



*California State Board of Equalization,
Legislative Division*

LEGISLATIVE BULLETIN



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

SPECIAL TAXES LEGISLATION 2006

STATE BOARD OF EQUALIZATION
SPECIAL TAXES LEGISLATION
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Assembly Bill 1749 (J. Horton) Chapter 501

***Cigarette and Tobacco Products Licensing Act Amendments
California Fire Safety and Fire Protection Act – Cigarette Definition
Cigarette and Tobacco Products Tax Law Amendments***

Effective January 1, 2006, but Business and Professions Code Sections 22971, 22979.21, 22979.24, and 22980.1 are operative May 1, 2007. Amends Sections 22971, and 22980.1 of, and adds Sections 22979.21, 22979.22, 22979.23, and 22979.24 to, and repeals Chapter 7 (commencing with Section 22995) of Division 8.6 of, the Business and Professions Code, and amends Section 14950 of the Health and Safety Code, and amends and repeals Section 830.11 of the Penal Code, and amends Sections 30019, 30142, 30168, 30435, 30473, 30474, 30474.1, and 30475 of, and repeals Sections 30216 and 30359 of, the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this bill does the following:

- Requires every manufacturer or importer of tobacco products to obtain and maintain a license under the Cigarette and Tobacco Products Licensing Act of 2003 (Licensing Act) to engage in the sale of tobacco products. (*BPC §§22971, 22979.21, 22979.22, 22979.23, 22979.24, and 22980.1*)
- Revises the Licensing Act to prohibit a retailer, wholesaler, or importer from purchasing cigarettes or tobacco products from any person who is not licensed or whose license has been suspended or revoked and to make manufacturers and importers prohibitions consistent. (*BPC §22980.1*)
- Deletes the January 1, 2010, repeal date and indefinitely extend the Licensing Act, the Board's Investigations Division staff authority to exercise the powers of arrest of a peace officer and the power to serve warrants, as specified, and various other Cigarette and Tobacco Products Tax related provisions added pursuant to AB 71 (Ch. 890, Stats. 2003). (*BPC §22995, PC §830.11, RTC §§30216, 30359, 30435 and 30474.1*)
- Revises the definition of "cigarette" contained in the California Cigarette Fire Safety and Firefighter Protection Act to specifically exclude a "little cigar." (*HSC §14950*)
- Revises the definition of "importer." (*RTC §30019*)
- Allows additional deferral alternatives for a distributor that desires to defer payments for stamps or meter register settings. (*RTC §§30142 and 30168*)
- Increases the penalties for counterfeiting stamps or meter impressions with intent to evade the taxes, possessing for the purpose of sale any package of cigarettes to which there is not affixed the stamp or meter impression, and for transporting cigarettes or tobacco products upon highways, roads or streets of this state without having a permit. (*RTC §§30473, 30474, and 30475*)

Sponsor: Assembly Member Jerome Horton

Tobacco Products Manufacturer and Importer Licensing

Business and Professions Code Sections 22971, 22979.21, 22979.22, 22979.23, 22979.24, and 22980.1

LAW PRIOR TO AMENDMENT

Under current law, Section 22979 of the Business and Professions Code requires every manufacturer and every importer of cigarettes to obtain and maintain a license to engage in the sale of cigarettes. In order to be eligible for obtaining and maintaining a license, a manufacturer or importer of cigarettes must:

- Submit to the Board a list of all brand families that they manufacture or import.
- Update the list of all brand families that they manufacture or import whenever a new or additional brand is manufactured or imported, or a listed brand is no longer manufactured or imported.
- Consent to jurisdiction of the California courts for the purpose of enforcement of this division and appoint a registered agent for service of process in this state and identify the registered agent to the Board.

Furthermore, in order for a manufacturer or importer of cigarettes to be eligible for obtaining and maintaining a license under the Cigarette and Tobacco Products Licensing Act (Licensing Act), a manufacturer or importer that is a "tobacco product manufacturer" as defined in Health and Safety Code Section 104556(i) must also certify to the Board that it is a "participating manufacturer" as defined in subsection II(jj) of the "Master Settlement Agreement," or is in full compliance with the model statute,¹ and submit to the Board a list of all brand families that fit under the category applicable to the manufacturer or importer, as specified.

On or before January 1, 2004, every manufacturer and every importer was required to pay an administration fee in the amount of one cent (\$0.01) per package of cigarettes (1) manufactured or imported by the manufacturer or the importer and (2) shipped into this state during the 2001 calendar year as reported to the Board. All manufacturers and all importers that began operations in the state after January 1, 2004, are charged a fee commensurate with their respective market share of cigarettes (1) manufactured or imported, and (2) sold in this state during the next calendar year as estimated by the Board.

Manufacturers and importers of cigarettes are also subject to specified prohibitions related to the sale and purchase of cigarettes as described in Section 22980.1, such as:

- No distributor, wholesaler, or importer shall sell cigarettes or tobacco products to a retailer, wholesaler, distributor, or any other person who is not licensed or whose license has been suspended or revoked.
- No retailer, distributor, wholesaler, or importer shall purchase packages of cigarettes from a manufacturer who is not licensed or whose license has been suspended or revoked.
- No retailer, distributor, wholesaler, or importer shall purchase cigarettes or tobacco products from any person who is required to be licensed but who is not licensed or whose license has been suspended or revoked.

¹ Article 3 (commencing with Section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code.

AMENDMENT

Tobacco Products Manufacturer and Importer Licensing

This bill requires every manufacturer or importer of tobacco products to obtain and maintain a license under the Licensing Act to engage in the sale of tobacco products. In order to be eligible for obtaining and maintaining a license, a manufacturer or importer is required to do all of the following in the manner specified by the Board:

- Submit to the Board a list of all tobacco products they manufacture or import.
- Update the list of all tobacco products brands they manufacture or import whenever a new or additional brand is manufactured or imported or a listed brand is no longer manufactured or imported.
- Consent to jurisdiction of the California courts for the purpose of enforcement of this division and appoint a registered agent for service of process in this state and identify the registered agent to the Board. The Legislature finds that appointing a registered agent for the purpose of service of process in this state would not establish a nexus with this state for tax purposes.

These eligibility requirements are identical to those required for manufacturers and importers of cigarettes.

Additional eligibility requirements and the authorization to petition for a redetermination of the Board's denial of a license, which was contained in the law prior to the amendment for manufacturers and importers of cigarettes, also extend to manufacturers and importers of tobacco products.

Other provisions contained in the law prior to the amendments that also apply to manufacturers and/or importers of tobacco products are as follows:

- A license issued to a manufacturer or an importer is only valid with respect to the manufacturer or importer designated on the license and may not be transferred or assigned to another manufacturer or importer.
- Any manufacturer or importer that is issued a license that does not commence business in the manner specified or designated in the license, ceases to do business in the manner specified or designated in the license, or is notified that the license is suspended or revoked, shall immediately surrender that license to the Board.
- Importers must retain purchase records for all tobacco products purchased and other records required by the Board.
- Each manufacturer and each importer must maintain accurate and complete records relating to the sale of tobacco products, including, but not limited to, receipts, invoices, and other required records, during the past four years with invoices for the past year maintained on the premises for which the license was issued, and make these records available upon request by a representative of the Board or a law enforcement agency.
- Each manufacturer and each importer must include specified information on each sales invoice for the distribution, wholesale, or retail sale of tobacco products.

License Application and Fee

An application for a license by a manufacturer or by an importer of tobacco products must be on a form prescribed by the Board and include information, as specified. The Board is required to provide electronic means for applicants to download and submit applications. The Board is authorized to investigate to determine the truthfulness and completeness of the information provided in the application.

Every manufacturer or importer of chewing tobacco or snuff is required to submit with each application a one-time license fee of ten thousand dollars (\$10,000). Every manufacturer or importer of tobacco products, excluding chewing tobacco or snuff, is required to submit with each application a one-time license fee of two thousand dollars (\$2,000). However, the one-time license fee for a manufacturer or importer of tobacco products is limited to ten thousand dollars (\$10,000).

Monthly Reporting Requirement

This bill also requires every manufacturer or importer of tobacco products holding a license to file a monthly report to the Board, in a manner specified by the Board, which may be by, but not be limited to, electronic media. The monthly report includes, but is not limited to, the following:

- A list of all licensed distributors to which the manufacturer or importer shipped its tobacco products or caused its tobacco products to be shipped.
- The total wholesale cost of the products.

The Board is authorized to suspend the license or revoke the license, pursuant to the provisions applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code, of any importer or any manufacturer that has failed to comply with the monthly reporting requirements.

All information and records provided to the Board pursuant to the monthly reporting requirement is deemed confidential in nature and can not be disclosed by the Board. Furthermore, the monthly reporting information is not considered public records under the California Public Records Act and is prohibited from being open to public inspection.

The bill also contains uncodified language providing that the Legislature finds and declares that the monthly reporting confidentiality provision imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

“In order to allow for the State Board of Equalization to fully accomplish its goals, it is imperative to protect the interests of those persons submitting information to the board to ensure that any business or trade secrets that are required to be submitted by those persons by this act be protected as confidential information.”

Licensing Act Sales and Purchase Prohibitions

Manufacturers and importers of tobacco products are subject to the same invoice and record-keeping requirements, and penalty provisions for violations of the Licensing Act as manufacturers and importers of cigarettes, as provided in the law prior to the amendment. This bill adds a presumption that a manufacturer or importer (including both cigarette and tobacco product manufacturers and importers) is in compliance with selling and purchasing prohibitions if the manufacturer or importer uses the most up-to-date licensing information provided on the Board's Web site.

These provisions are operative May 1, 2007.

COMMENTS

1. **Purpose.** These provisions of the bill are intended to provide an additional enforcement tool to address the unlawful distribution and sale of untaxed tobacco products.
2. **Key amendments.** The **August 23, 2006 amendments** added a delayed operative date, clarified that appointing a registered agent for the purpose of service of process in this state does not establish nexus, revised the information required in the monthly reports, and added confidentiality language associated with the information provided to the Board in the monthly reports.

The **June 26, 2006 amendments** specified that the one-time license fee for a manufacturer or importer of tobacco products is limited to ten thousand dollars (\$10,000) and made other clarifying changes, including those requested by Board staff.

3. **Confidentiality provisions.** This bill would require manufacturers and importers to file a monthly report with the Board that includes information regarding sales to licensed distributors. This information would be useful to the Board, in part, to track sales of tobacco products to California licensed distributors and compare those reports to the amount of tobacco products claimed as distributed on a distributor's tax return. Any discrepancy between amounts reported as shipped to a licensed distributor compared to amounts reported by that distributor as having been distributed may indicate underreporting by the distributor.

Reports similar to the proposed tobacco products manufacturers and importers reports are currently required for cigarette manufacturers pursuant to the Cigarette and Tobacco Products Tax Law. If discrepancies exist between the cigarette manufacturer's reports and a distributor's tax return, or no records are provided by the distributor, Board audit staff would develop an audit liability based on the information provided by the cigarette manufacturer. As such, the cigarette manufacturer report (as it pertains to that specific distributor) would be included in the audit working papers as supporting documentation.

However, the confidentiality provisions added to Section 22979.24 would prohibit the Board from disclosing information from the tobacco products manufacturer or importer's monthly report to distributors, their representatives, or attorneys as an audit source document. As such, the Board could assess underreported amounts, but could not provide the distributor the basis of that assessment.

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It is also questionable whether or not the Board would be authorized to disclose sales invoice information obtained from a manufacturer or importer to a distributor if those records are used to develop a tax liability since all information and records related to the monthly reports would be deemed confidential and prohibited from being disclosed. Furthermore, the Board's Investigations Division would not be authorized to use the monthly reporting information as the basis for obtaining a search warrant since the Board would be prohibited from disclosing that information to a judge.

In order for the Board to effectively and efficiently enforce the tobacco products tax law, it is necessary that the confidentiality provisions be amended to conform with those provisions contained in the Cigarette and Tobacco Products Tax Law, and to allow the Board to disclose to third parties any monthly report information and records for tax administration purposes.

4. **Chewing tobacco and snuff should be defined.** Segregating chewing tobacco and snuff from the definition of tobacco products for the purpose of the one-time license fee for manufacturers and importers of tobacco products could complicate the administration of the one-time fee since the terms "chewing tobacco" and "snuff" are not defined. To clarify this ambiguity, these terms should be defined.
5. **Suggested amendment.** Currently, the Licensing Act requires a manufacturer or importer that is a "tobacco product manufacturer" in subdivision (i) of Section 104556 of the Health and Safety Code to certify that it is a "participating manufacturer" or is in full compliance with the Model Statute and submit to the Board a list of all brand families, as described. In addition, existing law also provides that (1) the license issued to a manufacturer or an importer is only valid with respect to the manufacturer or importer designated on the license, (2) a license issued to a manufacturer or importer shall be surrendered to the Board if the manufacturer or importer fails to commence business, ceases to do business, or is notified that the license is suspended or revoked, and (3) any manufacturer or any importer who is denied a license may petition for a redetermination of the Board's denial of the license.

Although each of these provisions apply to any manufacturer or importer licensed under Division 8.6 of the Business and Professions Code (the Licensing Act), it is suggested that the bill be amended to clarify that these requirements apply to manufacturers and importers of tobacco products in order to avoid any ambiguity.

6. **How many licenses would a manufacturer and importer be required to hold?** Existing law requires that manufacturers and importers be licensed to engage in the sale of **cigarettes**. This bill would establish a second license requirement for manufacturers and importers if they engage in the sale of **tobacco products**. As such, manufacturers and importers would be required to hold two licenses under the Licensing Act; one license as a manufacturer or importer of cigarettes and a second license as a manufacturer or importer of tobacco products.
7. **Compliance presumption.** This bill would presume that a manufacturer or importer that uses the most up-to-date licensing information provided on the Board's Web site to determine a person's licensing status is in compliance with the selling and purchasing prohibitions.

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Currently, the Board's Web site has "real time" cigarette/tobacco license verification where you type in a license number and it will return a "valid" or "invalid" response. If the license is valid, the owner's name, business name and address will be displayed. Since the Board currently maintains "real time" information on its Web site, this provision would not be problematic to administer.

8. **This bill should contain a specific appropriation to the Board.** This bill proposes a new license requirement on or after January 1, 2007, which is in the middle of the state's fiscal year. In order to begin to develop computer programs and reporting forms, an appropriation in the amount of \$1,298,000 is required to cover the Board's administrative start-up costs that are not identified in the Board's 2006-07 budget.

Prohibitions: Sale and Purchase of Cigarettes and Tobacco Products

Business and Professions Code Section 22980.1

LAW PRIOR TO AMENDMENT

Licensing Act

The Licensing Act requires the Board to administer a statewide cigarette and tobacco products license program to regulate the sale of cigarettes and tobacco products in the state. The Licensing Act requires every retailer, distributor and wholesaler to obtain and maintain a license to engage in the sale of cigarettes or tobacco products. Every manufacturer and every importer is required to obtain and maintain a license to engage in the sale of cigarettes.

