	155	155	188	182
Cigarette and Tobacco Products Surtax Fund	687	2,319	2,423	2,201	2,208	1,944	1,945	2,312	2,280
CA Children and Families First Trust Fund	1,375	4,641	4,848	4,384	4,417	3,887	3,888	4,622	4,561
<b>Total Cigarette and Tobacco Products Funds</b>	\$2,497	\$8,074	\$8,434	\$7,644	\$7,685	\$6,919	\$7,301	\$8,047	\$7,936
<b>Total</b>	\$9,213	\$9,272	\$9,564	\$8,292	\$8,462	\$7,765	\$8,490	\$9,604	\$9,848

3. **Sufficient timing to determine adequacy of License Act funding.** The BOE estimates the license fees established pursuant to [ABx2 11](#) will generate approximately \$9.8 million annually, beginning January 1, 2017. Additionally, BOE staff estimates \$1.908 million in total annual revenues for [SBx2 5](#). Accordingly, half-year revenues (1/1/17-6/30/17) for these two bills are estimated at \$5.854 million, plus any retail license fees for new retail locations from July 1 to December 2016. Adding the estimated \$5.854 million license fee revenue to the proposed reserve of \$2.8 million results in \$8.654 million in license fees for Fiscal Year (FY) 2016-17.

The 2016-17 California State Budget (Budget) estimates current Licensing Act program expenditures at \$10.688 million. Also, the BOE staff estimates SBx2 5 and ABx2 11 administrative costs at \$0.4 million, respectively. Based on these figures, the BOE will incur approximately \$11.1 million in administrative costs.

The estimated \$8.654 million in license fee revenues does not sufficiently cover the proposed Licensing Act program expenditures of \$11.1 million for FY 2016-17. *To address any shortfall*, \$3.2 million of cigarette and tobacco products tax revenues, as allocated to the Licensing Act program in the Budget, may be used to support the Licensing Act program for FY 2016-17. At fiscal year-end, adjustments will be made first to ensure that all available Compliance Fund revenues are used to support the Licensing Act program, and second, backfill any shortfall with cigarette and tobacco products tax revenues.

The estimated license fee revenues and expenditures for FYs 2017-18 and 2018-19 pursuant to ABx2 11 and SBx2 5 are unknown. The BOE will not have a full year of revenue and expenditure data until early 2018. Without this historical data, it is uncertain whether or not the license fees are set at an appropriate level to maintain an effective enforcement program.

On and after July 1, 2019, any appropriation of cigarette and tobacco products tax revenues to support the Licensing Act is prohibited. The July 1, 2019 date provides the BOE sufficient time to determine if the newly established license fees adequately support the Licensing Act program and allows the BOE to report those findings to the Legislature, on or before the January 1, 2019.

## STATE BOARD OF EQUALIZATION

4. **Retailer license alignment necessary.** As enacted, the Licensing Act required a retailer, distributor, and wholesaler to obtain and maintain a license to engage in the sale of cigarettes and tobacco products. A retailer license was valid for a 12-month period and subject to a one-time \$100 license fee, while a distributor or wholesaler license was valid for a calendar year and subject to an annual \$1,000 license fee. ABx2 11 revised the Licensing Act to impose an annual \$265 per location retailer license fee, and increased the distributor and wholesaler license fee to \$1,200 per location.

Under existing law, a distributor or wholesaler license remains valid for a calendar year regardless of which month during the year a license is obtained. For example, a distributor that applies for a license with a November 2016 start date must remit \$1,200 with the license application. Although the license is valid for 2 months before the 2017 calendar year renewal, the Licensing Act does not allow proration of the \$1,200 license fee. Accordingly, the Licensing Act aligns all distributor and wholesaler licenses to a calendar year.

However, the existing Licensing Act specifies that a retailer license is valid for a 12-month period and does not contain similar provisions to align retailer license renewal dates. If a retailer license has a November 2016 start date, the license will be valid through October 2017.

Prior to ABx2 11, in order to make renewals less burdensome and reduce errors for retailers with more than one location, the BOE administratively aligned renewal dates to a single date based on the 12-month period of the retailer's first licensed location. A retailer could inadvertently miss a retail location renewal by having to renew additional licenses at different times of the year and therefore be subject to criminal liability. A retailer operating with an expired license can be subject to product seizure and forfeiture, a misdemeanor punishable by a fine not to exceed five thousand dollars (\$5,000), imprisonment not exceeding one year in a county jail, or both the fine and imprisonment.

With the new \$265 annual retailer license fee, the BOE can no longer administratively align renewal dates since a license for an additional retail location is valid for a 12-month period. While some retailers with few retail locations may benefit from having each license valid for a 12-month period, the consequences of multiple renewal dates for retailers with multiple locations heavily outweigh that benefit.

In addition to reducing retailer errors and related penalties, aligning retailer license renewal dates to a single date based on the period of the retailer's first retail location would:

- Maintain the status quo for existing renewal dates for retailers with multiple locations;
- Make retailer license renewal similar to distributor and wholesaler licenses renewals; and
- Avoid any administrative burden and costs for both the BOE and retailers.

Aligning retailer license renewal dates also avoids the workload and delays associated with renewing approximately 34,000 retailer licenses at once. Renewing approximately 500 distributor and 350 wholesaler licenses on a calendar year basis continues to be administratively efficient.

[Assembly Billx2 11 \(Nazarian\) Chapter 6](#)  
***Cigarette and Tobacco Products Licensing Act: Fees***

*Effective June 9, 2016. Amends Sections 22973 and 22977.1 of the Business and Professions Code.*

**Summary:** Revises the Cigarette and Tobacco Products Licensing Act (Licensing Act) to change a retailer's license fee from a \$100 one-time fee to a \$265 annual fee and increase the distributor/wholesaler license fee from \$1,000 to \$1,200.

**Sponsor:** Author

**Purpose:** To provide additional funding for cigarette and tobacco products tax compliance enforcement.

**Fiscal Impact Summary:** Estimated annual revenues of \$9.8 million.

**Former Law: Cigarette and Tobacco Products Licensing Act of 2003.**<sup>20</sup> The Licensing Act requires the BOE to administer a statewide program to license cigarette and tobacco products manufacturers, importers, distributors, wholesalers, and retailers. BPC Section 22972 requires a retailer to have a license to sell cigarettes and tobacco products in this state. Section 22972 further requires a retailer to obtain a separate license for each retail location that sells cigarettes and tobacco products. Similar license requirements are imposed on distributors and wholesalers under Section 22977.

BPC Section 22973 requires a one-time \$100 license fee to be paid with each retailer license application. A retailer must obtain a separate license (and pay \$100) for each retail location, but may submit one application for those licenses. A retailer must annually renew their license, but no fee is charged.

BPC Section 22977.1 requires distributors and wholesalers to pay a \$1,000 fee with each license application or renewal application submitted, as required under Section 22977. A license is also required for each location.

**Cigarette and Tobacco Products Tax Law**<sup>21</sup> (CTPTL). Existing law imposes an 87-cent per package of 20 (43 ½ mills per cigarette) cigarette tax. The CTPTL requires tax payment through the use of stamps or meter impressions that a distributor affixes on each cigarette package prior to the distribution.

