

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Senate Budget Analyst: Jane Tolman Bill Number: SB 1843

Related Bills: See Legislative History Telephone: 845-6111 Amended Date: 08-28-2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: BOE May Create Tobacco Tax Compliance Task Force That Shall Include Personnel From FTB

SUMMARY

This bill would allow the State Board of Equalization (BOE) to:

- Create a Tobacco Tax Compliance Task Force that would include personnel from the Franchise Tax Board (FTB), and
- Administer a statewide tobacco license program to regulate the sale of cigarette and tobacco products in California.

This analysis does not address the bill's provisions regarding the cigarette tax and the licensing of cigarette or tobacco products, as they do not impact FTB.

SUMMARY OF AMENDMENTS

The August 28, 2002, amendments deleted the language relating to adjusted annual rate and assessment and development of bilingual service implementation plan. The August 28, 2002, amendment added provisions related to tobacco products.

This is the department's first analysis of the bill, as amended.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to address illegal sales of untaxed cigarettes, retrieve money lost due to smuggling and counterfeiting (tax stamps), and create a uniform statewide licensure of tobacco manufacturers, distributors, and retailers necessary to assist the BOE in addressing these issues.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

POSITION

Pending.

Board Position:

____ S ____ NA ____ NP
____ SA ____ O ____ NAR
____ N ____ OUA ____ X PENDING

Department Director

Date

Gerald H. Goldberg

9/10/02

ANALYSIS

FEDERAL/STATE LAW

Under federal law, the Federal Trade Commission regulates the trade, labeling, and advertising of cigarette and tobacco products.

Under state law, the BOE administers and collects tax on cigarette and tobacco products.

THIS BILL

This bill would allow BOE to create a Tobacco Tax Compliance Task Force for the purpose of advising the BOE on cigarette and tobacco tax compliance issues. The Task Force would include but not be limited to representatives from:

- BOE
- Office of the Attorney General
- FTB
- Department of Alcoholic Beverage Control
- Federal agencies necessary to coordinate programs to combat tobacco tax evasion, smuggling, and counterfeiting.

This bill would create the Cigarette and Tobacco Products Licensing Act of 2002 in the Business and Professions Code (B&PC). This bill would help the state monitor tobacco sales, insure compliance with tobacco tax and control laws, provide uniform standards, and prevent illegal sales.

This bill would give peace officer authority to employees of the Investigations Division at BOE who are enforcing the laws administered by the BOE.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 1666 (Horton 2001/2002) is identical to this bill regarding the tobacco products. AB 1666 was moved from the Assembly for concurrence to inactive file.

AB 1906 (Brewer, Stats. 1998, Ch. 463) required the California Attorney General to appoint an Electronic Recordation Task Force consisting of voluntary representatives from governmental agencies and industry groups including county recorders, county district attorneys, FTB, Fannie Mae, the Internal Revenue Service, trustees, mortgage bankers, financial institutions, and the title insurance and real estate industries.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and New York provide similar laws for the regulation and taxation of cigarette and tobacco products. It does not appear that these states have a task force to assist with the enforcement of these laws.

The laws of these states were reviewed because of similarities to California's income tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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