Under the provisions of the Licensing Act, the following prohibitions are imposed:

- No manufacturer shall sell cigarettes to a distributor, wholesaler, importer, retailer, or any other person who is not licensed pursuant to this division or whose license has been suspended or revoked. Other prohibitions are as follows:
- Except as provided, no distributor, wholesaler, or importer shall sell cigarettes or tobacco products to a retailer, wholesaler, distributor, or any other person who is not licensed pursuant to this division or whose license has been suspended or revoked.
- No retailer, distributor, wholesaler, or importer shall purchase packages of cigarettes from a manufacturer who is not licensed pursuant to this division or whose license has been suspended or revoked.
- No retailer, distributor, wholesaler, or importer shall purchase cigarettes or tobacco products from any person who is required to be licensed pursuant to this division but who is not licensed or whose license has been suspended or revoked.

Any violation of the Licensing Act by any person, except as provided, is a misdemeanor. Each offense is punishable as follows:

- 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.

Cigarette and Tobacco Products Tax Law

Under existing law, Revenue and Taxation Code Section 30478 makes it a misdemeanor for any retailer, as defined in Revenue and Taxation Code Section 6015, to knowingly purchase cigarettes or tobacco products for resale from any person except a distributor or wholesaler licensed pursuant to the Cigarette and Tobacco Products Tax Law.

Sales and Use Tax Law

In part, Revenue and Taxation Code Section 6015 defines a "retailer" to include:

- Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

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- Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

AMENDMENT

This bill amends Business and Professions Code Section 22980.1(d) to prohibit a retailer, wholesaler, or importer from purchasing cigarettes or tobacco products from any person who is not licensed or whose license has been suspended or revoked. A distributor is prohibited from purchasing cigarettes or tobacco products from any person who is required to be licensed but who is not licensed or whose license has been suspended or revoked, which is consistent with existing law.

In addition, this bill also makes the prohibitions for a manufacturer and importer consistent and would presume that a manufacturer or importer who uses the most up-to-date licensing information on the Board's Web site to determine a person's licensing status is in compliance with the prohibitions.

These provisions are operative May 1, 2007.

BACKGROUND

In 2003, AB 71 (J. Horton, Ch. 890) was signed into law to establish a statewide program to license manufacturers and importers of cigarettes, and distributors, wholesalers, and retailers of cigarettes and tobacco products, known as the Cigarette and Tobacco Products Licensing Act of 2003. This measure was intended to provide an additional enforcement tool to address the unlawful distribution and sales of untaxed cigarettes and tobacco products. AB 71 also provided the Board's Investigations Division with the statutory authority to more effectively and efficiently conduct their investigative duties, including new limited peace officer status and strengthened penalties and avenues for the collection of cigarette and tobacco products excise taxes.

In addition, the Board recently implemented the provisions of SB 1701 (Peace, Ch. 881, Stats. 2002) which required the Board to replace the stamps and meter impressions, currently required to be affixed to a package of cigarettes, with stamps and meter impressions generated by a technology capable of being read by a scanning or similar device, and encrypted with specified information. The intent of SB 1701 was to address the counterfeit tax stamp issue where stamps are reproduced and appear identical to legitimate indicia.

IN GENERAL

Prior to the enactment of AB 71, the Board estimated cigarette excise tax evasion to be \$238 million annually for retailers, associated with 274 million packs of cigarettes. This estimate did not include tobacco products excise tax evasion or related sales tax losses.

In 2004, the Licensing Act resulted in \$68.3 million in additional sales and use tax and excise tax, and \$49.5 million and \$19.9 million in additional sales and use tax and excise tax for 2005 and 2006, respectively. The revenues are through February 2006 for cigarettes and through December 2005 for tobacco products.

In total, the Licensing Act and implementation of the new cigarette tax stamp has resulted in an increase of \$137.8 million in additional sales and use tax and excise tax revenues.

COMMENTS

1. **Purpose.** This provision is intended to make technical and clarifying amendments to the Licensing Act.
2. **This bill is necessary to clarify existing law.** Business and Professions Code Section 22980.1(d) provides that a retailer, distributor, wholesaler or importer is prohibited from purchasing cigarettes or tobacco products from any person who is *required* to be licensed. Since sellers outside California that do not have nexus with this state are not “required” to be licensed, retailers, distributors, wholesalers, and importers could legally purchase cigarettes or tobacco products from such sellers under the Licensing Act. However, this provision is not consistent with the Cigarette and Tobacco Products Tax Law, which prohibits a retailer (which includes a wholesaler) from purchasing cigarettes or tobacco products from any person except a licensed distributor or licensed wholesaler.

In addition, existing law may be confusing to a retailer, wholesaler or importer in that they believe they are in compliance with its purchasing provisions when in fact they may be in violation of other provisions of the Licensing Act. For example, a retailer, wholesaler, or importer (that is not licensed as a distributor to pay the tax) that purchases cigarettes or tobacco products from an unlicensed out-of-state seller is very likely purchasing untaxed product. The possession, storage, ownership or sale of unstamped cigarettes or untaxed tobacco products by other than a licensed distributor is a violation of the Licensing Act, which constitutes a misdemeanor punishable by specified actions and subjects such product to seizure and forfeiture by the Board or a law enforcement agency (Sections 22974.3 and 22978.2).

3. **Would the purchase of cigarettes from an unlicensed manufacturer be permitted?** Section 22980.1(c) of the Licensing Act prohibits a retailer, distributor, wholesaler, or importer from purchasing packages of cigarettes from a manufacturer who is not licensed pursuant to the Licensing Act or whose license has been suspended or revoked. The proposed change to Business and Professions Code Section 22980.1(d) would not affect this provision. As such, a retailer, distributor, wholesaler, or importer would continue to be prohibited from purchasing cigarettes from a manufacturer unless that manufacturer is licensed if this bill were successfully signed into law.

Deletion of Licensing Act Repeal Date

*Business and Professions Code Section 22995, Penal Code Section 830.11,
Revenue and Taxation Code Sections 30216, 30359, 30435 and 30474.1*

LAW PRIOR TO AMENDMENT

Under current law, Section 22995 of the Business and Professions Code provides that the Licensing Act shall remain in effect until January 1, 2010, and as of that date shall be repealed. Identical sunset language is also contained in the following:

- Penal Code Section 830.11, which allows persons employed by the Board's Investigations Division, who are designated by the executive director, provided that the primary duty of these persons is the enforcement of laws administered by the Board, to exercise the powers of arrest of a peace officer as specified in Section 836 of the Penal Code, and the power to serve warrants as specified in Sections 1523 and 1530 of the Penal Code during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832 of the Penal Code. The authority and powers of the persons employed as investigators by the Board is extended to any place in the state.

Persons employed by the Board's Investigations Division designated with limited peace officer status are not entitled to peace officer retirement benefits.

- Revenue and Taxation Code Section 30216, which repeals Article 2.5 (commencing with Section 30210) that provides that the tax, and applicable penalties and interest become immediately due and payable on account of all products distributed if a person becomes a distributor without first securing a license.
- Revenue and Taxation Code Section 30359, which repeals Article 5 (commencing with Section 30355) that includes seizure and sale provisions to the Cigarette and Tobacco Products Tax Law to facilitate the administration of the sections providing for the immediate liability for the tax.
- Revenue and Taxation Code Section 30435, which provides that an employee of the Board, upon presentation of the appropriate identification and credentials, is authorized to enter into, and conduct an inspection of any building, facility, site, or place, as described. Any person that refuses to allow an inspection would be guilty of a misdemeanor and subject to a fine, not to exceed \$1,000 for each offense.
- Revenue and Taxation Code Section 30474.1, which provides that the sale or possession for sale of counterfeit tobacco products, or the sale or possession for sale of counterfeit cigarettes by a manufacturer, importer, distributor, wholesaler, or retailer would result in the seizure of the product by the Board or any law enforcement agency.

AMENDMENT

This bill deletes the repeal dates and indefinitely extends these provisions.

COMMENTS

1. **Purpose.** This provision is intended to continue the Licensing Act, limited peace officer status, and other enforcement and collection tools that were added by AB 71 (J. Horton, Ch. 890, Stats. 2003).
2. **Why was a sunset date added to these provisions?** In 2003, AB 71 added each of the provisions that this bill proposes to indefinitely continue by deleting the January 1, 2010 repeal date. As AB 71 developed and moved through the Legislature, it became apparent that the fees, penalties and fines imposed pursuant to the Licensing Act were not sufficient to provide long-term funding for the Licensing Act. Once the Cigarette and Tobacco Products Compliance Fund,² which AB 71 established and into which Licensing Act fees, penalties and fines are deposited, was depleted, the Board's funding would shift to the cigarette and tobacco products tax funds (General Fund, Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund, and the California Children and Families First Trust Fund).

In order to protect each of these cigarette and tobacco products tax funds and to assure that the revenue benefits exceeded the Board's costs to administer the Licensing Act, AB 71 was amended to add the January 1, 2010 sunset date.

3. **Licensing Act performance audit.** The Licensing Act includes a provision that requires the Bureau of State Audits (BSA) to conduct a performance audit of the licensing and enforcement provisions of the Licensing Act, and to report its findings to the Board and the Legislature by July 1, 2006.

The BSA released its report titled "Board of Equalization: Its Implementation of the Cigarette and Tobacco Products Licensing Act of 2003 Has Helped Stem the Decline in Cigarette Tax Revenues, but It Should Update Its Estimate of Cigarette Tax Evasion" at the end of June 2006.

4. **The Board staff does not foresee any administrative problems with these provisions.** These provisions would simply delete the January 1, 2010 repeal date for the Licensing Act and other related provisions, which are currently administered by the Board. Accordingly, these provisions would not be problematic for the Board to continue.

² Additional excise tax revenues resulting from Licensing Act compliance improvements are deposited into the cigarette tax funds, and are not deposited into the Cigarette and Tobacco Products Compliance Fund.

**Revise the Definition of “Cigarette” for Purposes of the California Cigarette
Fire Safety and Firefighter Protection Act**
Health and Safety Code Section 14950

LAW PRIOR TO AMENDMENT

Certification, Testing and Marking

Under existing law, the California Cigarette Fire Safety and Firefighter Protection Act (Act) requires each cigarette manufacturer to submit a written certification to the State Fire Marshal attesting that each cigarette listed in the certification:

- Has been tested in accordance with the American Society of Testing and Materials standard E2187-04, “Standard Test Method for Measuring the Ignition Strength of Cigarettes,” and
- Meets the specified performance standards.

Cigarettes certified by a manufacturer require a marking on the packaging to indicate compliance, which must be submitted to the State Fire Marshal. The State Fire Marshal is required to approve the marking upon a finding that it is compliant with the marking criteria, as described.

A cigarette is defined to mean a cigarette as defined in Section 30003 of the Revenue and Taxation Code, which provides:

"Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco and such roll weighs over three pounds per thousand.

Prohibitions

This law prohibits a person from selling, offering, or possessing for sale in this state cigarettes not in compliance with the following requirements:

- The cigarettes are tested by the manufacturer in accordance with the prescribed test method.
- The cigarettes meet the performance standard, as specified.
- The cigarettes meet the marking requirement.
- The manufacturer files a written certification with the State Fire Marshal.

Enforcement

Manufacturers, distributors, wholesalers, and retailers are required to permit an employee of the Board, upon presentation of the appropriate identification and credentials, to enter into, and to conduct an inspection of, any building, facility, site, or any place where cigarettes are sold, offered for sale, or stored or at any site where there is evidence of a violation of specified requirements of the Act.

Upon discovery by the Board or a law enforcement agency that any person offers or possesses for sale, or has made a sale of, cigarettes in violation of specified compliance requirements of the Act, the Board or that law enforcement agency is authorized to seize those cigarettes possessed.

AMENDMENT

This bill amends Health and Safety Code Section 14950 to revise the definition of “cigarette” to specifically exclude a little cigar. A little cigar is defined to mean any roll of tobacco wrapped in a leaf of tobacco of any substance containing tobacco and weighing not more than three pounds per thousand.

COMMENTS

1. **Purpose.** This provision is intended to exclude little cigars from the requirements imposed by the Act.
2. The **August 23, 2006, amendments** changed the definition of cigarette contained in the Act to exclude little cigars, as defined.
3. **Board’s role limited and permissive.** The Act authorizes the Board to conduct an inspection of any building, facility, site, or any place where cigarettes are sold, offered for sale, or stored or at any site where there is evidence of a violation of compliance requirements of the Act. Furthermore, the Board may seize cigarettes that are in violation of the Act’s compliance requirements.

The State Fire Marshal is the agency to which manufacturers are required to submit a written certification attesting that each cigarette listed in the certification has been tested in accordance with the American Society of Testing and Materials standard E2187-04, “Standard Test Method for Measuring the Ignition Strength of Cigarettes,” and meets the specified performance standards. In addition, the State Fire Marshal is required to approve the compliance marking upon a finding that it is compliant with the marking criteria.

As such, the Board would rely on the State Fire Marshal’s determination of whether or not a product is a cigarette, and if the product qualifies as a cigarette, if it meets the Act’s compliance requirements.

However, as pointed out in the Board’s analysis of AB 178 (Ch. 633, Stats. 2005), since the law is ambiguous with respect to the final disposition of cigarettes seized under the Act, combined with the fact that the bill does not specify an agency to collect the penalties or any administrative provisions for that collection, it is questionable how the Act can be enforced. It should also be noted that AB 178 did not provide funding for administrative start-up costs to implement the Act.

Revise Importer Definition
Revenue and Taxation Code Section 30019

LAW PRIOR TO AMENDMENT

Under current law, Section 30019 of the Cigarette and Tobacco Products Tax Law defines "importer" to mean any purchaser for resale in the United States of cigarettes manufactured outside of the United States.

The Licensing Act defines "importer" in Business and Professions Code Section 22971(b) to mean an importer as defined in Section 30019 of the Revenue and Taxation Code.

AMENDMENT

This bill amends Section 30019 of the Revenue and Taxation Code to define "importer" to mean any purchaser for resale in the United States of cigarettes or tobacco products manufactured outside of the United States for the purpose of making a first sale or distribution in the United States.

COMMENTS

1. **Purpose.** This provision is intended to clarify that an importer includes only the person that originally imports cigarettes and tobacco products into the United States, and not those persons that subsequently purchase such products from the original importer for the purpose of resale.
2. **The June 26, 2006 amendments** revised the definition for "importer" to prevent unintentionally adding or excluding additional persons to the definition of importer.
3. **The Board staff does not foresee any administrative problems with this provision.** This provision would simply clarify the definition of importer, as intended and administered by the Board. Accordingly, enactment of these provisions would not affect the Board's administration of the Cigarette and Tobacco Products Tax Law or the Licensing Act.