RTC Section 30123 imposes a tax upon the distribution of tobacco products, based on the wholesale cost of these products at a tax rate that is equivalent to the combined rate of tax imposed on cigarettes. In addition, Section 30131.2 imposes an additional tobacco products tax at a rate equivalent to the \$0.50 per pack cigarette tax. The BOE annually determines the tobacco products tax rate based on the March 1 wholesale cost of cigarettes. The tobacco products tax rate is 28.13% for fiscal year 2015-16. Distributors pay the tobacco products tax through the use of a tax return that reports the wholesale cost of the tobacco products distributed and calculates the tax due.

**Amended Law:** This bill amends BPC Section 22973 to increase the per-location retailer license application fee from \$100 to \$265. In addition, a retailer must remit an annual \$265 per-location license fee with each renewal application.

The distributor and wholesaler tobacco license fee increases from \$1,000 to \$1,200.

<sup>20</sup> Division 8.6 (commencing with Section 22970) of the BPC.

<sup>21</sup> Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code (RTC).

## STATE BOARD OF EQUALIZATION

No later than January 1, 2019, the BOE shall submit a report to the Legislature regarding the adequacy of funding for the Licensing Act. The report shall contain data and recommendations about whether the annual retailer, distributor, and wholesaler licensing fees are set at an adequate level to maintain an effective enforcement program.

This bill is effective June 9, 2016, the 91<sup>st</sup> day after the adjournment of the second extraordinary session.

**Background:** In 2003, Assembly Bill 71 (J. Horton, Ch. 890) enacted the Licensing Act, which established a statewide licensure program administered by the BOE to help stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products. Currently, the BOE licenses approximately 33,381 retailers and 844 distributors and wholesalers to engage in the sale of cigarettes and tobacco products in California.

As AB 71 was developed and made its way through the Legislature, it was determined that the licensure fees would not permanently sustain the Licensing Act program. Since the Licensing Act enforces the CPTPL and directly benefits the funds established pursuant to that program, the funding for the Licensing Act would eventually shift to the cigarette and tobacco products tax funds: General Fund, Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund (Prop. 99) and California Children and Families Trust Fund (Prop. 10). However, there was concern about the Licensing Act program and the impact it would have on the cigarette and tobacco products tax funds if the Licensing Act expenses were more than the revenues generated. To address this concern, a sunset date of January 1, 2010 was incorporated into the Licensing Act to make sure the Licensing Act would not harm the cigarette and tobacco products tax funds. Furthermore, AB 71 included uncodified language to clarify that all revenues and expenses generated by the Licensing Act are to be allocated in the same manner as those revenues and expenses are allocated under the Cigarette and Tobacco Products Tax Law to make sure no one cigarette and tobacco product fund benefited or was burdened when the funding shift took place. In 2006, Assembly Bill 1749 (J. Horton, Ch. 501) repealed the sunset date for the Licensing Act due to the amount of additional excise tax revenues generated. The BOE has estimated that the Licensing Act and enhanced cigarette tax stamp generates an additional \$66.8 million in cigarette excise tax annually. The Licensing Act generates an additional \$24.5 million in additional tobacco products tax. The resulting additional sales and use tax revenue is estimated to be \$44.4 million annually.<sup>22</sup>

### Commentary:

1. **Amendments.** The **March 3, 2016 amendments** revised the operative date from January 1, 2016 to January 1, 2017.
2. **Administrative start-up cost funding is essential.** The bill increases the fee and requires annual retailer license renewal on and after January 1, 2017. As a result, the BOE must begin to implement the bill in fiscal year 2016-17. However, the BOE's 2016-17 budget does not include funding to implement the bill. Consequently, the BOE requires an adequate appropriation to cover administrative implementation costs.
3. **Effect on the Compliance Fund.** Currently, the BOE's Licensing Act enforcement costs exceed licensing fee revenues. The Licensing Act authorizes the various cigarette and tobacco products tax funds<sup>23</sup> to make up the difference.

This bill relieves funding pressure by both increasing fees and requiring annual retailer license renewal.

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<sup>22</sup> <http://www.boe.ca.gov/legdiv/pdf/CigaretteEvasion.pdf>.

<sup>23</sup> Comprised of payments made to the state for the excise taxes on the distribution of cigarettes and tobacco products.

**Senate Bill 837 (Committee on Budget and Fiscal Review) Chapter 32**  
**Medical Cannabis Regulation and Safety Act: Technical Changes**

*Effective June 27, 2016. Amends Section 19335 of the Business and Professions Code, repeals Section 31020 of the Revenue and Taxation Code, and amends Section 1535 of the Water Code.*

**Summary:** Among its provisions, this budget trailer bill makes the following changes to the Medical Marijuana Regulation and Safety Act (MMRSA):

- Requires the California Department of Food and Agriculture (CDFA) to consult with the BOE when creating the electronic database of shipping manifests to facilitate the track and trace program (BPC Section 19335).
- Provides the BOE read access to the CDFA's electronic database for medical cannabis and medical cannabis product taxation and regulation (BPC Section 19335).

The bill also allows the State Water Resources Control Board (SWRCB) to refer for collection by the BOE a cancelled fee billing for a statement of water diversion and use (WC Section 1535) and repeals the requirement for the BOE to adopt a system for reporting the movement of commercial cannabis and cannabis products through the distribution chain (RTC Section 31020).

**Purpose:** To make various statutory changes necessary to implement the Budget Act of 2016.

**Fiscal Impact Summary:** No impact to state revenues.

**Former Law: MMRSA.**<sup>24</sup> Under existing law, the MMRSA establishes the Bureau of Medical Marijuana Regulation (Bureau) within the Department of Consumer Affairs to oversee and enforce the state's medical marijuana regulations, in collaboration with the California Department of Public Health (CDPH) and the CDFA. Additionally, it establishes categories of licenses for various medical marijuana activities, such as cultivation, manufacturing, distribution, transportation, and sale.

**California's Medical Marijuana Program.** Under existing law, the California Uniform Controlled Substances Act<sup>25</sup> prohibits the possession, cultivation, transportation, and sale of marijuana and derivatives of marijuana, except as authorized by law. Existing law authorizes, under The Compassionate Use Act of 1996 (Proposition 215 of 1996), a patient or the patient's primary caregiver to cultivate or possess marijuana for the patient's medical use when recommended by a physician, as specified.<sup>26</sup>

Existing law also provides that collectives and cooperatives that cultivate cannabis are not, solely on that basis, subject to certain criminal penalties, including unauthorized possession, cultivation, and transportation of marijuana. This exception expires one year after the Bureau posts a notice on its Internet Web site that the Bureau has commenced issuing MMRSA licenses.

**BOE Track and Trace.** RTC Section 31020 requires the BOE, in consultation with the CDFA, to adopt a system to report commercial cannabis and cannabis product movement throughout the distribution chain (track and trace). The adopted system must not duplicate the CDFA's electronic database. The system must capture, at a minimum, all of the following:

- The amount of tax due by the designated entity.

<sup>24</sup> Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

<sup>25</sup> Division 10 (commencing with Section 11000) of the Health and Safety Code (HSC).

<sup>26</sup> HSC Section 11362.5.

## STATE BOARD OF EQUALIZATION

- The name, address, and license number of the designated entity that remitted the tax.
- The name, address, and license number of the succeeding entity receiving the product.
- The transaction date.
- Any other information the BOE deems necessary for marijuana and marijuana taxation and regulation.

