

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Horton Analyst: Jane Tolman Bill Number: AB 71

Related Bills: See Legislative History Telephone: 845-6111 Introduced Date: 12/13/02

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: BOE May Create Tobacco Tax Compliance Task Force That May Include Representatives 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 addresses only the task force and the license program provisions of the bill, as these are the only sections that impact FTB.

PURPOSE OF THE BILL

The purpose of this bill is to help in the prevention of 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 BOE in addressing these issues.

EFFECTIVE/OPERATIVE DATE

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

POSITION

Pending.

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.

Board Position:

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

Department Director
Gerald H. Goldberg

Date
01/17/03

THIS BILL

This bill would allow BOE to create a Tobacco Tax Compliance Task Force that may include personnel from:

- BOE.
- The Office of the Attorney General.
- FTB.
- The Department of Alcoholic Beverage Control.
- The State Department of Health Services.
- Federal agencies necessary to coordinate programs to combat tobacco tax evasion, smuggling, and counterfeiting.
- Other states engaged in tobacco tax compliance efforts.
- The manufacturer, wholesaler, importer, distributor, and retailer groups that are required to have a license to sell cigarettes and tobacco products.

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

IMPLEMENTATION CONSIDERATIONS

The bill does not prescribe the responsibilities or duties of the task force. If FTB personnel were selected for the task force, it is unclear if the personnel would serve in a civil or peace officer capacity. The author may wish to outline the responsibilities and roles of the task force and the duties of each member from each agency that would participate. The department may require additional personnel years (PYs) to participate in the task force, depending on the assigned duties and responsibilities.

LEGISLATIVE HISTORY

SB 1843 (Senate Budget Committee, 2002) would have addressed illegal sales of untaxed cigarettes, retrieve money lost due to smuggling and counterfeiting, and create a uniform statewide licensure of tobacco manufacturers, distributors, and retailers. This bill was sent to the inactive file on 8/31/2002. No further action was taken.

AB 1666 (Horton, 2002) would have addressed illegal sales of untaxed cigarettes, retrieval of money lost due to smuggling and counterfeiting, and creation of a uniform statewide licensure of tobacco manufactures, distributors, and retailers. This bill was read a third time and moved to the inactive file 8/31/2002.

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 their tax laws are similar to California's income tax laws.

FISCAL IMPACT

Since it is unclear what would be required of FTB personnel participating in the task force, departmental costs cannot be determined at this time.

ECONOMIC IMPACT

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

LEGISLATIVE STAFF CONTACT

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