**Allow Additional Deferral Alternatives for a Distributor that Desires to Defer
Payments for Stamps or Meter Register Settings**
Revenue and Taxation Code Section 30142 and 30168

LAW PRIOR TO AMENDMENT

Under current Cigarette and Tobacco Products Tax Law, an excise tax of 43 1/2 mills per cigarette (87 cents per package of 20) is imposed on each cigarette distributed. The cigarette tax imposed with respect to the distribution of cigarettes is paid by distributors through the use of stamps or meter impressions. An appropriate stamp or meter impression is required to be affixed to, or made on, each package of cigarettes prior to distribution of the cigarettes, except as otherwise provided.

Current law also imposes a surcharge on tobacco products at a rate to be annually determined by the Board. The tobacco products tax rate is equivalent to the combined rate of tax on cigarettes. Currently, the surcharge rate for fiscal year 2005-06 is 46.76 percent.

Cigarette Tax Stamps Purchased on a Deferred-Payment Basis

Every applicant for a license as a distributor is required to file with the Board security in the amount and form as the Board prescribes. The minimum security that is required of any distributor is one thousand dollars (\$1,000). However, distributors desiring to defer payment for stamps and meter impressions are required to furnish a security in an amount as follows:

- Equal to not less than 70 percent of the amount and not more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a monthly basis.
- Equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a twice-monthly basis.

A distributor may elect a monthly or twice-monthly payment basis for amounts owing for stamps and meter register settings purchased on a deferred basis. If a distributor elects a monthly basis, payment is required to be remitted on or before the 25th day of the month following the month in which the stamps and meter register settings were purchased. However, if a distributor elects a twice-monthly payment basis, the payment is due based on the following schedule:

- The first monthly remittance would be due on or before the 5th day of the month. The amount due would be equal to either one-half of the total amount of those purchases of stamps and meter register settings made during the preceding month or the total amount of those purchases stamps and meter register settings made between the first day and the 15th day of the preceding month, *whichever is greater*.
- The second monthly remittance would be made on or before the 25th day of the month for the remainder of those purchases of stamps and meter register settings that were made in the preceding month.

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A distributor that elects to make deferred payments on a twice-monthly basis is also required to file a report on or before the 5th day of the month respecting his or her distributions of cigarettes and purchases of stamps and meter register settings.

Twice-Monthly Election to File a Return and Make Payment for Tobacco Products Tax

A distributor is authorized to elect to file a return and make payment of the tax due on either a monthly or a twice-monthly basis respecting his or her distributions of tobacco products and their wholesale cost during the preceding month and any other information as the Board may require. If a distributor elects a monthly basis, the distributor is required to file a return and make payment of the tax on or before the 25th day of the month following the month during which the tobacco products were distributed. If a distributor elects a twice-monthly basis, the distributor is required to file two returns and make two remittances during the month following the month during which the tobacco products were distributed as follows:

- The first monthly return would be required to be filed, together with the first remittance of tax, on or before the 5th day of the month for those distributions of tobacco products that occurred between the first day and the 15th day of the preceding month.
- The second monthly return would be required to be filed, together with the second remittance of tax, on or before the 25th day of the month for those distributions of tobacco products that occurred between the 16th day and last day of the preceding month.

The twice-monthly payment and reporting basis for distributions of tobacco products will remain in effect until January 1, 2007, and as of that date is repealed.

AMENDMENT

This bill allows for two additional deferral alternatives for a distributor that desires to defer payments for stamps or meter register settings.

Alternative 1

This bill allows, upon authorization by the Board, that no security be required for a distributor that desires to defer payments for stamps or meter register settings if the distributor's average monthly purchase of stamps or meter register settings for the previous 12 months does not exceed seventy-two thousand (72,000) stamps or meter register settings, and the distributor meets all of the following:

- The distributor has been licensed under this part for a minimum of five years;
- The distributor has not been delinquent in the filing of any reports or returns required under this part for the preceding three consecutive years;
- The distributor has not been delinquent in the payment of any tax under this part, or for any other tax or fee administered or collected by the Board, for the preceding three consecutive years;
- The distributor provides to the Board and updates, as necessary, an electronic mail address for the purpose of receiving payment information, including, but not limited to, amounts owing for stamps and meter register settings purchased;
- Any other criteria the Board may require.

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This bill requires that amounts owing for stamps and meter register settings purchased on the deferred-payment basis without a security be due and payable on or before Wednesday following the week in which the stamps and meter register settings were purchased. Payment is required to be made by a remittance payable to the Board.

Alternative 2

This bill reduces the security provided by a distributor desiring to defer payments for stamps or meter register settings to equal to not less than 25 percent of the amount and no more than twice the amount, as fixed by the Board, if that distributor elects to make payments on a weekly basis.

If a distributor elects to make payments on a weekly basis, the distributor is required to remit the payment on or before Wednesday following the week in which the stamps and meter register settings were approved and released. Every distributor electing to make payment on a weekly basis is required to provide to the Board and update, as necessary, an electronic mail address for the purpose of receiving payment information, including, but not limited to, amounts owing for stamps and meter register settings purchased.

BACKGROUND

A cigarette tax increase of thirteen cents (\$0.13) per cigarette, or two dollars and sixty cents (\$2.60) per package of 20, recently qualified for the November 7, 2006, ballot (Proposition 86). If approved by voters, the cigarette tax would increase from eighty seven cents (\$0.87) to three dollars and forty seven cents (\$3.47) per package of 20 cigarettes. Such an increase in the cigarette tax would impose an ongoing hardship on cash and deferred payment distributors.

Cash basis distributors pay the cigarette tax at the time the tax stamps are issued although the incidence of tax (distribution) has not occurred. A distribution occurs, in general, upon the sale of untaxed cigarettes in this state, the use or consumption of untaxed cigarettes in this state, or the placing in this state of untaxed cigarettes in a vending machine or in retail stock for the purpose of selling the cigarettes to consumers. With an increase in the cigarette tax as large as the one proposed by the initiative, smaller cash basis distributors may not have the resources to pay for the tax stamps upfront and may not be able to obtain a competitively priced security. Therefore, such distributors may simply go out of business.

Those distributors paying cash tend to be small ones unable to obtain credit coverage. For example, surety bonds may be available only to the most creditworthy firms with significant capital assets and is not likely to be extended to smaller and medium-sized distributors.³

Deferred payment distributors are required to furnish a security in an amount as specified in the Cigarette and Tobacco Products Tax Law. The applicant is allowed to select the type of security he or she prefers. Subject to specific conditions, four types of security are acceptable for purposes of fully complying with the security requirement for deferred payment of cigarette tax stamps or meter register settings.

³ According to the Legislative Analyst's Office report titled "Cigarette Tax Stamp Purchases and Surety Bonds in California."

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These are:

1. Cash Deposits
2. Deposit accounts in banks, savings banks, and savings and loans including Insured Accounts, Fully Paid Investment, Bonus Investment Certificates and Accumulative Investment Certificates
3. State and Federal Credit Union Shares
4. Surety bonds

Any security in the form of cash, insured deposits in banks or savings and loan institutions, or a bond or bonds duly executed by an admitted surety insurer, payable to the state, conditioned upon faithful performance of all the requirements of the Cigarette and Tobacco Products Tax Law and expressly providing for the payment of all taxes, penalties, and other obligations of the person that arise under the Cigarette and Tobacco Products Tax Law are to be held by the Board in trust to be used solely in the manner provided.

The proposed cigarette tax increase initiative would also impact larger distributors purchasing on a deferred payment basis as the amount of security required to be furnished would substantially increase relative to the proposed tax increase and the amount of credit authorized. With respect to distributors posting security in the form of a surety bond, recent increases in bond rates combined with the proposed cigarette tax increase would likely result in expensive premiums. Distributors electing to post security in the form of a cash equivalent would have to tie up additional cash in order to meet the increased security requirement.

COMMENTS

1. **Purpose.** This provision is intended to improve the ability of distributors to defer payment for stamps or meter register settings.
2. **Key amendments.** The **August 23, 2006**, amendments corrected an unintentional error in the language that provided conflicting due dates for the weekly payment option. The amendments also double-joined this measure to AB 2001 (Ch. 70, Stats. 2006), which deletes the January 1, 2007 repeal date to indefinitely reduce a distributor's security to equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a twice-monthly basis.

The **June 26, 2006**, amendments added this provision, which would allow additional deferral alternatives for a distributor that desires to defer payments for stamps or meter register settings.

3. **Would these provisions become operative if Proposition 86 is not approved by voters?** These provisions would become operative whether or not Proposition 86 is approved by voters on November 7, 2006. If it is the author's intent that these provisions only become operative if Proposition 86 is successful, this bill should be amended to clarify that intent.
4. **Distributors purchasing tax stamps on a deferred basis.** Currently, 24 of the 126 distributors licensed with the Board purchase cigarette tax stamps on a deferred basis. In terms of value of the stamps, over 70 percent of all stamp

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revenue is derived from stamps that have been purchased through deferred payments.

The combined credit limit for distributors purchasing cigarette tax stamps on a deferred basis is approximately \$155 million, with a corresponding security of \$107 million. The credit limit and corresponding security for distributors electing the monthly or twice-monthly payment basis is as follows:

- Distributors electing the **monthly payment basis** have an approximate total credit limit of \$146 million, with a corresponding security of \$102 million.
- Distributors electing the **twice-monthly payment basis** have an approximate total credit limit of \$9 million, with a corresponding security of \$4.5 million.

The Board is authorized to suspend a distributor's privilege to purchase tax stamps on the deferred basis if a distributor fails to promptly pay for stamps when payment is due. If collection of these amounts remains unpaid, the Board could pursue the distributor's security deposit.

5. **This provision should contain a specific appropriation to the Board.** This provision would allow two additional deferral alternatives for a distributor that desires to defer payments for stamps or meter register settings, both including a weekly payment requirement. If enacted, these provisions would require that implementation begin during the 2006-07 fiscal year. In order to begin to notify distributors and develop computer programming, an appropriation in the amount of \$388,000 is required to cover the Board's administrative start-up costs that are not already identified in the Board's 2006-07 budget.
6. **Related legislation.** AB 2001 (Ch. 70, Cogdill) amended Sections 30142 and 30168 to delete the January 1, 2007 repeal date to indefinitely reduce a distributor's security to equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a twice-monthly basis.

Increase Penalties for Possession of Counterfeit Stamps, Sale of Untaxed Cigarettes, and Transporting Untaxed Cigarettes or Tobacco Products
Revenue and Taxation Code Section 30473, 30474 and 30475

LAW PRIOR TO AMENDMENT

Section 30473 of the Revenue and Taxation Code provides that any person who falsely or fraudulently makes, forges, alters, reuses or counterfeits any stamp or meter impression, or tampers with any metering machine, or causes or procures to be falsely or fraudulently made, forged, altered, reused or counterfeited, any such stamp or meter impression or knowingly and willfully utters, publishes, passes, or tenders as genuine any such false, forged, altered, reused or counterfeited stamp or meter impression, for the purpose of evading the tax imposed by this part, is guilty of a felony and subject to imprisonment for two, three or four years, or to a fine of not less than one thousand dollars (\$1,000) and not more than ten thousand dollars (\$10,000), or to both fine and imprisonment.

Section 30474 of the Revenue and Taxation Code provides that any person who knowingly possesses, keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any unstamped package of cigarettes is guilty of a misdemeanor punishable by a fine of not more than one-thousand dollars (\$1,000), imprisonment for not more than one year in a county jail, or both. The guilty person must also pay one hundred dollars (\$100) for each carton of 200 cigarettes possessed, sold or offered for sale, as determined by the court. The court must direct that 50 percent of the penalty assessed be transmitted to the local prosecuting jurisdiction, to be allocated for costs of prosecution, and 50 percent of the penalty assessed be transmitted to the Board.

The penalty for possessing, selling or offering to sell unstamped cigarettes does not apply to a licensed distributor.

Subdivision (b) of Section 30475 provides that any transporter who, with intent to defeat or evade or with intent to aid another to defeat or evade cigarette and tobacco products taxes, at any given time transports 40,000 or more cigarettes or tobacco products with a value of five thousand dollars (\$5,000) or more upon the highways, roads or streets of this state without having obtained a permit or without having a permit in the transporting vehicle, as prescribed, or without having in the transporting vehicle the invoices, bills of lading or delivery tickets for the cigarettes or tobacco products, as prescribed, shall be punished by imprisonment in the county jail for not more than one year, or in the state prison, or by fine of not more than five thousand dollars (\$5,000), or be subject to both fine and imprisonment in the discretion of the court.

AMENDMENT

This bill amends Section 30473 of the Revenue and Taxation Code to increase the maximum fine from ten thousand dollars (\$10,000) to twenty-five thousand dollars (\$25,000).

This bill also amends Section 30474 of the Revenue and Taxation Code to increase the maximum fine from one thousand dollars (\$1,000) to twenty-five thousand dollars (\$25,000).

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And lastly, this bill amends Section 30475 of the Revenue and Taxation Code to increase the maximum fine from five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000).

COMMENTS

1. **Purpose.** This provision is intended to provide an effective deterrent against flagrant offenders.
2. **The Board staff does not foresee any administrative problems with these provisions.** These provisions would simply increase the maximum fines under the Cigarette and Tobacco Products Tax Law, which are imposed by the courts. Accordingly, enactment of these provisions would not affect the Board's administration of the Cigarette and Tobacco Products Tax Law.

Assembly Bill 1803 (Committee on Budget) Chapter 77***Expands the Environmental Fee
Maintains Rate of Tire Recycling Fee***

Effective July 18, 2006. Amends Section 25205.6 of the Health and Safety Code, and amends Sections 42885 and 42889 of the Public Resources Code.

BILL SUMMARY

This Budget trailer bill makes various statutory changes necessary to implement the Resources and Environmental Protection Budget. Several of this bill's provisions relate to the Board of Equalization (Board). Specifically, this bill:

1. Expands the imposition of the environmental fee on corporations to also include limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships. (*Health and Safety Code § 25205.6*)
2. Maintains the California tire fee at \$1.75 per tire until January 1, 2015. (*Public Resources Code § 42885*)

Sponsor: Committee on Budget

Expands the Environmental Fee
Health and Safety Code Section 25205.6

LAW PRIOR TO AMENDMENT

Under existing law, Section 25205.6 of the Health and Safety Code requires the Department of Toxic Substances Control (DTSC) to provide to the Board a schedule of codes that consist of the types of corporations in industry groups that use, generate, store, or conduct activities in this state related to hazardous materials. Each corporation of a type identified in the schedule adopted by the DTSC is required to pay an annual fee to the Board.

The environmental fee is adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the California Consumer Price Index (CCPI). The fee rates for the 2006 calendar year are as follows:

Number of Employees	Annual Fee Rate
1 – 49	\$0
50 – 74	\$250
75 – 99	\$441
100 – 249	\$880
250 – 499	\$1,886
500 – 999	\$3,521
1,000 or more	\$11,952

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The only corporations exempted from the fee are nonprofit corporations primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on their ability for self-care, as described in SIC Code 8361 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

The annual fee is paid to the Board and deposited into the state's Toxic Substances Control Account.