**Water Right Fees.** Among other things, current law<sup>27</sup> requires each person or entity that holds a permit or license to appropriate water, and each lessor of water, to pay an annual fee according to a fee schedule established by the SWRCB. Each person or entity that files a Notice of Extraction and Diversion, as specified, must pay an annual fee<sup>28</sup> according to a fee schedule established by the SWRCB.

The law<sup>29</sup> allows the SWRCB to send certain unpaid fees to the BOE for collection and requires<sup>30</sup> the BOE to collect all annual fees and other fees referred by the SWRCB. The fees are collected pursuant to the Fee Collection Procedures Law<sup>31</sup> and deposited in the Water Rights Fund in the State Treasury

**Amended Law:** This bill makes several changes to the **MMRSA**, including, but not limited to, changing the term marijuana to cannabis throughout.

With respect to the BOE, this bill requires the CDFA, in consultation with the BOE, to create an electronic database containing the electronic manifest to facilitate the track and trace program. The electronic manifests shall include, but not be limited to, the following information:

- The quantity, or weight, and variety of products shipped.
- The estimated times of departure and arrival.
- The quantity, or weight, and variety of products received.
- The actual time of departure and arrival.
- A categorization of the product.
- The license number and the unique identifier issued by the licensing authority for all licensees involved in the shipping process.

The bill provides the BOE read access to the electronic database for medical cannabis and medical cannabis product taxation and regulation purposes.

**Revenue and Taxation Code.** This bill repeals RTC Section 31020, which requires the BOE, in consultation with the CDFA, to adopt a system to report commercial cannabis and cannabis product movement throughout the distribution chain.

**Statement Fee Collection.** The bill amends WC Section 1535 to allow the SWRCB to refer an unpaid fee related to a statement of water diversion and use for cannabis cultivation to the BOE for collection.

**Effective Date.** As a budget trailer bill that makes an appropriation, this bill becomes effective immediately.

**Background:** In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act of 1996, which allows patients and their primary caregivers to cultivate or possess marijuana for personal medical treatment with the recommendation of a physician, as specified.

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<sup>27</sup> Chapter 8 (commencing with Section 1525) of Part 2 of Division 2 of the WC.

<sup>28</sup> WC Section 1529.

<sup>29</sup> WC Section 1535.

<sup>30</sup> WC Section 1537.

<sup>31</sup> Part 30 (commencing with Section 55001) of Division 2 of the RTC.

## STATE BOARD OF EQUALIZATION

In 2003, [Senate Bill 420](#) (Ch. 875, Stats. 2003, Vasconcellos) established statewide guidelines for Proposition 215 enforcement. In particular, SB 420 allows nonprofit distribution in certain cases for patient cultivation cooperatives, small-scale caregiver gardens, and dispensing collectives. However, despite the fact that numerous medical marijuana dispensaries currently do business in California, the sale of medical cannabis is illegal under federal law.

On August 29, 2013, the U.S. Department of Justice issued guidance to federal prosecutors regarding cannabis enforcement under the CSA (referred to as the [Cole Memo](#)).<sup>32</sup> The Cole Memo reiterated the Department's commitment to enforcing the CSA consistent with Congress' determination that cannabis is a dangerous drug that serves as a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. In furtherance of those objectives, the Cole Memo instructed the Department attorneys and law enforcement to focus on the following eight priorities in enforcing the CSA against cannabis-related conduct:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

Under the Cole Memo, marijuana-related conduct that implicates one or more of these enforcement priorities should be the primary question when considering CSA prosecution. Although the guidance was issued in response to recent marijuana legalization initiatives in certain states, it applies to all Department marijuana enforcement nationwide.

Operative December 16, 2014, Public Law 113-235<sup>33</sup> prohibits the United States Department of Justice from using funds to prevent specified states, including California, from implementing laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

**Medical Marijuana Regulation and Safety Act.** In 2015, the Legislature enacted the MMRSA, a package of legislation that establishes a comprehensive licensing and regulatory framework for medical marijuana, including cultivation, manufacturing, transportation, distribution, sale, and product. The MMRSA consists of three bills: [SB 643](#) (Ch. 719, McGuire), [AB 243](#) (Ch. 688, Wood), and [AB 266](#) (Ch. 689, Bonta).

Among its provisions, the MMRSA establishes the Bureau within the DCA to oversee and enforce the state's medical marijuana regulations, in collaboration with the CDPH and the CDFA. Additionally, it establishes categories of licenses for various medical marijuana activities, such as cultivation, manufacturing, distribution, transportation, and sale.

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<sup>32</sup> <http://medicalmarijuana.procon.org/sourcefiles/cole-DOJ-memo-aug-2013.pdf>

<sup>33</sup> [H.R. 83](#) / Public Law 113-235, Consolidated and Further Continuing Appropriations Act, 2015, (Dec. 16, 2014; 128 Stat. 2130; 701 pages).

## STATE BOARD OF EQUALIZATION

AB 266 also added RTC Section 31020 to require the BOE, in consultation with the CDFA, to adopt a system to report commercial cannabis and cannabis product movement throughout the distribution chain (track and trace).

### Commentary:

1. **Should the BOE have a role in track and trace?** This bill repeals the provision that requires the BOE to establish a track and trace system for tax administration and enforcement. Although those provisions appear related to a proposed excise tax that was not passed by the Legislature, the information captured by the system would be helpful for sales and use tax enforcement under current law. This provision also provides helpful information through the electronic shipping manifests.

However, the electronic database containing electronic shipping manifest information may not be helpful if the BOE is tasked with the administration and collection of a future excise tax imposed above the retail level (e.g. cultivator, distributor). To collect such a tax, BOE staff suggests providing the BOE the authority to collect such a tax through the use of a tax stamp, product bags, or other method of collecting tax. Since an excise tax seems likely, BOE staff suggests the CDFA also consult with the BOE when establishing the track and trace system to include excise tax payment and other tax enforcement information.

2. **Collection provision not problematic.** This bill authorizes the SWRCB to refer unpaid fees related to a statement of water diversion and use for cannabis cultivation to the BOE for collection. Since the SWRCB currently has the authority to refer other unpaid water right-related fees to the BOE for collection, such as water-related application, registration, petition, and request fees and water quality certificates, as described, this provision will not be problematic to administer.

**Senate Bill 839 (Committee on Budget and Fiscal Review) Chapter 340**  
***Hazardous Substances Tax: Flat Rate Activity Fee***

*Effective September 13, 2016. Among its provisions, amends Section 25205.7 of the Health and Safety Code, and amends Sections 43053 and 43152.10 of the Revenue and Taxation Code.*

**Summary:** Eliminates the flat-rate hazardous waste application fee option<sup>34</sup> for persons that apply with the Department of Toxic Substances Control (DTSC) for a new permit, a postclosure permit, a permit renewal, a class 2 or class 3 permit modification, a variance, or a waste classification determination.

**Purpose:** To provide full cost recovery to DTSC for hazardous waste facility permit decisions.

**Fiscal Impact Summary:** Flat-rate application fees over the last three fiscal years averaged \$367,000.

**Former Law:** The BOE administers six hazardous waste fee programs in cooperation with the [DTSC](#), pursuant to the requirements of the California Hazardous Substances Tax Law. Five of the fees are: (1) the environmental fee on certain types of organizations based on their use, storage, generation, or activities connected to hazardous materials,<sup>35</sup> (2) the facility fee imposed on the storage, treatment, or disposal of hazardous waste,<sup>36</sup> (3) the generator fee based on the generation of hazardous waste at a specific site,<sup>37</sup> (4) the transportable treatment unit fee imposed on a per treatment unit, not per facility,<sup>38</sup> and (5) the disposal fee assessed on hazardous waste disposed of by depositing on, or into, land.<sup>39</sup>

The sixth fee (activity fee) is essentially an application processing fee imposed on any person that applies for, or requests, a new hazardous waste facilities permit, a hazardous waste facilities permit for postclosure, a renewal of an existing hazardous waste facilities permit, including a standardized permit or postclosure permit, a class 2 or class 3 permit modification of an existing hazardous waste facilities permit, a variance, or a waste classification determination. The applicant pays the fee either by entering into a reimbursement agreement with DTSC, or paying a one-time, flat-rate fee to the BOE.<sup>40</sup>

The activity fees are billed by BOE upon notification from DTSC. The fee is non-refundable, even if the application is withdrawn or the permit or the modification is denied. The fee is tiered based on the permitted level of the facility and the type of permit activity. The fees are as follows:

<sup>34</sup> The fee rate varies according to the activity requested, and called the "activity fee."

<sup>35</sup> Health and Safety Code (HSC) Section 25205.6.

<sup>36</sup> HSC Sections 25205.2, 25205.3, and 25205.4.

<sup>37</sup> HSC Sections 25205.5, 25205.22, and 25174.7.

<sup>38</sup> HSC Section 25205.14.

<sup>39</sup> HSC Sections 25174.1, 25174.2, 25174.6, and 25174.7.

<sup>40</sup> HSC Section 25205.7.

STATE BOARD OF EQUALIZATION

Permit Application	Type of Applicant/Activity	Applicant Size/Type	1997 Base Rates	2016 Rates
Hazardous Waste Facilities Permit Application	Land Disposal Facility	Small Facility	\$104,187	\$166,596
		Medium Facility	\$222,183	\$355,272
		Large Facility	\$381,602	\$610,183
	Incinerator	Small Facility	\$62,762	\$100,357
		Medium Facility	\$133,060	\$212,762
		Large Facility	\$228,458	\$365,310
	Storage Facility, Treatment Facility, or Storage and Treatment Facility	Small Facility	\$21,340	\$34,123
		Medium Facility	\$38,913	\$62,225
		Large Facility	\$75,317	\$120,431
	Transportable Treatment Unit	Small Unit	\$16,320	\$26,095
		Medium Unit	\$37,657	\$60,214
		Large Unit	\$75,317	\$120,431
	Postclosure Permit	Small Facility	\$10,040	\$16,055
		Medium Facility	\$22,596	\$36,131
		Large Facility	\$37,657	\$62,214
Standardized Permit Application	Storage Facility Treatment Facility Storage and Treatment Facility	Series A	\$32,052	\$51,254
		Series B	\$20,011	\$31,999
		Series C	\$5,332	\$8,526
Permit Modification Application		Class 2 Class 3	Variable percentage of the fee for a new permit for that facility.	
Renewal of Existing Permit			An amount equal to a comparable permit modification application, but not less than one-half a new permit fee.	

The BOE adjusts the flat-rate activity fees annually to reflect changes in the cost of living. The BOE collects the optional flat-rate application processing fee according to the Hazardous Substances Tax Law.<sup>41</sup>

In general, the Hazardous Substances Tax Law contains administrative provisions related to BOE-administered hazardous waste fees imposed in the HSC. Some of these provisions include definitions, return due dates and processing, collections, audits, appeals, refunds, fund deposits, and taxpayers' rights. RTC Sections 43053 and 43054 direct the BOE to administer specific fees imposed in the HSC, while RTC Section 43152.10 is related to the return due date for specified fees. RTC Section 43053 references HSC

<sup>41</sup> Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code (RTC).

## STATE BOARD OF EQUALIZATION

Sections 25205.2, 25205.5, 25205.7, and 25205.14. RTC Section 43152.10 references HSC Sections 25205.7, 25205.8, 25205.14, 25221, and 25343.

**Amended Law:** This budget trailer bill enacts various public resources provisions and amends HSC Section 25205.7 to delete the optional flat-rate hazardous waste activity fee for persons that apply for a new permit, a postclosure permit, a renewal of an existing permit, a class 2 or class 3 permit modification, a variance, or a waste classification determination. Permit applicants are required to make a minimum 25% advance reimbursement payment to DTSC.

Applicants and the owner and operator of the facility are also required to pay all costs to DTSC related to California Environmental Quality Act compliance activities.

The fee changes made by this bill apply to DTSC applications received on and after April 1, 2016. DTSC will determine any difference in fees for any applications filed between April 1, 2016 and the effective date of this bill.

This bill amends RTC Sections 43053, part of the Hazardous Substances Tax Law, to delete reference to the HSC Section 25205.7, which this bill amends and removes BOE from collection duties. RTC Section 43152.10 is also amended to delete references to obsolete fees in HSC Sections 25205.7, 25205.8, 25205.14, 25221, and 25343.

**Background:** An Independent Review Panel (IRP) recently issued recommendations to the governor, Legislature, and DTSC to address various DTSC administrative issues. Among other things, the IRP specifically recommends DTSC recover full reimbursement in order to improve permitting functions.<sup>42</sup>

**In General:** By statute, the BOE collects the optional one-time, flat-rate hazardous waste application fee for DTSC. If an applicant chooses to enter into a reimbursement agreement with DTSC, they handle all aspects of that payment option.

### Commentary:

1. **BOE staff does not foresee any administrative problems with the elimination of the optional flat-rate fee.** Even though the bill is effective immediately, BOE staff will work with affected fee payers to notify them of changes and answer questions from the public. BOE staff reports that there has been an average of nine, one-time, flat-rate application billings in each of the last three fiscal years, with average revenues of \$367,000.
2. **DTSC handles all aspects of the applicant's reimbursement agreement.** As discussed, the BOE has no administrative involvement when the DTSC-applicant requests a reimbursement agreement. This bill does not alter DTSC's responsibility for administering reimbursement agreements.
3. **RTC technical amendments.** The amendments to RTC Sections 43053 and 43152.10 are technical and non-substantive changes. The deletion of reference to HSC Section 25205.7 from RTC Section 43053 is reflective of this bill's deletion of the BOE administered flat-rate fee provisions. The deletion of all HSC references in RTC Section 43152.10 are related to repealed (Section 25205.8), redundant (Section 25205.14 is referenced in RTC Section 43053), or fees no longer administered by, or applicable to, the BOE (Sections 25221 and 25343).

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<sup>42</sup> <http://www.dtsc.ca.gov/GetInvolved/ReviewPanel/upload/SignedFinal.pdf>, see p.8.