AMENDMENT

This bill amends Section 25205.6 to require the DTSC to provide the Board with a schedule of codes that consists of the types of organizations that use, generate, store, or conduct activities in this state related to hazardous materials. Each organization of a type identified in the schedule adopted by the DTSC will pay an annual fee if that organization employs 50 or more employees who are each employed in this state for more than 500 hours during the calendar year.

An "organization" includes a corporation, limited liability company, limited partnership, limited liability partnership, general partnership, and sole proprietorship.

This bill is effective July 18, 2006, as an urgency statute, but fee revenues are not permitted to increase in the 2006-07 fiscal year.

BACKGROUND

In 1989, Senate Bill 475 (Ch. 269, Stats. 1989) added and Assembly Bill 41 (Ch. 1032, Stats. 1989) amended Section 25205.6 of the Health and Safety Code to require certain corporations involved in activities related to hazardous materials to pay an annual fee based on the number of employees employed in this state.

Senate Bill 1469 (Ch. 852, Stats. 1992) amended Section 25205.6 to revise the ranges for reporting the number of employees within corporations which use, generate, store, or conduct activities in this state related to hazardous materials for computing the environmental fee.

In enacting Senate Bill 1222 (Ch. 638, Stats. 1995), the Legislature required the Secretary for Environmental Protection to convene a task force to review the existing hazardous waste fee structure and provide recommendations to the Legislature no later than January 1, 1997. The task force was directed to propose a new fee system for providing financial support to California's hazardous waste and hazardous substance regulatory programs which would 1) provide protection for public health and safety and the environment; 2) provide adequate funding to ensure remediation of contaminated sites; 3) not impose a disproportionate burden on any sector of California's economy; 4) provide a level of funding that enables the DTSC to appropriately implement programs authorized by the Legislature in a manner consistent with the objectives of those programs; and 5) provide a means of funding consistent with the objectives of the DTSC's programs.

With respect to the environmental fee, the task force recommended that the fee be expanded to all business with 50 or more employees, that the rate ranges be adjusted to make per employee costs more equitable, and that a new rate category be established for businesses with 1,000 or more employees.

Senate Bill 660 (Ch. 870, Stats. 1997), the Environmental Cleanup and Reform Act of 1997, enacted many of the recommendations of the Fee Reform Task Force by amending various sections of the Health and Safety Code. That bill amended Section 20205.6 to flatten the environmental fee rate structure to make the fee more equitable by equalizing the average rate per employee paid by corporations in each range. Additionally, SB 660 established a new rate category for corporations with 1,000 or more employees, decreased the Generator Fee, repealed the Generator Surcharge and various hazardous waste fees, and changed several fees-for-services. For the most part, it was estimated that the revenue losses from the repealed fees, the changed fees-for-services, and the decreased Generator Fee would offset the resulting increase in the Environmental Fee.

COMMENTS

1. **Purpose.** The amendments contained in this budget trailer bill are intended to address the erosion in the annual environmental fee base, which is occurring because fewer businesses are being classified as corporations and some corporations are reclassifying themselves as limited liability companies and other classifications.
2. **The Board's contract with the DTSC would need to be renegotiated.** This bill expands the imposition of the environmental fee on corporations to include additional business organizations, commencing on July 18, 2006. In order to begin rewriting computer programs, notifying fee payers, revising publications, and answering inquiries from the public, the Board must renegotiate its contract with the DTSC to cover the Board's start-up costs that are not included in the 2006-07 contract.
3. **"Organizations" defined.** This bill defines an "organization" to include a corporation, limited liability company, limited partnership, limited liability partnership, general partnership, or sole proprietorship. Staff notes that some organizations, such as trusts and joint ventures, would not be subject to the environmental fee even if they meet the 50-employee threshold.
4. **The amendments shall not increase fee revenues in the 2006-07 fiscal year.** The environmental fee is due and payable to the Board on the last day of the second month following the end of the calendar year. As such, the environmental fee for the 2006 calendar year is due and payable to the Board on February 28, 2007.

Although this bill expands the imposition of the environmental fee to new entities for the 2006 calendar year, it also prevents the Board from collecting that fee from these entities until at least July 1, 2007. To comply with the requirement that the amendment is not permitted to increase fee revenues in the 2006-07 fiscal year, the environmental fee for the 2006 calendar year will not be collected from the new entities until February 29, 2008, along with the environmental fee for the 2007 calendar year.

According to DTSC staff, this measure was not intended to impose the 2006 calendar year fee upon the new entities. Clean-up legislation was signed into law as part of AB 1813 (Ch. 344, Stats. 2006), that clarified that new entities would first be affected in the 2007 calendar year.

This bill does not affect corporations, which were already subject to the environmental fee prior to this bill being signed into law.

- 5. The annual return requirements were not consistent with the imposition of the fee.** This bill expands the imposition of the environmental fee on corporations to also include limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships. However, existing law only requires every corporation subject to the environmental fee to file an annual return. To correct this inadvertent error, the following amendment to subdivision (b) of Section 43152.9 of the Revenue and Taxation Code was made in AB 3076 (Ch. 364, Stats. 2006):

43152.9. (b) Every corporation, limited liability company, limited partnership, limited liability partnership, general partnership, and sole proprietorship subject to the fee imposed pursuant to Section 25205.6 of the Health and Safety Code shall file an annual return in the form as prescribed by the board, which may include, but not be limited to, electronic media and pay the proper amount of fee due. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

- 6. Related Legislation.** This bill is almost identical to AB 1232 (J. Horton). That bill was gutted in the Senate.

AB 3076 (Ch. 364, Stats. 2006), made technical amendments to Section 43152.9 of the Revenue and Taxation Code regarding the reporting requirements for limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships.

Maintains Rate of Tire Recycling Fee
Public Resources Code Sections 42885 and 42889

LAW PRIOR TO AMENDMENT

Under existing law, Section 42885 of the Public Resources Code imposes a California tire fee, as of January 1, 2005, of one dollar and seventy-five cents (\$1.75) per tire on every person who purchases a new tire, as defined. As of January 1, 2007 the tire fee is reduced to one dollar and fifty cents (\$1.50) per tire and remains at that rate until January 1, 2015.

After deducting 1 ½ percent of the total fees as reimbursement for costs associated with the collection of the fee, a retailer must remit the fees to the Board for deposit in the California Tire Recycling Management Fund.

Under existing law, Section 42889 of the Public Resources Code requires the Board to transfer an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed to the Air Pollution Control Fund, administered by the State Air Resources Board (ARB). As of January 1, 2007 the Board is required to transfer an amount equal to fifty cents (\$0.50) per tire to the Air Pollution Control Fund, until January 1, 2015.

Assembly Bill 923 (Ch. 707, Stats. 2004) added Sections 42885 and 42889 to the Public Resources Code, to be operative January 1, 2015, restoring the rate and other provisions that were in effect prior to January 1, 2005. As such, Section 42885 will again impose a California tire fee of seventy-five cents (\$0.75) per tire. In addition, the percentage of the fee that a retailer may retain as reimbursement for costs associated with the collection of the fee will be restored to three percent (3%).

The Board administers and collects the California tire fee on behalf of the California Integrated Waste Management Board (CIWMB) in accordance with the Fee Collection Procedures Law.

AMENDMENTS

This bill amends Sections 42885 and 42889 of the Public Resources Code to maintain the California tire fee at one dollar and seventy-five cents (\$1.75) per tire, until January 1, 2015. The fee was scheduled to be reduced to \$1.50 per tire on and after January 1, 2007, with the Board transferring an amount equal to fifty cents (\$0.50) per tire on which the fee is imposed to the Air Pollution Control Fund. With the passage of this bill the rate remains at one dollar and seventy-five cents (\$1.75) per tire, and the Board will continue to transfer an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed to the Air Pollution Control Fund until January 1, 2015.

This bill is effective July 18, 2006, as an urgency statute.

COMMENTS

1. **Purpose.** This provision is intended to provide a substantial and long-term funding source to the ARB for air pollution reduction programs and projects that mitigate or remediate pollution.
2. **This bill maintains the fee at the current rate.** Enactment of this measure does not materially affect the Board's administration of the California Tire Fee Law.

Assembly Bill 1809 (Committee on Budget) Chapter 49

Tax Expenditure Report

Urgency measure, effective June 30, 2006, but operative January 1, 2007. Amends Section 13305 of the Government Code.

BILL SUMMARY

This Budget trailer bill makes a number of revenue and taxation related changes necessary to implement the Budget Act of 2006. Among its provisions, this Budget trailer bill, requires the Department of Finance, beginning January 1, 2007, to provide a report to the Legislature by September 15 of each year on tax expenditures exceeding \$5 million annually and specifies the additional information that the report must contain on each tax expenditure, including, but not limited to, the statutory authority and description of the legislative intent, and information on sales and use tax expenditures.

Sponsor: Committee on Budget

LAW PRIOR TO AMENDMENT

Since 1971, pursuant to Section 13305 of the Government Code, the Department of Finance (DOF) has been required to provide a tax expenditure report to the Legislature. Chapter 1762, Statutes of 1971, required that the report be submitted to the Legislature once every two years. Chapter 268, Statutes of 1984, increased the reporting frequency to once a year. The required report includes each of the following:

- A comprehensive list of tax expenditures.
- Additional detail on individual categories of tax expenditures.
- Historical information on the enactment and repeal of tax expenditures.

AMENDMENT

This bill repeals and adds Section 13305 of the Government Code to, beginning January 1, 2007, require the DOF to provide a report to the Legislature by September 15 of each year on each tax expenditure exceeding \$5 million annually. The report shall include the following information for each tax expenditure:

- The statutory authority;
- A description of the legislative intent, where the act adding or amending the expenditure contains legislative findings and declarations of the intent, or such intent is otherwise expressed or specified by the act;
- The sunset date, if applicable;
- A brief description of the beneficiaries of the tax expenditure;
- An estimate or range of estimates for the state and local revenue loss for the current fiscal year and the two subsequent fiscal years. For sales and use tax expenditures, this includes partial year exemptions and all other tax expenditures when the Board has obtained such information;

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- For sales and use tax and personal and corporation tax expenditures, the number of returns filed or taxpayers affected, as applicable, for the most recent tax year for which full year data is available; and
- A listing of any comparable federal tax benefit, if any, and;
- A description of any tax expenditure evaluation or compilation of information completed by any state agency since the last report made under this section.

This bill defines a “tax expenditure” as a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by state law.

The provisions became effective immediately upon enactment, but are operative on January 1, 2007.

BACKGROUND

There have been several bills introduced during the last few years related to tax expenditure reports. These include:

AB 168 (Ridley-Thomas, 2005) would have required: (1) the Board and the Franchise Tax Board (FTB) to each provide to the Legislature, the DOF and the Legislative Analyst Office (LAO), a report, based on a static revenue analysis, of the estimated revenue losses attributable to each tax expenditure, to the extent feasible, that produced a revenue loss in excess of \$25 million in the prior fiscal year; (2) the DOF to provide, biennially, to the Legislature and the LAO, a report, based on a dynamic revenue analysis, of the estimated revenue losses attributable to tax expenditures that produced revenue losses in excess of \$25 million, as specified; (3) the LAO to review the reports and make recommendations to the Legislature as to which tax expenditures should be modified or repealed.

AB 168 was vetoed by Governor Schwarzenegger and the veto message states:

“The Department of Finance and the Legislative Analysts Office currently have broad authority to review and report tax expenditures to the Legislature. This bill’s restatement of the existing tax reporting requirements is redundant and unnecessary.”

AB 735 (Arambula, 2005) would have: (1) required the LAO to establish a process to review all tax exceptions, and submit a report to the Legislature by December 31, 2006; (2) required the LAO to review and analyze any relevant reports prepared by the DOF, and request assistance from the Board and the FTB in order to make the report as comprehensive as possible; and (3) directed the Assembly and Senate Revenue and Taxation Committees to review the report submitted by the LAO and authorize them to select a group of tax exceptions for deletion or modification, reporting their recommendations to the fiscal committees for consideration during the budget process. This bill was never heard by a committee.

SB 577 (Figueroa, 2005) would have, among other things, required the DOF, in consultation with the Board and the FTB, to report to the Legislature by January 1, 2008, on the effectiveness of “tax expenditures,” as defined. This provision was amended out of the bill.

AB 2106 (Ridley-Thomas, 2004) would have, among other things, required the DOF, in conjunction with the Governor’s Budget, to submit to the Legislature a report of tax expenditures currently in effect. The bill would have specified that, among

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other things, based on information provided by the Board to the extent feasible, the report include the number of tax returns or taxpayers affected by any sales or use tax expenditure, the distribution of that expenditure, and the size and type of business or industry to which that expenditure is made available.

AB 2106 was vetoed by Governor Schwarzenegger and the veto message states:

“Under existing law, the Department of Finance already is required to provide an annual tax expenditure report to the Legislature containing specific information. This bill changes the type of information that is provided in the annual report. However, some of the information that Department of Finance would be required to report is not available. For example, the original intent of a given tax expenditure is often not clearly defined in the enabling statute. In addition, the number and income distribution of taxpayers benefiting from sales tax exemptions would not be known because this information is not required to be reported by retailers when filing their tax returns. Furthermore, some of the information might not be available for reporting to the Legislature because of existing confidentiality requirements.”

COMMENTS

1. **Purpose.** This budget trailer bill, among other things, revises and enhances the existing DOF statutory requirement to report on tax expenditures as specified in Government Code Section 13305. At the May 11, 2006 Senate Budget and Fiscal Review – Subcommittee No. 4 hearing, tax expenditures were discussed and committee staff recommended that the Legislature consider devoting greater attention to tax expenditures using the three following objectives: 1) understanding their intentions and implications, 2) gaining better access to information, and 3) revising and enhancing reporting. Objective 3 would be achieved by revising and enhancing the existing statutory reporting requirements related to the DOF’s annual tax expenditure report.
2. **Should the term “partial year exemptions” be changed to “partial exemptions?”** This bill provides that the annual tax expenditure report include an estimate or range of estimates for the state and local revenue loss for the current fiscal year and the two subsequent fiscal years. This bill specifies that, for sales and use tax expenditures, the information would include *partial year exemptions* and all other tax expenditures when the Board has obtained such information.

Would the term *partial year exemption* mean an exemption that has been operative for a partial fiscal year, or did the Legislature mean to include those partial exemptions for which the sale or purchase is exempt from a portion of the sales and use tax? The Board administers full exemptions and partial exemptions. There are currently five partial exemptions in effect (see Comment 3). These partial exemptions apply to the 5 percent state General Fund portion of the tax, but do not apply to the two 0.5 percent statewide taxes (i.e., Local Revenue Fund and Local Public Safety Fund), or the taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law and the Transactions and Use Tax Law.

It appears that the intent of the bill is to state that the tax expenditure report would include information on *partial exemptions*, rather than an exemption that is operative for a *partial fiscal year*.

3. **The Board does not have specific data on tax expenditures.** This bill requires that the annual tax expenditure report include an estimate of the state and local revenue loss for a three-year period. This bill specifies that, with respect to sales and use tax expenditures, the information include partial year exemptions and all other tax expenditures when the Board has obtained such information. An explanation regarding the information obtained on the sales and use tax returns, including the differences between tax return data captured for state income tax purposes versus tax return data captured for sales and use tax purposes, is provided below:

- Sales and Use Tax Expenditure Reporting

In general, revenue estimates and expenditure data for the Personal Income Tax and Corporation Tax Laws are easier to quantify than for the Sales and Use Tax Law. Personal income and corporation tax returns contain significant detail information regarding different sources of income and types of exemptions, exclusions, deductions, and credits claimed. Thus, tax return data are often available when estimating the fiscal impact of various income and corporate tax expenditure programs. In contrast, returns filed by taxpayers under the Sales and Use Tax Law www.boe.ca.gov/pdf/boe401a2.pdf contain little information regarding tax expenditures.

As shown on the attached sales and use tax return, some of the more common tax expenditures allowed under the Sales and Use Tax Law are separately identified on the return itself for purposes of allowing taxpayers to claim the deduction. These include deductions for, but not limited to, sales of food products, sales to the U.S. Government, sales in interstate or foreign commerce, and nontaxable labor (note, the law contains numerous other tax exemptions and exclusions not separately identified on the return).

However, instead of actually itemizing these deductions, many taxpayers simply report their taxable sales, netting out any exempt sales. Any attempt to capture the amount of exempt transactions would require a much more extensive tax return and would require a very large effort from taxpayers to detail these transactions.

Consequently, return information does not capture specific data on the myriad of tax exemptions and exclusions provided under the law, and is not a reliable source to use in making estimates of revenue losses attributable to those exemptions and exclusions. As such, the Board generally relies on independent data sources when estimating the revenue impacts of various sales tax expenditure programs.

- Partial Sales and Use Tax Expenditure Reporting

The exception to this is for partial exemptions. The Board currently requires the taxpayer to specify the amount of those exemptions that apply to only a portion of the combined state and local sales and use tax. There are currently five such exemptions in effect:

- Teleproduction Equipment
- Farm Equipment
- Diesel Fuel Used in Farming and Food Processing

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- Timber Harvesting Equipment and Machinery
- Racehorse Breeding Stock

Sales of these items are exempt from a portion of the state sales and use tax. Local and special district sales and use taxes continue to apply. In order for a taxpayer to claim these partial exemptions, they must report the amount of the transactions that are subject to the partial exemption. For these partial exemptions, the Board knows how much is being claimed as well as how many retailers are claiming the partial exemption.

4. **The Board's Publication 61, *Sales and Use Taxes: Exemptions and Exclusions*, provides a detailed listing of various exemptions and exclusions from the sales and use tax.** The publication has two listings: one by category and another by alphabetical reference. The listings provide a brief general description of the exemption or exclusion, including the statutory authority. The listing by category also provides an estimate of the revenue loss of the exemption or exclusion, if available. As previously stated in Comment 3, a revenue loss of a particular tax expenditure is not always possible to quantify.

Assembly Bill 1813 (Committee on Budget) Chapter 344
Environmental Fee - Clarifying Language

Effective September 20, 2006. Uncodified language to clarify amendments to Section 25205.6 of the Health and Safety Code.

BILL SUMMARY

This Budget trailer bill clarifies that the expansion of the environmental fee to include other business organizations, as enacted by AB 1803 (Ch. 77, Stats. 2006), will first apply beginning the 2007 calendar year.

Sponsor: Committee on Budget

LAW PRIOR TO AMENDMENT

Prior to July 18, 2006, Health and Safety Code Section 25205.6 required the Department of Toxic Substances Control (DTSC) to provide the Board with a schedule of codes that consisted of the types of corporations that use, generate, store, or conduct activities in this state related to hazardous materials. Each corporation of a type identified in the schedule adopted by the DTSC pays an annual fee if that corporation employs 50 or more employees in this state who are each employed for more than 500 hours during the calendar year.

Effective July 18, 2006, Assembly Bill 1803 (Ch. 77, Stats. 2006) amended Health and Safety Code Section 25205.6 to expand the imposition of the environmental fee to organizations, which includes corporations, limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships. While AB 1803 was effective July 18, 2006, the fee revenues were not intended to increase in the 2006-07 fiscal year.

AMENDMENT

This bill contains an uncodified section that specifies that it is the intent of the Legislature that the amendment to Section 25205.6 of the Health & Safety Code (Ch. 77, Stats. 2006), which expanded the class of businesses subject to the fee imposed by that section, shall apply for the first time to the fee that is due for the 2007 calendar year. The fee for the 2007 calendar year is due no later than February 29, 2008.

This bill is effective September 20, 2006.

COMMENT

Purpose. This budget trailer bill is intended to clarify that the amendments to Health and Safety Code Section 25205.6 made by AB 1803 are to apply to the newly affected class of businesses for the 2007 calendar year.

Assembly Bill 2001 (Cogdill) Chapter 70
Payment Deferral for Cigarette Stamp and Meter Register Settings

Effective January 1, 2007. Amends and repeals Sections 30142, 30168, and 30182 of the Revenue and Taxation Code.

BILL SUMMARY

This bill deletes the January 1, 2007 repeal date to indefinitely extend the following provisions:

- A distributor's election to make payment on a twice-monthly basis for amounts owing for stamps and meter register settings purchased on a deferred basis.
- Reduced security for distributors that elect to make deferred payment on a twice-monthly basis.

Sponsor: California Distributors Association

LAW PRIOR TO AMENDMENT

Under current Cigarette and Tobacco Products Tax Law, an excise tax of 43 1/2 mills per cigarette (87 cents per package of 20) is imposed on each cigarette distributed. The cigarette tax imposed with respect to the distribution of cigarettes is paid by distributors through the use of stamps or meter impressions. An appropriate stamp or meter impression is required to be affixed to, or made on, each package of cigarettes prior to distribution of the cigarettes, except as otherwise provided.

Current law also imposes a surcharge on tobacco products at a rate to be annually determined by the Board. The tobacco products tax rate is equivalent to the combined rate of tax on cigarettes. Currently, the surcharge rate for fiscal year 2005-06 is 46.76 percent.

Cigarette Tax Stamps Purchased on a Deferred-Payment Basis

Every applicant for a license as a distributor is required to file with the Board security in the amount and form as the Board prescribes. The minimum security that is required of any distributor is one thousand dollars (\$1,000). However, distributors desiring to defer payment for stamps and meter impressions are required to furnish a security in an amount as follows:

- Equal to not less than 70 percent of the amount and not more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a monthly basis.
- Equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a twice-monthly basis.

A distributor may elect a monthly or twice-monthly payment basis for amounts owing for stamps and meter register settings purchased on a deferred basis. If a distributor elects a monthly basis, payment is required to be remitted on or before the 25th day

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of the month following the month in which the stamps and meter register settings were purchased. However, if a distributor elects a twice-monthly payment basis, the payment is due based on the following schedule:

- The first monthly remittance would be due on or before the 5th day of the month. The amount due would be equal to either one-half of the total amount of those purchases of stamps and meter register settings made during the preceding month or the total amount of those purchases of stamps and meter register settings made between the first day and the 15th day of the preceding month, *whichever is greater*.
- The second monthly remittance would be made on or before the 25th day of the month for the remainder of those purchases of stamps and meter register settings that were made in the preceding month.

A distributor that elects to make deferred payments on a twice-monthly basis is also required to file a report on or before the 5th day of the month respecting his or her distributions of cigarettes and purchases of stamps and meter register settings.

The twice-monthly deferred payment option for amounts owing for stamps and meter register settings purchased on a deferred basis and corresponding reduced security will remain in effect until January 1, 2007, and as of that date is repealed.

Twice-Monthly Election to File a Return and Make Payment for Tobacco Products Tax

A distributor is authorized to elect to file a return and make payment of the tax due on either a monthly or a twice-monthly basis respecting his or her distributions of tobacco products and their wholesale cost during the preceding month and any other information as the Board may require. If a distributor elects a monthly basis, the distributor is required to file a return and make payment of the tax on or before the 25th day of the month following the month during which the tobacco products were distributed. If a distributor elects a twice-monthly basis, the distributor is required to file two returns and make two remittances during the month following the month during which the tobacco products were distributed as follows:

- The first monthly return would be required to be filed, together with the first remittance of tax, on or before the 5th day of the month for those distributions of tobacco products that occurred between the first day and the 15th day of the preceding month.
- The second monthly return would be required to be filed, together with the second remittance of tax, on or before the 25th day of the month for those distributions of tobacco products that occurred between the 16th day and last day of the preceding month.

The twice-monthly payment and reporting basis for distributions of tobacco products will remain in effect until January 1, 2007, and as of that date is repealed.

AMENDMENT

This bill amends and repeals Sections 30142, 30168, and 30182 of the Revenue and Taxation Code to delete the January 1, 2007 repeal date to indefinitely extend the twice-monthly deferred payment option for amounts owing for stamps and meter register settings purchased on a deferred basis and corresponding reduced security amount.

BACKGROUND

In 2003, the Legislature approved and the Governor signed AB 1666 (Ch. 867, Cogdill) which authorizes a cigarette distributor to elect a twice-monthly deferred payment option for amounts owing for stamps and meter register settings purchased on a deferred basis, reduces the corresponding reduced security amount, and authorizes a tobacco products distributor to elect a twice-monthly payment and reporting basis for distributions of tobacco products.

AB 1666 also required, on or before January 1, 2006, the Legislative Analyst, with assistance of, and based on information provided by, the Board, to prepare a report to the Legislature of the economic impact of the bill. The report was required to include an evaluation of the Board's ability to collect cigarette tax revenues, additional revenues, if any, generated by the twice-monthly payment program, and the ability of distributors to access security bonds.

The Legislative Analyst's Office report⁴ contained the following recommendation:

"In general, the ability of cigarette distributors to defer payment for cigarette tax stamps until sometime after the tax has been collected is appropriate policy. Chapter 867 represented an attempt to improve the ability of distributors to defer payment while not worsening the state's risk in making such delayed payment possible. The program was undertaken at a time when substantially higher cigarette taxes were being discussed. That the program enrolled few participants may in part be due to the fact that the higher taxes were not, in fact, imposed. If new taxes were to be adopted in the future, however, additional program participation could occur. This is because the higher tax amounts would necessitate greater security amounts under the credit option.

"To date, Chapter 867 has had a minor fiscal impact on the state. It appears that minor administrative costs have been more than offset by additional interest earnings. Furthermore, the added exposure to the state from the lower security amount has only marginally increased financial risk to the state. Therefore, we recommend that the program be continued. It may assist the distributor market to continue to be a competitive industry, and may make it more feasible for small and moderate-size wholesalers to continue to compete by expanding their ability to defer payment for cigarette tax stamps."

IN GENERAL

Every applicant for a license as a distributor is required to file with the Board a security in the amount and form as the Board prescribes. The minimum security that is required of any distributor is one thousand dollars (\$1,000). However, every distributor desiring to purchase tax stamps or meter register settings on a deferred payment basis must request the Board to set the maximum amount of such purchases the distributor may have unpaid at any time and the amount of the required bond. The maximum amount of stamps and meter register setting purchases for which the distributor may defer payment cannot exceed one and one-half times the distributor's average monthly tax liability based on the distributor's previous six months' experience. Or in the case of a distributor not previously authorized to make deferred payment purchases, or a distributor the character of

⁴ http://www.lao.ca.gov/2006/cigarette_bonds/cigarette_bonds_012506.pdf

whose business has changed substantially, the maximum amount will be set at one and one-half times the estimated average monthly tax liability, as determined by the Board. When a distributor is authorized to purchase stamps or meter register settings on a deferred payment basis, the bond will be fixed in an amount equal to 50 or 70 percent, depending on a distributor's deferred payment basis election, of the amount of deferred payment purchases which the distributor may have unpaid at any time.

The privilege of making deferred payment purchases will be suspended if there is a delinquent balance owing.

COMMENTS

1. **Purpose.** This bill is intended to respond to the Legislative Analyst's Office recommendation that the program implemented by AB 1666 be continued.
2. **Key amendments.** The **March 22, 2006, amendments** deleted the provisions that would have allowed a distributor to post alternative forms of security, as added in the March 13, 2006, version of the bill.

The **March 13, 2006, amendments** would have allowed a distributor that desires to purchase cigarette tax stamps on a deferred payment basis to post a security deposit in the form of negotiable assets or as a pledge of a secured interest in real property.

3. **Distributors purchasing tax stamps on a deferred basis.** Currently, 24 of the 126 distributors licensed with the Board purchase cigarette tax stamps on a deferred basis. In terms of value of the stamps, over 70 percent of all stamp revenue is derived from stamps that have been purchased through deferred payments.

The combined credit limit for distributors purchasing cigarette tax stamps on a deferred basis is approximately \$155 million, with a corresponding security of \$107 million. The credit limit and corresponding security for distributors electing the monthly or twice-monthly payment basis is as follows:

- Distributors electing the **monthly payment basis** have an approximate total credit limit of \$146 million, with a corresponding security of \$102 million.
- Distributors electing the **twice-monthly payment basis** have an approximate total credit limit of \$9 million, with a corresponding security of \$4.5 million.

The Board is authorized to suspend a distributor's privilege to purchase tax stamps on the deferred basis if a distributor fails to promptly pay for stamps when payment is due. If collection of these amounts remains unpaid, the Board could pursue the distributor's security deposit.

4. **What effect has AB 1666 had on the Board?** Since the inception of the twice-monthly payment election for cigarette tax stamps purchased on a deferred-payment basis and corresponding reduced security, two distributors have elected to take advantage of the program.

Implementation of the twice-monthly payment option and corresponding reduced security has had no impact on the Board's ability to collect cigarette tax revenues. However, it should be noted that the Board has not had a collection problem with respect to cigarette tax stamps purchased on a deferred payment

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basis in the last ten years other than one instance in 2003 involving a bankruptcy case. That case involved a late payment of tax, which was subsequently recovered with interest from the distributor's surety bond.

AB 1666 also authorized a distributor of tobacco products to elect to file a return and make payment of the tax due on either a monthly or a twice-monthly basis respecting his or her distributions of tobacco products and the wholesale cost during the preceding month. However, this bill would not delete the repeal date for that provision. As such, the election to file a return and make payment of the tax on a twice-monthly basis for tobacco products will sunset January 1, 2007. It should be noted that no tobacco products distributor has elected to file returns or make payments of the tobacco products tax on a twice-monthly basis.

5. **Extending the provisions added by AB 1666 would not be problematic for the Board.** Since the Board already administers the deferred payment options, deleting the repeal date would not be problematic for the Board.

Assembly Bill 2591 (Keene) Chapter 506
State Agencies - Accounts Receivable Reports

Effective January 1, 2007. Adds Section 13292.5 to the Government Code.