**Senate Bill 1481 (Committee on Governance and Finance) Chapter 89**  
***Prepaid Mobile Telephony Services Surcharge: Technical Clean up***

*Effective January 1, 2017. Amends Section 42010, 42014, and 42022 of the Revenue and Taxation Code.*

**Summary:** Among other things, this bill:

- Makes conforming changes to seller debt provisions under the Prepaid Mobile Telephony Services Surcharge Collection Act (Prepaid MTS Act);
- Limits the circumstances under which a retail transaction is deemed to occur in this state based on a mobile telephone number; and
- Provides that sellers with de minimis sales of prepaid MTS are not required to register as prepaid MTS sellers with the Board of Equalization (BOE)

**Sponsor:** Board of Equalization

**Purpose:** To make housekeeping and technical changes to the Prepaid MTS Act.

**Conforming seller debt changes: Prepaid MTS Collection Act**  
*Revenue and Taxation Code Section (RTC) 42010*

**Former Law:** Beginning January 1, 2016, the Prepaid MTS Act and Local Prepaid Mobile Telephony Services Collection Act (Collection Acts)<sup>43</sup> impose state and local prepaid MTS surcharges on each prepaid consumer as a percentage of the sales price of each retail transaction. The Prepaid MTS Act requires the seller to collect the prepaid MTS surcharge and local charge at the time of the retail transaction. The law also includes necessary provisions that allow for the BOE to efficiently and effectively administer and collect the prepaid MTS surcharge and local charge.

For example, Section 42010(j) provides that the prepaid MTS surcharge that a seller must collect and any amount unreturned to the consumer that is not owed as part of the surcharge, constitutes a seller's debt to the state. Section 42010(j) also contains similar, but not identical, language with respect to the local charge. However, the local charge provision neither is consistent with the prepaid MTS surcharge provision, nor conforms to other user-imposed taxes administered by the BOE (e.g. [RTC Section 41023](#))

**Amended Law:** This bill makes conforming, technical changes to RTC Section 42010(j), allowing the BOE to move forward with its regulatory process for the Collection Acts.

**Background:** In 2014, Assembly Bill 1717 (Ch. 885) enacted the Collection Acts to standardize the method used to collect communications taxes, fees, surcharges, utility user taxes, and other telecommunication charges from end-use consumers of prepaid MTS. As the Collection Acts made their way through the Legislature, stakeholders provided suggested technical amendments to the bill. One such amendment included the addition of a missing word ("that") in Section 42010(j) to clarify the seller's liability for failing to collect the prepaid MTS surcharge. While the August 22, 2014 version of AB 1717 incorporated the missing word into Section 42010(j), the remainder of the section that pertains to the local charge was inadvertently overlooked and is inconsistent with other BOE-administered end-user taxes.

<sup>43</sup> Part 21 (commencing with Section 42001) and Part 21.5 (commencing with Section 42100) of Division 2 of the RTC.

**Commentary:**

1. **Conformity.** The proposed technical change is necessary for the efficient and effective administration of the prepaid MTS surcharge and local charge.
2. **The June 6, 2016 amendment** added an inadvertently omitted word.

<b>Known-Address Transaction: Qualifying Criteria</b>
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<i>Revenue and Taxation Code Section 42014</i>
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**Former Law:** For purposes of imposing the prepaid MTS surcharge, the Prepaid MTS Act<sup>44</sup> provides that a retail transaction occurs *in this state* if the consumer makes the retail transaction in person at a business location in the state (point-of-sale transaction). If this is not applicable, a retail transaction occurs in this state if the consumer's address is in this state (known-address transaction). A retail sale is considered a known-address transaction occurring in this state under **any** one of the following circumstances:

- The retail sale involves the shipping of an item to be delivered to, or picked up by, the prepaid consumer at a location in the state.
- The prepaid consumer's address is known by the seller to be in the state. The consumer's address is considered to be "known by the seller" if the seller's records maintained in the ordinary course of business indicate that the prepaid consumer's address is in the state and the records are not made or kept in bad faith.
- During completion of the retail transaction, the prepaid consumer provides an address that is in the state, including an address provided with respect to the payment instrument if no other address is available and the address is not given in bad faith.
- The mobile telephone number associates with a location in this state.

The Prepaid MTS Act also references the above circumstances to determine the location to impose the correct local charge rate in a known-address transaction; however, because a retail transaction only occurs in one local jurisdiction for purposes of assessing local charges, it further states that these circumstances must be determined and applied in descending order.

**Amended Law:** This bill revises the rules used to determine whether a retail sale of prepaid MTS occurs in California by limiting the circumstances under which a transaction is considered to be a known-address transaction occurring in this state to the prepaid consumer's known address, unless the prepaid consumer's address is not known.

**Commentary:**

1. **Known address.** Under existing law, a known out-of-state resident may be charged the prepaid MTS surcharge on their prepaid MTS purchase, even if the product is shipped from an out-of-state seller to the prepaid consumer's out-of-state address. For example, a Sacramento, California resident moves to Oregon. The resident wants to maintain an existing wireless telephone number with the (916) area code, which is now common practice. If that Oregon resident purchases prepaid MTS in a transaction where their address is not available to the retailer, the Prepaid MTS surcharge applies, even if the retailer knows the prepaid consumer has an Oregon address. The Prepaid MTS surcharge applies to the prepaid consumer's purchase, which is an in-state known-address transaction, as the wireless telephone number is associated with a location in California (due to its assigned (916) area code). The

<sup>44</sup> Part 21 (commencing with Section 42001) of Division 2 of the Revenue and Taxation Code.

## STATE BOARD OF EQUALIZATION

prepaid MTS surcharge serves to fund in-state services, just as those services were taxed prior to the Collection Acts becoming operative. Accordingly, it is unfair for an Oregon resident to be charged the prepaid MTS surcharge when the seller knows the prepaid purchaser resides outside of California based on their address.

2. **The June 6, 2016 amendment** made a technical and conforming change.

### **De Minimis Sales: Registration**

*Revenue and Taxation Code Section 42022*

**Former Law:** Under existing law, the Prepaid MTS Act requires every seller of prepaid MTS to register with the BOE and collect and remit the prepaid MTS surcharge on retail sales of prepaid MTS.

Commencing January 1, 2017, the Prepaid MTS Act relieves a seller other than a direct seller<sup>45</sup> of the requirement to collect the prepaid MTS surcharge if that seller had prepaid MTS sales of less than \$15,000 in the previous calendar year.

**Amended Law:** This bill removes the MTS surcharge registration requirement for prepaid MTS sellers making de minimis prepaid MTS sales during the previous calendar year. Such sellers may continue to voluntarily register with the BOE and collect and remit the prepaid MTS surcharge. These sellers must still continue to track their sales of prepaid MTS to determine if their sales fall under the threshold each calendar year.

**Commentary:** The Prepaid MTS Act requires a seller to register with the BOE whether or not they make de minimis prepaid MTS sales. These de minimis (small) sellers registered with the BOE must continue to file returns with the BOE although they are not required to collect the prepaid MTS surcharge. This creates a burden to small sellers that the de minimis provisions are intended to address.

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<sup>45</sup> Not including a direct seller, as defined pursuant to [RTC 42004\(b\)](#).

**[Senate Bill 25 \(Nazarian\) Chapter 7](#)**  
***Cigarette and Tobacco Products Licensing Act: eCigarette Retailers***

*Effective June 9, 2016, but operative January 1, 2017. Amends Sections 22950.5, 22958 of, and adds Sections 22971.7 and 22973.3 to, the Business and Professions Code.*

**Summary:** Among other things, this bill:

- Adds a “tobacco product” definition to the Stop Tobacco Access to Kids Enforcement (STAKE) Act<sup>46</sup> that includes an electronic nicotine delivery device, such as an electronic cigarette (e-cigarette).
- Requires the BOE to suspend or revoke a retailer’s Cigarette and Tobacco Products Licensing Act of 2003<sup>47</sup> (Licensing Act) license and impose a civil penalty for furnishing a “tobacco product” to a minor.
- Revises the Licensing Act’s “tobacco products” definition for retail licensure purposes to conform to the STAKE Act’s “tobacco product” definition.
- Imposes a \$265 annual fee for a STAKE Act-defined “tobacco product” retailer license.