BILL SUMMARY

This bill requires certain state agencies, including the Board, to prepare annual reports identifying accounts receivable that are valid and collectible, as defined, for 180 or more days and efforts to collect these accounts. This analysis is limited to the effect on the Board's reporting requirements.

Sponsor: California Association of Collectors

LAW PRIOR TO AMENDMENT

Currently, the Board is authorized to use various collection actions to effect the collection of delinquent taxes, including but not limited to: bank levies, wage garnishments, tax liens, seizure of assets, offsets, and court actions. The Board uses these tools consistent with its established policies and procedures.

Existing law, Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code, known as the Accounts Receivable Management Act, authorizes each state agency to sell part or all of its accounts receivable to private debt collectors under specified conditions. One of those conditions is that a debt that has been contested can not be assigned or sold. Each state agency is also required to consult with the Franchise Tax Board or other state agencies which have established an effective accounts receivable collection system.

Additionally, Chapter 3 (commencing with 13940) of Part 4 of Division 3 of Title 2 of the Government Code allows the Board to make an application for discharge from accountability (discharge) to relieve the agency of the responsibility for collection, thereby removing the item from the accounts receivable.

AMENDMENT

This bill adds Section 13292.5 to the Government Code to require the Board, Franchise Tax Board, State Lands Commission, Department of General Services, Department of Motor Vehicles, Department of Real Estate, and the Department of Corporations to submit an annual report to the Department of Finance (DOF) detailing the status of the agency's liquidated and delinquent accounts, as defined, and efforts to collect these accounts during the previous fiscal year. The reports would identify those receivables that are valid and collectible and would only be prepared if sufficient existing resources are available. For the purposes of this bill, "valid" is defined as a receivable that is due and payable and for which there is no known disagreement about the amount of the claim at the time it was established. "Collectible" means a receivable that is due and payable and for which collection has not been deferred by any other provision of law.

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The report will include a summary of the total of all of the following:

- Total number and aggregate dollar amount of liquidated and delinquent accounts.
- Liquidated and delinquent accounts, by total number and aggregate dollar amount, that were not included in the annual report for the immediately preceding fiscal year.
- Aggregate beginning balance and aggregate ending balance of each liquidated and delinquent account.
- Aggregate dollar amount of moneys paid on liquidated and delinquent accounts.
- Total amount and total number of liquidated and delinquent accounts that have been discharged from accountability.
- Total dollar amount of liquidated and delinquent accounts turned over to private collection agencies and total amount collected by those agencies for the fiscal year that is the subject of the report.
- A listing of the liquidated and delinquent accounts by specified time periods, which, at a minimum, shall identify the total number and aggregate dollar amount of liquidated and delinquent accounts that are unpaid for 180 or more days after the obligation was first due.

The state agencies are required to submit the accounts receivable report to the DOF by October 31 of each year. The DOF would then submit their report to the Legislature no later than February 28 of each fiscal year.

This bill is effective January 1, 2007 and will be inoperative July 1, 2010, with a repealed date of January 1, 2011.

IN GENERAL

In addition to the legal provisions, the Board has adopted administrative policies in the Compliance Policy and Procedures Manual regarding tax liens. Board policy is to routinely record a notice of state tax lien for accounts with delinquent amounts of \$2,000 or more in the appropriate county(ies):

- 180 days after an amount, if sufficient, becomes delinquent on a determination or redetermination, or
- 180 days after issuance of a billing for an amount due on a return filed without payment, or with a partial payment, or for penalty and interest because of late payment, or
- 180 days after a successor's billing is issued

The Board must mail a preliminary notice to the taxpayer at least 30 days before filing a lien with the County Recorder or the Secretary of State. The notice must specify the following: (1) the statutory authority for filing the lien; (2) the earliest date on which the lien may be recorded; and (3) the remedies available to the taxpayer to prevent the filing of the lien.

COMMENTS

1. **Purpose.** The purpose of the bill is to provide the Legislature with information on the total amount of money owed to the State that has not been collected in the previous fiscal year. According to the author's office, the information in the report would allow the Legislature to consider how to better manage and collect the debt.
2. **What accounts receivable would the Board include in the report?** As stated previously, the Board collects various taxes and fees, so all of these may be subject to the reporting requirements. Those tax and fee accounts that are liquidated and delinquent, meaning they are owed but unpaid for 180 or more days, would be reported. Of those accounts reported, the Board must identify which ones are valid and collectible. A valid account would be those accounts that are due and payable and have no known disagreement about the amount owed. The Board would not consider a valid account to include, but not be limited to, those accounts accepted as a "late protest," an innocent spouse request, or a non-partner claim. The language is broad enough that it may exclude tax protestors from being considered a valid account. A collectible account would be those accounts that are due and payable and have not been deferred by any other provision of law. The Board would not consider an account in bankruptcy status as a collectible account. Since "deferred" was not defined in this bill it is unclear if the author intended SAM section 8776.2 to provide guidance, or only deferrals provided in state or federal statute.
3. **Efforts made by the agency to collect these accounts.** The bill requires the agencies to report the efforts made to collect the delinquent accounts but does not specify the detail needed to comply with this requirement. If the description of efforts to collect is general in nature then there would be absorbable costs to prepare an annual report. However, if the description must be detailed – an account by account listing of collection efforts – then implementation costs could be substantial.
4. **What fiscal years are to be included in the Board's report?** The first fiscal year included in the report will be the 2006-07 and will be due to the DOF no later than October 31, 2007. As for the final report, it is unclear whether the fiscal year 2009-10 is intended to be the final fiscal year of the report, since the bill becomes inoperative on July 1, 2010, a day after the end of that fiscal year. It would appear that the Board would not be required to submit a report to the DOF by October 31, 2010, since the statute would be inoperative. The author did not clarify which fiscal year will be in the final report.

Assembly Bill 2831 (Ridley-Thomas) Chapter 580

Insurance Tax Credit Extension

Tax levy; effective September 28, 2006. Among its provisions, adds Article 1.1 (commencing with Section 12939) to Division 3 of Chapter 2 of the Insurance Code, and amends Section 12209 of the Revenue and Taxation Code.

BILL SUMMARY

Among its provisions, this bill extends until January 1, 2012, for calendar years 2007 through 2011, the operation of the insurance tax credit for insurers that invest in a community development financial institution (CDFI) that lends to underserved, low-income urban, rural, or reservation-based communities in this state, which is due to expire on January 1, 2007.⁵

Sponsor: Assembly Member Ridley-Thomas

LAW PRIOR TO AMENDMENT

Section 12201 of the Revenue and Taxation Code imposes an annual tax on all insurers doing business in this state. For insurers other than title insurers and ocean marine insurers, Section 12221 specifies that the basis of the annual tax is gross premiums, less return premiums, received by the insurer on business done in this state. For insurers transacting title insurance, Section 12231 specifies that the basis of the annual tax is all income from business done in this state except interest and dividends, rents from real property, profits from the sale of investments, and income from investments. For insurers transacting ocean marine insurance, Section 12101 provides that the annual tax is measured by that portion of the underwriting profit of the insurer from the ocean marine insurance written in the United States, of which the gross premiums from ocean marine insurance written in this state bear to the gross premiums from ocean marine insurance written within the United States, at the rate of 5 percent.

Section 12202 sets the current rate of the annual tax at 2.35 percent, except for specified premiums that are taxed at 0.50 percent. Under Section 12204, the tax imposed on insurers is in lieu of all other state, county, and municipal taxes and licenses, including income taxes, with specified exceptions.

Section 12209 allows as a credit against the amount of insurance tax an amount equal to 20 percent of the amount of each qualified investment made by an insurer during the year into a CDFI. A CDFI is defined as a private financial institution located in California and certified by the Department of Insurance (DOI), California Organized Investment Network (COIN), whose primary mission is community development and which lends in underserved, low-income urban, rural, or reservation based communities in California. A CDFI may include a community development bank, a community development loan fund, a community development credit union, a micro-enterprise fund, community development corporation-based lenders, and venture funds.

⁵ Please refer to Comment 4, following, regarding the sunset date for this credit.

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Under Section 12209, a qualified investment is an investment in a CDFI that is:

- 1) a deposit or loan that does not earn interest;
- 2) an equity investment; or
- 3) an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the U.S. Department of the Treasury CDFI Fund, or its successor.

All qualified investments must be equal to or greater than \$50,000 and made for a minimum of sixty (60) months to qualify for a 20 percent tax credit during the year in which the investment was made. These tax credits are also available under the Personal Income and Corporation Tax Law. The combined amount of qualified investments available under these three tax laws is limited to a total amount of \$10 million per year for a total annual tax credit limit of \$2 million per year (\$10 million X 20%).

COIN administers the CDFI program by certifying and issuing certificates to CDFIs that wish to receive qualified investments and by certifying the tax credits for investors. COIN is also required to provide the Board of Equalization with an annual list of the names and taxpayers' California identification numbers for every taxpayer making a withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

The CDFI program will remain in effect only until January 1, 2007, covering the taxable calendar years through 2006, and Section 12209 will be repealed as of December 31, 2007.

AMENDMENT

This bill amends Section 12209 to extend until January 1, 2012, the operation of the insurance tax credit for insurers that invest in a CDFI that lends to underserved, low-income urban, rural, or reservation-based communities in this state. This bill also makes the following additional amendments to Section 12209:

- Provides that the COIN is required to evaluate, in addition to accept, applications for certifying CDFIs;
- Provides that the Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of CDFI applications;
- Provides that a CDFI certificate may be issued for a specified period of time, and may include reasonable conditions to effectuate the intent of this section; and,
- Provides that the Insurance Commissioner may revoke or suspend a certification, if the commissioner finds that a CDFI no longer meets the requirement for certification.

Additionally, this bill adds Article 1.1 (commencing with Section 12939) to Division 3 of Chapter 2 of the Insurance Code to establish the California Community Development Financial Institution Tax Credit Program (CDFI tax credit program), and, among other things, provides the following Legislative findings and declarations:

- CDFIs strive to bridge the growing gap that exists between the financial products and services available to the economic mainstream and those offered to low-income people and communities.

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- CDFIs serve a critical role in addressing issues of poverty and access to credit in economically disadvantaged communities by providing services such as consumer credit counseling, financial literacy training, homeownership counseling, and technical assistance to small business owners.
- It is the intent of the Legislature to provide an incentive in the form of California tax credits to attract much needed additional private capital investments that would not otherwise be available to CDFIs without the benefit of such an incentive.

The CDFI tax credit program also requires: 1) CDFIs receiving insurance tax credit investments to submit reports to the DOI and COIN on their use of the program; and 2) the DOI and COIN to biennially include in the report required by Insurance Code Section 12922 information on the CDFI tax credit program based on the reports submitted by the CDFIs.

This bill requires the Legislative Analyst's Office to prepare an analysis by December 31, 2010, based upon data provided by the Franchise Tax Board, the DOI, and COIN, on the CDFI tax credits' fiscal impact and the resulting benefits from the use of the CDFI tax credit investments by economically disadvantaged communities and low income people in California.

BACKGROUND

The current insurance tax credit for insurers that invest in a CDFI that lends to underserved, low-income urban, rural, or reservation-based communities in this state was created in 1999 by Assembly Bill 145 (Ch. 821, Vincent), which provided for a three-year, 20 percent tax credit for qualified deposits of \$50,000 or more. The credit was extended in 2001 by Senate Bill 409 (Ch. 535, Vincent) until January 1, 2007. SB 409 also expanded and clarified the definition of qualified investments, and provided for a carry-over of any unused tax credits to future years.

COMMENTS

1. **Purpose.** The purpose of this bill is primarily extend the current credit for investments in CDFIs until January 1, 2017. According to the sponsor, this bill is also intended to: 1) increase the combined annual limit for qualified investments from \$10 million to \$25 million; 2) make changes to the certification process for CDFIs and investors; and 3) authorize the Insurance Commissioner to develop instructions, procedures, standards, and regulations to administer the CDFI Tax Certification Program (Program). According to the sponsor, the Program has become well-known and established with both CDFIs and investors such that the demand far exceeds the supply of tax credits. According to the sponsor, there are now 78 certified CDFIs in California. This represents a 66 percent increase from the 47 that were certified when SB 409 was enacted in 2001 to extend the program until January 1, 2007.

According to the sponsor, in calendar year 2005, the Program was so popular with investors and CDFIs that the entire annual amount available for tax credits was exhausted by 11 proposals received in January 2005. In 2006, four investments were received on the first business day of the calendar year that represented 80 percent of the total annual amount available.

In addition, according to the DOI staff, this bill would put in place mechanisms to encourage a broad distribution and equitable access to the Program by both small and large participants. It would also provide a set aside to encourage the insurance industry to participate in community development investing, given that they do not enjoy the same incentives as other financial institutions, such as banks.

2. **Key Amendments. The August 22, 2006 amendments** clarified that the LAO's analysis of the fiscal impact of the CDFI tax credits be based upon data provided by the Franchise Tax Board, the DOI, and COIN, and that these agencies are to provide such data to the LAO by September 30, 2010. **The August 9, 2006 amendments** made the following changes to the LAO analysis: 1) changed the due date of the analysis from June 30, 2011, to December 31, 2010; and 2) specified that the analysis include the CDFI tax credits' fiscal impact and the resulting benefits from the use of the CDFI tax credit investments by economically disadvantaged communities and low income people in California. **The August 7, 2006 amendments** changed the repeal date of the CDFI tax credits from January 1, 2017, to January 1, 2012. The amendments also required the LAO to prepare an analysis of the CDFI tax credits' fiscal impact and effect on business activity and employment by June 30, 2011. **The June 21, 2006 amendments** made technical nonsubstantive changes. **The June 15, 2006 amendments** added back the provision regarding setting a limit on the amount of total qualified investments in any calendar year made by a single CDFI to the lesser of either \$10 million, 40 percent of the authorized annual aggregate qualified investments, or an amount determined by the Insurance Commissioner. **The May 26 amendments** deleted the previously proposed amendment that increased the maximum aggregate amount of qualified investments made by all taxpayers for each calendar year to \$25 million and restore the \$10 million maximum aggregate amount of qualified investments permitted under current law; and 2) delete the previously proposed provisions that would have limited the amount of total qualified investments made by a single CDFI. **The May 17 amendments** added an article heading and required reports to be submitted to the DOI and COIN. These amendments did not impact the Board.

3. **The Board staff does not foresee any administrative problems with this bill.** The Board of Equalization, the State Controller, and the DOI share administrative responsibility for the insurance tax program. Section 28 of Article XIII of the California Constitution states that the Board shall assess taxes under the Insurance Tax Law. Upon recommendation from the DOI, the Board also issues deficiency assessments in cases of underpayment of the tax by an insurer. The Office of the Controller is responsible for collecting the tax and issuing refunds. Audit verification work is the responsibility of the DOI.

As the law is currently administered, the DOI would be responsible for the verification of the tax credit. It is anticipated that the extension of the tax credit as proposed by this bill would have a minimal impact on the Board's current functions under the Insurance Tax Law.

4. **Technical correction.** Subdivision (k) of Section 12209 provides for a sunset date of December 31, 2012. However, subdivision (a) of Section 12209 provides that the credit is allowed for each year beginning January 1, 1999, and ending before January 1, 2012, which would be for the taxable years 1999 through 2011.

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Board staff believes that the sunset date in subdivision (k) should be changed to January 1, 2012, to include only the calendar year 2011 for consistency with subdivision (a). Board staff believes that this correction alleviates any confusion that could arise from whether the credit would apply to taxable year 2012 because subdivision (k) provides for a sunset date of December 31, 2012.

5. **Suggested definition.** In order to simplify the language of Section 12209, it is suggested that the term "COIN" be added as a defined term under subdivision (g) of Section 12209 as: (3) "COIN" means the Department of Insurance, California Organized Investment Network, or any successor thereof. It is further suggested that each mention of "Department of Insurance, California Organized Investment Network, [or any successor thereof] [or its successor]" be replaced by "COIN." The term "COIN" has already been used in subdivision (d)(5).

It is also suggested that the same definition be added to Section 17053.57, subdivision (f), and Section 23657, subdivision (f), and that the same term replacements be made in these sections.

Assembly Bill 3076 (Committee on Revenue and Taxation) Chapter 364
Board-Sponsored Measure

Effective January 1, 2007. Amends Sections 8106, 9271, 30459.1, 32471, 40211, 41171, 43152.9, 43522, 45867, 46622, 50156.11, 55332, 60063, 60101, 60201.3, 60604, 60606, and 60636 of, and adds Sections 9152.2, 30178.3, 30459.15, 32402.2, 32471.5, 40112.2, 40211.5, 41101.2, 41171.5, 43452.2, 43522.5, 45652.2, 45867.5, 46502.2, 46628, 50140.2, 55222.2, 55332.5, 60522.2, and 60637 to, and repeals Sections 8106.1, 8106.5, 8106.8, 60045, and 60046 to, the Revenue and Taxation Code.

BILL SUMMARY

This bill contains **Board of Equalization-sponsored provisions** that accomplish, specifically with respect to Special Taxes, the following:

- Amend Section 8106 of the Motor Vehicle Fuel Tax Law to clarify that a supplier is allowed to take a credit, in lieu of a refund of the tax, on a supplier's tax return for tax-paid motor vehicle fuel removed, entered, or sold by the supplier, when the supplier is otherwise entitled to claim a refund, and repeal Sections 8106.1, 8106.5, and 8106.8 so that all of a supplier's credits in lieu of refund are provided for in Section 8106.
- Amend Sections 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332 and 60636 to allow small case authority approval by the executive director and chief counsel, jointly, of special taxes and fees settlement reductions not exceeding \$5,000.
- Add Sections 9152.2, 30178.3, 32402.2, 40112.2, 41101.2, 43452.2, 45652.2, 46502.2, 50140.2, 55222.2, and 60522.2 to allow the Board to grant refunds of overpayment of tax, fee, interest, or penalty collected by the Board by means of levy, through liens, or by other enforcement procedures if the claim is filed within three years of the date of overpayment.
- Add Sections 30459.15, 32471.5, 38800, 40211.5, 41171.5, 43522.5, 45867.5, 46628, 55332.5, and 60637 to allow the Board to accept offers in compromise.⁶
- Amend Section 60063 of the Diesel Fuel Tax Law to correct two erroneous references and a typographical error. (Technical)
- Amend Section 60101 of the Diesel Fuel Tax Law to delete intercity bus operator as a person allowed to use dyed diesel fuel on the highway and repeal Sections 60045 and 60046 to delete the definitions of intercity bus and intercity bus operator. (Technical)
- Amend Section 60201.3 of the Diesel Fuel Tax Law to establish a three-year time period for the mailing of a notice of determination to a customer of a supplier who failed to pay for diesel fuel purchased and for which the supplier has been allowed a credit for the diesel fuel tax due to the bad debt. (Housekeeping)

⁶ Additional amendments to these sections, recommended by the Office of the Attorney General, would provide indeterminate sentencing for felony violations of the proposed offers in compromise provisions (instead of a maximum term in prison of three years).

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- Amend Sections 60604 and 60606 of the Diesel Fuel Tax Law to correct a spelling error. (Technical)

In addition, this bill makes a technical change to Section 43152.9 of the Environmental Fee Law to require specified additional entities, rather than just corporations, subject to the environmental fee to file returns. The fee now affects these business entities (not just corporations) as amended by the budget trailer bill AB 1803 (Ch. 77, Stats. 2006).

Supplier's Credits – Motor Vehicle Fuel Tax Law

Amends Section 8106 of, and repeals Sections 8106.1, 8106.5, and 8106.8 of, the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under existing law, Revenue and Taxation Code Section 8101 allows a supplier to claim a refund of the tax on motor vehicle fuel when the supplier uses the fuel off highway, exports the fuel, sells the fuel to the armed forces of the United States, sells the fuel to a foreign consulate officer or employee, or delivers tax-paid fuel to a terminal and removes the fuel from the terminal. A supplier entitled to a refund under Section 8101 may take a credit *in lieu of a refund* on his or her tax return, except when fuel is sold to the armed forces of the United States.

AMENDMENT

This bill amends Section 8106 of the Motor Vehicle Fuel Tax Law to clarify that a supplier may take a credit in lieu of a refund on his or her tax return for any tax-paid motor vehicle fuel exported, removed, sold, or used by the supplier if the supplier would be entitled to a refund under Section 8101.

COMMENT

Purpose. Credits in lieu of refund are allowed under Sections 8106 (when purchased for use off highway), 8106.1 (when sold to a foreign consulate officer or employee), 8106.5 (when exported), and 8106.8 (when tax-paid fuel is delivered to a terminal and removed from the terminal). The difference between how the “refund” section and the “credit in lieu of refund” sections are structured has caused some confusion regarding whether a supplier should file a claim for refund or take a credit for taxes on motor vehicle fuel sold to the armed forces of the United States. This amendment simply clarifies the supplier’s options.

Settlements – Special Taxes

Amends Sections 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332, and 60636 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Existing law permits the Board to settle a tax dispute without recourse to litigation consistent with a reasonable evaluation of the costs and risks associated with litigation of the matter. This process is intended to avoid the costs and uncertainty of future litigation for both the state and the taxpayer and to accelerate resolution of disputed liabilities and collection of revenue. The Board's settlement program is available to taxpayers or feepayers who have a petition for redetermination, late protest, or claim for refund pending in connection with a tax or fee liability administered by the Board. Settlement proposals may be considered for civil tax or fee matters in dispute under the following tax and fee programs: Sales and Use Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law (California Tire Fee, Marine Invasive Species Fee, Natural Gas Surcharge, Water Rights Fee, Covered Electronic Waste Recycling Fee) and Diesel Fuel Tax Law.

Under existing law, the Board's Executive Director or Chief Counsel may recommend to the Board, itself, a settlement of any civil tax matter in dispute. Any such recommendation must first be submitted to the Attorney General, who must advise the Board within 30 days whether the proposed settlement is reasonable from an overall perspective. The members of the Board must then approve or deny the settlement recommendation within 45 days of the submission of the recommendation to the Board.

In smaller reduction settlements, the Board's Executive Director and Chief Counsel, jointly, may approve civil tax dispute settlements involving a reduction in sales and use tax and penalties of \$5,000 or less *without* review by the Attorney General. When such small case settlement reductions are approved, the Board Members must be notified.

AMENDMENT

This bill amends the various business taxes statutes to allow the Board's Executive Director and Chief Counsel, jointly, to approve special taxes and fees settlement reductions of \$5,000 or less, consistent with the Sales and Use Tax Law.

BACKGROUND

The settlement authority for the sales and use tax program was originally authorized by Assembly Bill 3225 (Ch. 708, Stats. 1992) and was extended indefinitely by Assembly Bill 3308 (Ch. 138, Stats. 1994). These measures added the general settlement provisions in law that allow for settlements of sales and use tax matters with review by the Attorney General. In 1995, SB 722 (Ch. 497) was enacted to provide similar authority under the Board's special taxes and fees laws. Additional settlement authority was granted to the Board's sales and use tax program with the enactment of Assembly Bill 2894 (Ch. 723, Stats. 2000) which authorized the Executive Director and Chief Counsel of the Board with authority to jointly approve

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settlements involving a reduction in sales and use tax and penalty of \$5,000 or less without Attorney General review. However, this measure did not provide similar joint approval authority for settlements involving special taxes and fees.

COMMENT

Purpose. This provision is intended to streamline the Board's program for settling smaller cases involving special taxes and fees. Cases involving smaller dollar reductions also tend to involve less complicated issues that may be handled on an expedited basis. This provision would allow staff to settle these smaller cases more quickly and efficiently. Taxpayers could have their cases resolved approximately 6 to 8 weeks sooner and revenue collection on these cases would be accelerated by 6 to 8 weeks. In addition, staff time currently devoted to preparing the detailed recommendations to be reviewed by the Attorney General on these smaller cases may be more productively spent in processing the more significant settlement cases.

Refund of Overpayment – Special Taxes

Adds Sections 9152.2, 30178.3, 32402.2, 40112.2, 41101.2, 43452.2, 45652.2, 46502.2, 50140.2, 55222.2, and 60522.2 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under the existing Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, and Diesel Fuel 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 overpayment was made.
- Six months from the date of the overpayment.
- For a payment made pursuant to a determination, six months from the latter of the date the determination became final or the payment was made.

No refund may be allowed for an overpayment if a claim for refund is not filed by the taxpayer with the Board within these periods.

If any person is delinquent in the payment of the amount required to be paid by him or her, the Board may, by notice of levy, require all persons having in their possession, or under their control, any credits or other personal property belonging to that person to withhold from those credits or personal property the amounts due and to transmit those amounts to the Board at the time it may designate. Existing law also allows for a perfected and enforceable state tax lien for a person's failure to pay any amounts owed under the tax and fee laws administered by the Board. Collection efforts such as these could occur outside of the three year statute of limitation from the due date of the return for the period for which the overpayment was made. In such case, a claim for refund must be filed within six months from the date of overpayment by levy, through the use of liens, or by other enforcement procedures.

In the past, the Board has received sales and use tax amounts pursuant to a notice of levy or as a result of a tax lien in error because the taxpayer had already paid the liability in full, the creditor remitted an amount in excess of the amount due, or the taxpayer provided documents supporting a lower amount of tax due. When the statute of limitations period has not expired and a taxpayer files a timely claim for refund, the Board is authorized to refund any erroneous amounts collected. However, there have been cases in the past where the statute of limitations has barred the Board from initiating a refund for purposes of sales and use tax.

To provide a remedy for this inequity, Senate Bill 1827 (Stats. 1996, Ch. 1087) added Section 6902.3 to the Sales and Use Tax Law to extend the statute of limitations period with respect to overpayments from erroneous levies, liens, or other enforcement procedures and allow the Board to refund to a taxpayer any such amounts within three years from the last day of the month following the quarterly period in which the determination became final, or three years from the date of the levy or lien, whichever period expires later.

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AMENDMENT

This bill amends the various business taxes statutes to allow the Board to grant refunds of overpayments of tax, fee, interest, or penalty collected by the Board by means of a levy, lien, or other enforcement procedure if the claim is filed within three years of the date of overpayment.

COMMENT

Purpose. These provisions extend the claim for refund provisions that exist under the Sales and Use Tax Law to specified special tax and fee programs administered by the Board. The bill extends the statute of limitations period to allow the Board to grant a claim for refund filed within three years of the date of overpayment of tax, interest, or penalty collected by the Board by means of a levy, by the use of liens or other enforcement procedures.

Offers in Compromise – Special Taxes

Adds Sections 30459.15, 32471.5, 40211.5, 41171.5, 43522.5, 45867.5, 46628, 55332.5, and 60637 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under existing law, when a tax or fee (tax) liability is not paid when due, the Board will bill the tax or fee-payer (taxpayer), negotiate for payments, search for the taxpayer's assets, and take collection actions to gain access to assets to satisfy the debt. Collection actions may include manually searching records for assets, making telephone calls, or seizing and selling such assets as vehicles, vessels, or stocks. In the event of a hardship, existing law allows installment payment arrangements, or collection may be deferred until the financial situation of the tax debtor improves. However, if taxpayers can obtain loans or can use credit lines to pay their tax debts, they are expected to do so.

If a debt remains unpaid for a number of years and a lien has been filed but assets cannot be located, the Board may write off the debt. When a debt is written off, it is still due and owing and any liens recorded are still valid, but routine billing and collection actions are discontinued unless assets are subsequently located. There is no statute of limitations on the Board's collection of a tax debt, and interest and applicable penalties continue to accrue. The debt also remains on the taxpayer's credit record, impeding his or her ability to obtain credit.

AMENDMENT

This bill amends the various business taxes statutes to allow the Board to accept offers in compromise for the Property and Special Taxes programs.

BACKGROUND

In 2002, the Board sponsored legislation to add Sections 7093.6 (Sales and Use Tax Law), 9278 (Use Fuel Tax Law), and 50156.18 (Underground Storage Tank Maintenance Fee Law) to provide a statutory process to compromise tax liabilities. Since enactment, the approval rate has improved to 42%, from a historical low of less than 10% in 1999. For the fiscal year 2004-05 the Offer in Compromise program collected approximately 60% of the tax due (which excludes penalty and interest).

COMMENT

Purpose. Since the Board only has the statutory authority to compromise a tax debt for Sales and Use Tax, Use Fuel Tax, and Underground Storage Tank Maintenance Fees, the Board must use an administrative process to compromise tax liabilities for tax programs that do not have such statutory authority. However, this requires that the Board initiate a civil action against the tax debtor. Such an action may be prepared and filed by staff but, in some cases requires the assistance of the Attorney General. This bill allows the rest of the special taxes and fees programs to compromise final tax liabilities when it is in the best interest of the state and when the taxpayer does not have the means to pay more than the amount offered now or in the foreseeable future.

Diesel Fuel Tax Law Reference Corrections
Amend Section 60063 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under the existing Diesel Fuel Tax Law, Revenue and Taxation Code Section 60063 references the tax imposed by Sections 60051 and 60052 on a refiner or position holder. These two sections are correctly referenced twice in Section 60063, but, in the third reference to the tax imposed, Sections 7362 or 7363 are referenced instead. However, Sections 7362 and 7363 are sections contained in the Motor Vehicle Fuel Tax Law. The correct reference should be the same as the earlier references to Diesel Fuel Tax Law, Sections 60051 and 60052.

Section 60063 also states that “the board...may relieve the refiner or positionholder from primary liability for payment of tax imposed...and hold another person primary liable for the tax” as specified. The second reference to “primary” should read “primarily” liable.

AMENDMENT

This bill amends Section 60063 to correctly reference Diesel Fuel Tax Law Sections 60051 and 60052, as appropriate, and to change “primary” to “primarily” liable for the tax.