**Sponsors:** American Heart Association, American Lung Association, and American Cancer Society

**Purpose:** To protect the public against exposure to e-cigarettes.

**Fiscal Impact Summary:** Annual revenues of \$1.908 million.

**Former Law: Cigarette and Tobacco Products Tax Law**<sup>48</sup>. Revenue and Taxation Code (RTC) Section 30451 specifically provides that the BOE shall enforce the provisions of the Cigarette and Tobacco Products Tax Law (CTPTL) and may prescribe, adopt, and enforce rules and regulations relating to its administration and enforcement.

Existing law imposes an 87-cent per package of 20 (43 ½ mills per cigarette) cigarette tax. The CTPTL requires tax payment through the use of stamps or meter impressions that a distributor affixes on each cigarette package prior to the distribution.

RTC Section 30123 imposes a tax upon the distribution of tobacco products, based on the wholesale cost of these products at a tax rate that is equivalent to the combined rate of tax imposed on cigarettes. In addition, Section 30131.2 imposes an additional tobacco products tax at a rate equivalent to the \$0.50 per pack cigarette tax. The BOE annually determines the tobacco products tax rate based on the March 1 wholesale cost of cigarettes. The tobacco products rate is 28.13% for fiscal year 2015-16. Distributors pay the tobacco products tax through the use of a tax return that reports the wholesale cost of the tobacco products distributed and calculates the tax due.

RTC Sections 30121 and 30131.1 define “tobacco products” to include, but not be limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50%, tobacco, but does not include cigarettes.

**Licensing Act.** The Licensing Act requires the BOE to administer a statewide program to license cigarette and tobacco products manufacturers, importers, distributors, wholesalers, and retailers. BPC Section 22972 requires a retailer to have a license to sell cigarettes and tobacco products in this state. Section 22972 further requires a retailer to obtain a separate license for each retail location that sells cigarettes

<sup>46</sup> Division 8.5 (commencing with Section 22950) of the BPC.

<sup>47</sup> Division 8.6 (commencing with Section 22970) of the BPC.

<sup>48</sup> Part 13 (commencing with Section 30001) of Division 2 of the RTC.

## STATE BOARD OF EQUALIZATION

and tobacco products. Section 22971 defines “tobacco products” to have the same meaning as defined under the CTPTL.

Section 22974.8 requires the BOE to suspend or revoke a retailer’s license upon notification by the California Department of Public Health (CDPH) for certain STAKE Act violations.

**STAKE Act.** The STAKE Act established a statewide enforcement program to take action against businesses that illegally sell tobacco to minors. In general, the STAKE Act requires the CDPH to:

- Implement an enforcement program to reduce the availability of tobacco products to minors and conduct sting operations using 15 and 16 year old minors granted immunity;
- Establish requirements for tobacco product retailers to conspicuously post a notice stating that selling tobacco products to a person under 18 years of age is illegal and subject to penalties;
- Assess civil penalties ranging from \$200 to \$6,000 against the store owner for violations; and
- Comply with the Synar Amendment (Section 1926 of Title XIX of the federal Public Health Service Act) and prepare an annual report regarding enforcement activities and their effectiveness for the federal government, Legislature, and Governor.

Furthermore, the STAKE Act:

- Requires all persons engaging in the retail sale of tobacco products to check the identification of tobacco purchasers if the purchaser reasonably appears to be under 18 years of age.
- Prohibits any person, firm, or corporation from selling, giving, or in any way furnishing to another person who is under the age of 18 years any tobacco, cigarette, cigarette papers, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance.
- Prohibits the selling, offering for sale, or distributing tobacco products from a cigarette or tobacco products vending machine unless such vending machines or appliances are located at least 15 feet away from the entrance of a premises issued an on-sale public premises license, as defined.
- Prohibits advertising of any tobacco product on any outdoor billboard, as specified.
- Prohibits a person engaged in the retail sale of tobacco products from selling, offering for sale, or displaying for sale any tobacco product or tobacco paraphernalia by self-service display, except as permitted. Retailers of blunt wraps cannot place or maintain, or cause to be placed or maintained, any blunt wraps advertising display within two feet of candy, snack, or nonalcoholic beverage displayed inside any store or business or that is less than four feet above the floor.
- Prohibits the distributing or selling of tobacco products directly or indirectly to any person under the age of 18 years through the United State Postal Service or through any other public or private postal or package delivery service, as described.

BPC Section 22958 authorizes an enforcing agency to assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under the age of 18 years, any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance. Upon CDPH notification, Section 22958 requires the BOE to suspend or revoke a retailer’s Licensing Act license upon a civil penalty assessment for a third, fourth, or fifth violation of sales to minors, in accordance with the following schedule:

- A 45-day suspension of the license for a third violation at the same location within a five-year period.

## STATE BOARD OF EQUALIZATION

- A 90-day suspension of a license for a fourth violation at the same location within a five-year period.
- Revocation of the license for a fifth violation at the same location within a five-year period.

Section 22958 also requires the BOE to assess an additional \$250 civil penalty. The BOE deposits the penalty amounts collected into the Cigarette and Tobacco Products Compliance Fund (Compliance Fund).

**Amended Law:** Among other things, this bill amends BPC Section 22950.5 within the STAKE Act to define “tobacco product” to mean any of the following:

- A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
- An electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
- Any component, part, or accessory of a tobacco product, whether or not sold separately.

“Tobacco product” does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

This bill amends BPC Section 22958 to allow an enforcing agency to assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person under 21 years of age any “tobacco product.” As a result, Section 22958 requires the CDPH to notify the BOE upon a civil penalty assessment for a third, fourth, or fifth violation that includes any electronic delivery device or component parts, as well as any cigarette, tobacco, or specified related product. Existing law requires the BOE to impose a \$250 civil penalty and to take action in accordance with the specified schedule, which includes the suspension or revocation of a retailer’s Licensing Act license.

BPC Section 22971.7 is added within the Licensing Act’s retailer licensure provisions to define “tobacco product” to mean a tobacco product or device as defined in STAKE Act Section 22950.5.

The bill adds BPC Section 22973.3 to require licensure for retailers of STAKE Act-defined tobacco products that are not subject to tax imposed by the CTPTL (e-device and component part retailer). An annual \$265 license fee per location is imposed on these retailers. The BOE will report back to the Legislature no later than January 1, 2019 regarding the adequacy of Licensing Act funding with regard to tobacco products licensing, as required by Section 22973.3. 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.

The license fee applies only to e-device and component part retailers not already licensed to sell cigarettes and tobacco products. If a retailer already possesses a license to sell CTPTL-defined cigarettes and tobacco products, the retailer is also authorized to sell e-devices and component parts under that license.

This bill repeals and adds BPC Section 22980.2 to apply existing penalties to a person that continues to sell electronic delivery devices or component parts without a valid license or after a BOE suspension or revocation notification.

This bill is effective June 9, 2016, the 91<sup>st</sup> day after the adjournment of the second extraordinary session; however, the provisions impacting the BOE are operative January 1, 2017.

## STATE BOARD OF EQUALIZATION

**In General:** In 1992, Congress passed Section 1926 of Title XIX of the federal Public Health Service Act, commonly called the "Synar Amendment," which requires each state to:

- Have in effect a law prohibiting any manufacturer, retailer or distributor of tobacco products from selling or distributing such products to any individual under the age of 18.
- Enforce such laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.
- Conduct annual random, unannounced inspections to ensure compliance with the law. These inspections are to be conducted in such a way as to provide a valid sample of outlets accessible to youth.
- Develop a strategy and timeframe for achieving an inspection failure rate of less than 20% of outlets accessible to youth.

Failure to meet the terms and conditions of the Synar Amendment could result in reducing (up to 40%) Substance Abuse Prevention and Treatment (SAPT) block grant funds allocated to California for alcohol and other drug prevention and treatment programs.

To comply with the Synar Amendment, the Legislature passed Senate Bill 1927 (Stats. 1994, Ch. 1009) which established the STAKE Act. The STAKE Act created a new statewide enforcement program to take regulatory action against businesses that illegally sell tobacco products to minors. Enforcement authority and implementation responsibility was delegated to the Department of Health Services.<sup>49</sup>

**E-Cigarettes.** The California Attorney General Office's Tobacco Highlights includes e-cigarette information:

"Electronic cigarettes are battery powered devices designed to look and feel like regular cigarettes, but they emit water vapor rather than smoke. The cartridges contain liquid nicotine and various flavors. Known as e-cigarettes or e-cigs, the products have become popular in the past couple of years. The U.S. Food and Drug Administration consider e-cigarettes "drugs or devices" and claims the products must be approved by the FDA before they can be sold in the U.S. To date, no e-cigarettes have been approved by the FDA. Preliminary tests by the FDA found that e-cigarettes contain many impurities and some contain dangerous chemicals. FDA's jurisdiction to regulate e-cigarettes is in litigation, however. E-cigarettes are not governed by the Master Settlement Agreement or by many of California's tobacco laws.

The California Attorney General's Office is concerned that e-cigarettes are being sold in the state without appropriate quality control and with many false or misleading claims about their safety or effectiveness. Many are also in violation of California's Proposition 65 which requires health warnings about dangerous chemicals.

California passed a statute prohibiting the sale of electronic cigarettes to minors. (Health & Safety Code §119405). The office is investigating a number of electronic cigarette companies selling e-cigarette products on the Internet to ensure compliance with the statute as well as other consumer protection provisions. Many companies are coming into compliance voluntarily."

**Background:** In 2003, Assembly Bill 71 (J. Horton, Ch. 890) enacted the Licensing Act, which established a statewide licensure program administered by the BOE to help stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products. Currently, the BOE licenses approximately 35,000 retailers and 850 distributors and wholesalers to engage in the sale of cigarettes and tobacco products in California.

As AB 71 was developed and made its way through the Legislature, it was determined that the licensure fees would not permanently sustain the Licensing Act program. Since the Licensing Act enforces the CTPTL

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<sup>49</sup> The CDPH, Food and Drug Branch, now enforces the STAKE Act program.

## STATE BOARD OF EQUALIZATION

and directly benefits the funds established pursuant to that program, the funding for the Licensing Act would eventually shift to the cigarette and tobacco products tax funds: General Fund, Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund (Prop. 99) and California Children and Families Trust Fund (Prop. 10). However, there was concern about the Licensing Act program and the impact it would have on the cigarette and tobacco products tax funds if the Licensing Act expenses exceeded the revenues generated. To address this concern, a sunset date of January 1, 2010 was incorporated into the Licensing Act to make sure the Licensing Act would not harm the cigarette and tobacco products tax funds. Furthermore, AB 71 included uncodified language to clarify that all revenues and expenses generated by the Licensing Act are to be allocated in the same manner as those revenues and expenses are allocated under the Cigarette and Tobacco Products Tax Law to make sure no one cigarette and tobacco product fund benefited or was burdened when the funding shift took place. In 2006, Assembly Bill 1749 (J. Horton, Ch. 501) repealed the sunset date for the Licensing Act due to the amount of additional excise tax revenues generated. The BOE has estimated that the Licensing Act and enhanced cigarette tax stamp generates an additional \$66.8 million in cigarette excise tax annually. The Licensing Act generates an additional \$24.5 million in additional tobacco products tax. The resulting additional sales and use tax revenue is estimated to be \$44.4 million annually.<sup>50</sup>

In 2012, Assembly Bill 1301 (Ch. 335, Hill) amended the STAKE and Licensing Acts to require the BOE to suspend or revoke a retailer license for certain cigarette and tobacco products sales to minors violations.

### Commentary:

1. **Summary of amendments.** The **March 2, 2016 amendments** did not impact the BOE. The **February 29, 2016 amendments** deleted the BOE's requirement to determine a one-time license fee for e-device and component part retailers. Instead, the amendments imposed an annual \$265 license fee on these retailers and require the BOE to prepare a legislative report regarding the adequacy of funding for the new licensing requirements. The amendments also allowed a retailer already licensed to sell cigarettes and tobacco products to sell e-devices and component parts under that license.
2. **BOE's mission and tasks.** The BOE's mission "is to serve the public through fair, effective, and efficient tax administration." This bill's licensure requirements for e-cigarette and tobacco component manufacturers, importers, distributors, wholesalers, and retailers depart from the BOE's traditional "tax collection and enforcement" functions. In general, the BOE requires a license, permit, or registration for the various tax and fee programs administered. The licensing, registration, and permit requirements ensure vital tax revenue collection for the state.

The Licensing Act's declarations and findings state, in part, that manufacturer, importer, wholesaler, distributor, and retailer licensing will help stem the tide of untaxed distributions. However, this bill's e-cigarette and tobacco component licensing requirements relate to health, public safety, or other non-tax purposes.

3. **Tobacco products taxation.** This bill creates a "tobacco product" definition within the STAKE Act and Licensing Act, which includes electronic delivery devices and component parts. This bill does not amend the "tobacco products" definition within the CTPTL. Accordingly, this bill does not impose the cigarette and tobacco products tax upon a tobacco product as defined pursuant to this bill's BPC Section 22950.5 (electronic delivery devices and component parts). The cigarette and tobacco products tax continues to apply to "tobacco products" as defined in RTC Sections 30121 and 30131.1, which reads:

"Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco, but does not include cigarettes.

<sup>50</sup> <http://www.boe.ca.gov/legdiv/pdf/CigaretteEvasion.pdf>.

## STATE BOARD OF EQUALIZATION

4. **License required for retailers that only sell devices or component parts.** This bill includes within the “tobacco product” definition any tobacco product component, part, or accessory, whether or not sold separately. As a result, the bill not only requires licensure for retailers of liquid nicotine, but also retailers of components, parts, and accessories such as an aluminum shell, sensor, smart chip microprocessor, atomizer, coils, tips, o-rings, and vaporized mesh. Requiring licensure for retailers of individual components, parts, and accessories sold without liquid nicotine complicates administration since all components, parts, and accessories would need to be identified by the BOE to determine whether or not those parts are necessary during the device's operation.

Furthermore, requiring licensure for retailers of component parts is not consistent with the Licensing Act and its enforcement of the CTPTL. For example, the Licensing Act does not require licensure for retailers that sell pipes or similar implements to deliver the traditional pipe tobacco to the user, but do not sell pipe tobacco. As such, BOE staff recommends limiting the licensure requirement to liquid nicotine and any components, parts, and accessories when packaged with liquid nicotine. This suggestion also conforms to BOE staff’s recommendation for existing bills and initiatives that propose to impose a related tax under the CTPTL.