Intercity Bus Operator – Diesel Fuel Tax Law
Amends Section 60101 of, and repeals Sections 60045 and 60046 of, the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under Revenue and Taxation Code Section 60101, an intercity bus operator who is registered as an interstate user is allowed to use dyed diesel fuel on the highway when lawful under the Internal Revenue Code. Section 60045 defines an intercity bus and Section 60046 defines an intercity bus operator.

HR 4520, the American Jobs Creation Act of 2004, was signed on October 22, 2004, with an effective date of January 1, 2005, and repealed the Internal Revenue Service’s (IRS) provision that allowed an intercity bus to use dyed diesel fuel on the highway. The IRS dyed diesel fuel penalty will now apply to dyed diesel fuel used by an intercity bus on the highway. The state provision allowing the use of dyed diesel fuel on the highway by an intercity bus is obsolete with the change in the IRS law.

AMENDMENT

This bill amends Section 60101 and repeals Sections 60045 and 60046 to delete the obsolete definitions of “intercity bus” and “intercity bus operator” and the provision that allows an intercity bus operator to use dyed diesel fuel on the highway. This would place the state law in conformity with federal law.

Time Period for Determination to Unlicensed Supplier – Diesel Fuel Tax Law
Amend Section 60201.3 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under the existing Revenue and Taxation Code Section 60201.3, a supplier is relieved from liability for diesel fuel tax insofar as the sales of the diesel fuel are represented by accounts which have been found worthless and charged off for income tax purposes. If the supplier has previously paid the tax, the supplier may take a credit for the amount of the tax on a tax return. If the supplier has been allowed a credit for the bad debt, the customer who failed to pay for the diesel fuel becomes liable for the diesel fuel tax. The tax, penalties, and interest are immediately due and payable under the unlicensed supplier provisions of the Diesel Fuel Tax Law. Section 60361 states that the Board shall determine immediately the amount of the tax and shall give the customer notice of this determination. However, no provision provides the time period in which the notice must be given to customer.

AMENDMENT

This bill amends Section 60201.3 to require that the notice of determination shall be given to the customer who did not pay the supplier for the diesel fuel within three years after the return on which the credit for the bad debt was taken was due or the date a refund of the tax on the bad debt was paid.

Technical Change – Diesel Fuel Tax Law
Amends Sections 60604 and 60606 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Under existing law, Revenue and Taxation Code Sections 60604 and 60606 require a highway vehicle operator/refueler to keep specified records, and allow the Board or its authorized representative to examine those records to ascertain whether all taxes due are being properly reported and paid, respectively.

In 2001, Assembly Bill 309 (Ch. 429) added a definition for highway vehicle operator/fueler to the Diesel Fuel Tax Law. However, Sections 60604 and 60606 were not amended to include the term.

In 2003, Senate Bill 1060 (Ch. 605) amended Sections 60604 and 60606 to include the term highway vehicle operator/fueler, but the bill as signed into law used the incorrect term of highway vehicle operator/refueler.

AMENDMENT

This bill amends Sections 60604 and 60606 to correct inadvertent drafting errors which would make the wording agree with the term highway vehicle operator/fueler, as defined in Section 60034.

Filing Returns – Environmental Fee

Amend Section 43152.9 of the Revenue and Taxation Code

LAW PRIOR TO AMENDMENT

Up until July 17, 2006, Health and Safety Code Section 25205.6 imposed a fee on those corporations identified by the Department of Toxic Substances Control (DTSC) that use, generate, store, or conduct activities in this state related to hazardous materials. AB 1803 (Ch. 77, Stats. 2006, effective July 18, 2006), amended Health and Safety Code Section 25205.6 to expand the imposition of the environmental fee to also include limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships. The fee may now be imposed on all these entities, if they are identified by DTSC as using, generating, storing, or conducting activities in this state related to hazardous materials. The DTSC sponsored the changes because fewer businesses in the industry were operating as corporations, which resulted in decreased funds available for cleanup of contaminated sites.

Current Revenue and Taxation Code Section 43152.9 requires every corporation subject to the environmental fee to file an annual return with the Board. The annual return is due and payable to the Board on the last day of the second month following the end of the calendar year. The annual fee is paid to the Board and deposited into the state's Toxic Substances Control Account. The Board collects the fee and provides other administrative services to the DTSC.

AMENDMENT

This bill amends Section 43152.9 of the Revenue and Taxation Code to also specify that limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships, as well as corporations, are required to file an annual return with the Board in order to pay their fee liability.

COMMENT

Purpose. This bill would simply add the necessary references to the various new reporting entities in the Revenue and Taxation Code so that all entities that are subject to the environmental fee are required to file the annual return for the fee. This is a technical cleanup and does not add any new fee payers or extra reporting requirements.

Senate Bill 497 (Simitian) Chapter 292

Marine Invasive Species Fee – Deletes Repeal Date

Effective January 1, 2007. Repeals Section 44008 of the Revenue and Taxation Code and amends Section 71271 of the Public Resources Code.

BILL SUMMARY

Among other things, this bill deletes the repeal date and makes the marine invasive species fee permanent.

Sponsor: The Ocean Conservancy

LAW PRIOR TO AMENDMENT

Under existing law, Section 71215 of the Public Resources Code requires the State Lands Commission (Commission) to establish a reasonable and appropriate fee in an amount not to exceed one thousand dollars (\$1,000) per qualifying voyage, through regulation, to carry out the Marine Invasive Species Act (Division 36 of the Public Resource Code (commencing with Section 71200)). As of September 1, 2005, the fee was set at \$400 per qualifying voyage. The amount of the fee may be adjusted for inflation every two years.

Under Part 22.5 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code, known as the Marine Invasive Species Fee Collection Law, the Board collects the fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California. The fee is not assessed on any vessel arriving at a California port or place if:

- That vessel comes directly from another California port or place, and
- During that transit has not first arrived at a port or place outside California or moved outside the exclusive economic zone (EEZ), i.e. beyond 200 nautical miles, prior to arrival at the subsequent California port or place.

The fees imposed are deposited into the Marine Invasive Species Control Fund.

Existing statute specifies a sunset date of January 1, 2010, for both the Marine Invasive Species Act and the Marine Invasive Species Fee Collection Law (see Section 71271 of the Public Resources Code and Section 44008 of the Revenue and Taxation Code, respectively).

AMENDMENT

Among other things, this bill repeals Section 44008 of the Revenue and Taxation Code which contains the sunset date of the fee under the Marine Invasive Species Fee Collection Law. This bill also amends Section 71271 of the Public Resources Code to delete the sunset date of the Marine Invasive Species Act. The bill, however, leaves intact the Commission's authority to recommend repeal of the program if it finds that a federal program is equally or more effective than state laws and regulations.

BACKGROUND

In 1999, Assembly Bill 703 (Ch. 849, Stats. 1999) added Division 36 (commencing with Section 71200) to the Public Resources Code to address the introduction of nonindigenous aquatic species into waters of the state or into waters that may impact waters of the state. Among other things, that bill required the Board to collect a fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ.

Assembly Bill 2380 (Ch. 110, Stats. 2000) added the Ballast Water Management Fee Law to provide necessary fee collection and other administrative provisions required for the Board to comply with the requirement to collect the Ballast Water Management Fee.

Assembly Bill 433 (Ch. 491, Stats. 2003) renamed the Ballast Water Management Fee Law to the Marine Invasive Species Fee Collection Law and, among other things, established the Marine Invasive Species Control Fund and changed the sunset date from January 1, 2004, to January 1, 2010.

COMMENT

- 1. Purpose.** This bill is intended to enact performance standards to reduce the rate of bioinvasions from ships' ballast water tanks and to continue the fee program indefinitely.
- 2. Key amendments.** The **May 22, 2006** amendments deleted the repeal date of the Marine Invasive Species Fee Collection Law and deleted the sunset date of the Marine Invasive Species Act. The subsequent amendments on **June 8, 2006**, **June 22, 2006**, and **August 7, 2006**, were technical amendments unrelated to the Board's collection of the fee.
- 3. Provisions would not be problematic to administer.** Enactment of this measure would not materially affect the Board's administration of the current Marine Invasive Species Fee program since it simply extends but does not change the Board's administration of the program.

TABLE OF SECTIONS AFFECTED

SECTION		BILL AND CHAPTER NUMBER		SUBJECT
Revenue and Taxation Code				
<i>Motor Vehicle Fuel Tax Law</i>				
§8106	Amend	AB 3076	Ch. 364	Supplier's Credits
§8106.1	Repeal	AB 3076	Ch. 364	Supplier's Credits
§8106.5	Repeal	AB 3076	Ch. 364	Supplier's Credits
§8106.8	Repeal	AB 3076	Ch. 364	Supplier's Credits
<i>Use Fuel Tax Law</i>				
§9152.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§9271	Amend	AB 3076	Ch. 364	Settlement
<i>Tax on Insurers Law</i>				
§12209	Amend	AB 2831	Ch. 580	Insurance Tax Credit
<i>Cigarette and Tobacco Products Tax Law</i>				
§30019	Amend	AB 1749	Ch. 501	Importer Definition
§30142	Amend	AB 1749	Ch. 501	Distributor Security
§30142	Amend Repeal	AB 2001	Ch. 70	Distributor Security
§30168	Amend	AB 1749	Ch. 501	Due Date: Credit Purchases
§30168	Amend Repeal	AB 2001	Ch. 70	Distributor Security
§30178.3	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§30182	Amend Repeal	AB 2001	Ch. 70	Due Date: Distributor Report
§30216	Repeal	AB 1749	Ch. 501	Payment By Unlicensed Person: Repeal Date

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTION		BILL AND CHAPTER NUMBER		SUBJECT
Revenue and Taxation Code				
<i>Cigarette and Tobacco Products Tax Law (continued)^a</i>				
§30359	Repeal	AB 1749	Ch. 501	Seizure And Sale: Repeal Date
§30435	Amend	AB 1749	Ch. 501	Inspections By Board: Repeal Date
§30459.1	Amend	AB 3076	Ch. 364	Settlement
§30459.15	Adds	AB 3076	Ch. 364	Offer In Compromise
§30473	Amend	AB 1749	Ch. 501	Penalty: Counterfeiting
§30474	Amend	AB 1749	Ch. 501	Penalty: Unstamped Cigarettes
§30474.1	Amend	AB 1749	Ch. 501	Penalty: Possession or Selling
§30475	Amend	AB 1749	Ch. 501	Penalty: Transporter Violation
<i>Alcoholic Beverage Tax Law</i>				
§32402.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§32471	Amend	AB 3076	Ch. 364	Settlement
§32471.5	Adds	AB 3076	Ch. 364	Offer In Compromise
<i>Energy Resources Surcharge Law</i>				
§40112.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§40211	Amend	AB 3076	Ch. 364	Settlement
§40211.5	Adds	AB 3076	Ch. 364	Offer In Compromise
<i>Emergency Telephone Users Surcharge Law</i>				
§41101.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§41171	Amend	AB 3076	Ch. 364	Settlement
§41171.5	Adds	AB 3076	Ch. 364	Offer In Compromise

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTION		BILL AND CHAPTER NUMBER		SUBJECT
REVENUE AND TAXATION CODE				
<i>Hazardous Substances Tax Law</i>				
§43152.9	Amend	AB 3076	Ch. 364	Filing Environmental Fee Return
§43452.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§43522	Amend	AB 3076	Ch. 364	Settlement
§43522.5	Adds	AB 3076	Ch. 364	Offer In Compromise
<i>Marine Invasive Species Fee Collection Law</i>				
§44008	Amend	SB 497	Ch. 292	Deletes Repeal Date
<i>Integrated Waste Management Fee Law</i>				
§45652.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§45867	Amend	AB 3076	Ch. 364	Settlement
§45867.5	Adds	AB 3076	Ch. 364	Offer In Compromise
<i>Oil Spill Response, Prevention, and Administration Fees Law</i>				
§46502.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§46622	Amend	AB 3076	Ch. 364	Settlement
§46628	Adds	AB 3076	Ch. 364	Offer In Compromise
<i>Underground Storage Tank Maintenance Fee Law</i>				
§50140.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§50156.11	Amend	AB 3076	Ch. 364	Settlement
<i>Fee Collection Procedures Law</i>				
§55222.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§55332	Amend	AB 3076	Ch. 364	Settlement
§55332.5	Adds	AB 3076	Ch. 364	Offer In Compromise

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTION		BILL AND CHAPTER NUMBER		SUBJECT
Revenue and Taxation Code				
<i>Diesel Fuel Tax Law</i>				
§60045	Repeal	AB 3076	Ch. 364	Intercity Bus
§60046	Repeal	AB 3076	Ch. 364	Intercity Bus Operator
§60063	Amend	AB 3076	Ch. 364	Reference Corrections
§60101	Amend	AB 3076	Ch. 364	Intercity Bus Operator
§60201.3	Amend	AB 3076	Ch. 364	Time Period For Determination
§60522.2	Adds	AB 3076	Ch. 364	Refund Of Overpayment
§60604	Amend	AB 3076	Ch. 364	Technical Change
§60606	Amend	AB 3076	Ch. 364	Technical Change
§60636	Amend	AB 3076	Ch. 364	Settlement
§60637	Adds	AB 3076	Ch. 364	Offer In Compromise
Business and Professions Code				
<i>Cigarette and Tobacco Products Licensing Act of 2003</i>				
§22971	Amend	AB 1749	Ch. 501	Definitions
§22979.21	Add	AB 1749	Ch. 501	Licensing: Tobacco Products Manufacturers And Importers
§22979.22	Add	AB 1749	Ch. 501	Tobacco Products Manufacturer And Importer Licensing: Application
§22979.23	Add	AB 1749	Ch. 501	Tobacco Products Manufacturer And Importer: License Fee
§22979.24	Add	AB 1749	Ch. 501	Tobacco Products Manufacturer And Importer: Reports
§22980.1	Amend	AB 1749	Ch. 501	Prohibitions

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTION		BILL AND CHAPTER NUMBER		SUBJECT
Business and Professions Code				
§22995	Repeal	AB 1749	Ch. 501	Repeal Date
Government Code				
§13292.5	Adds	AB 2591	Ch. 506	State Agencies – Account Receivable
§13305	Amend	AB 1809	Ch. 49	Tax Expenditure Report
Health and Safety Code				
<i>California Cigarette Fire Safety and Firefighter Protection Act</i>				
§14950	Amend	AB 1749	Ch. 501	Cigarette Definition
<i>Environmental Fee</i>				
§25205.6	Amend	AB 1803	Ch. 77	Fee On Organizations
Penal Code				
§830.11	Amend Repeal	AB 1749	Ch. 501	Limited Peace Officer Status: Repeal Date
Public Resources Code				
<i>California Tire Fee</i>				
§42885	Amend	AB 1803	Ch. 77	Fee Rate
§42889	Amend	AB 1803	Ch. 77	Funds
<i>Marine Invasive Species Act</i>				
§71271	Amend	SB 497	Ch. 292	Deletes Repeal Date