5. **Some retailers will pay two fees.** This bill requires a retail licensee to pay an annual \$265 license fee to engage in the sale of e-devices and component parts.

A **new retailer** of cigarettes, CTPTL-defined tobacco products, *and* e-devices and component parts must pay both the one-time \$100 and annual \$265 license fees in order to sell such products.

An **existing retailer** already licensed to engage in the sale of cigarettes and tobacco products, as defined in the CTPTL, would be allowed to sell e-devices and component parts under their existing license. It appears that existing retailers would never be subject to the annual \$265 license fee.

Also, BOE staff notes ambiguity in BPC Section 22973.3(g). Paragraph (1) provides that the new licensing requirements do not apply if the retailer already possesses a license to sell CTPTL-defined cigarettes and tobacco products. Paragraph (2) provides that a retailer that possesses a license to sell CTPTL-defined cigarettes and tobacco products may sell e-devices and component parts under that license. Paragraph (2) does not state that a retailer must possess a license to sell CTPTL-defined cigarettes or tobacco products *as of the bill’s operative date* in order to sell e-devices and component parts under that license. Therefore, it appears that a new retailer may obtain a license to engage in the sale of cigarettes and tobacco products, and then subsequently begin to sell STAKE Act-defined tobacco products. This seems to allow that new retailer to avoid the \$265 annual license fee imposed upon retailers of e-devices and component parts. BOE staff suggests an amendment to clarify the circumstances under which a retailer may sell e-devices and component parts under a license to sell CTPTL-defined cigarettes and tobacco products.

6. **Related legislation.** [ABx2 6](#) (Cooper) was similar. [SB 140](#) (Leno, et al) was also similar to this bill, but was held in the Assembly Governmental Organization Committee.

[ABx2 11](#) (Ch. 6, Stats. 2016, Nazarian), and [AB 2770](#) (Ch. 699, Stats. 2016, Nazarian) amend BPC Section 22973 to require an annual cigarette and tobacco products retailer license fee.

The second extraordinary session adjourned on March 15, 2016 ([ACR 1](#) (Mayes)).

## TABLE OF SECTIONS AFFECTED

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
<b>Revenue &amp; Taxation Code</b>				
<b><i>Motor Vehicle Fuel Tax Law</i></b>				
§7655.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§7656	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
<b><i>Use Fuel Tax Law</i></b>				
§8754	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§8876.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§9152.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Tax on Insurers Law</i></b>				
§12631.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
<b><i>Cigarette and Tobacco Products Tax Law</i></b>				
§30185	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§30281.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§30362.2	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
§30473.5	Amend	<a href="#">AB 1901</a>	Ch. 662	Unaffixed tax stamps
<b><i>Medical Cannabis Regulation</i></b>				
§31020	Repeal	<a href="#">SB 837</a>	Ch. 32	Commercial cannabis tracking
<b><i>Alcoholic Beverage Tax Law</i></b>				
§32252.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§32253	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§32402.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Energy Resources Surcharge Law</i></b>				
§40065	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§40101.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§40112.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments

STATE BOARD OF EQUALIZATION

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
<b>Revenue &amp; Taxation Code continued</b>				
<b><i>Emergency Telephone Users Surcharge Law</i></b>				
§41054	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§41095.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§41101.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Prepaid Mobile Telephony Services Surcharge Act</i></b>				
§42010	Amend	<a href="#">SB 1481</a>	Ch. 89	Annual calculation of surcharge
§42014	Amend	<a href="#">SB 1481</a>	Ch. 89	Known address
§42022	Amend	<a href="#">SB 1481</a>	Ch. 89	Registration of seller with BOE
<b><i>Hazardous Substance Tax Law</i></b>				
§43053	Amend	<a href="#">SB 839</a>	Ch. 340	Fees
§43152.10	Amend	<a href="#">SB 839</a>	Ch. 340	Fees; due and payable
§43154	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§43155.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§43452.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Integrated Waste Management Fee Law</i></b>				
§45152	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§45153.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§45652.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Oil Spill Response, Prevention, and Administration Fees Law</i></b>				
§46153	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§46154.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§46502.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Underground Storage Tank Maintenance Fee Law</i></b>				
§50111	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§50112.1	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§50140.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments

STATE BOARD OF EQUALIZATION

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
<b>Revenue &amp; Taxation Code continued</b>				
<b><i>Fee Collection Procedures Law</i></b>				
§55041	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§55042.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§55222.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b><i>Diesel Fuel Tax Law</i></b>				
§60207.5	Repeal Add	<a href="#">AB 2201</a>	Ch. 264	Electronic payments: one day late
§60208	Amend	<a href="#">AB 1559</a>	Ch. 257	Extension of time: disaster
§60522.3	Add	<a href="#">AB 1856</a>	Ch. 89	Single refund claim: multiple payments
<b>Business and Professions Code</b>				
<b><i>Medical Cannabis Regulation and Safety Act</i></b>				
§19335	Amend	<a href="#">SB 837</a>	Ch. 32	Commercial cannabis electronic database
<b><i>Stop Tobacco Access to Kids Enforcement (STAKE) Act</i></b>				
§22950.5	Amend	<a href="#">SBx2 5</a>	Ch. 7	“Tobacco product” defined
§22958	Amend	<a href="#">SBx2 5</a>	Ch. 7	Tobacco sales to minors: License suspension or revocation, and civil penalty
<b><i>Cigarette and Tobacco Products Licensing Act</i></b>				
§22971.7	Add	<a href="#">SBx2 5</a>	Ch. 7	“Tobacco product” defined
§22972	Amend	<a href="#">AB 2770</a>	Ch. 699	Retailer license
§22973	Amend	<a href="#">AB 2770</a>	Ch. 699	Application for license
§22973	Amend	<a href="#">ABx2 11</a>	Ch. 6	Application for license
§22973.3	Amend	<a href="#">AB 2770</a>	Ch. 699	Application for license; non-taxable tobacco product
§22973.3	Add	<a href="#">SBx2 5</a>	Ch. 7	Application for license; non-taxable tobacco product
§22977.1	Amend	<a href="#">AB 2770</a>	Ch. 699	License fee
§22977.1	Amend	<a href="#">ABx2 11</a>	Ch. 6	License fee
§22990.5	Add	<a href="#">AB 2770</a>	Ch. 699	Licensing Act funding; tax revenue prohibition
§22990.7	Add	<a href="#">AB 2770</a>	Ch. 699	Licensing Act funding; report

STATE BOARD OF EQUALIZATION

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
<b>Health and Safety Code</b>				
<b><i>Lead-Acid Battery Fees</i></b>				
Article 10.5 (commencing with §25215) to Chapter 6.5 of Division 20	Repeal Add	<a href="#">AB 2153</a>	Ch. 666	The Lead-Acid Battery Recycling Act of 2016
<b><i>Hazardous Waste Facilities and Generator Fees</i></b>				
25205.7	Amend	<a href="#">SB 839</a>	Ch. 340	Application fees; facility permit; variance; certification
<b>Water Code</b>				
<b><i>Medical Cannabis Regulation and Safety Act</i></b>				
§1535	Amend	<a href="#">SB 837</a>	Ch. 32	Cannabis water fees; BOE collection