



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/01/02	Bill No:	AB 2014
Tax:	Sales and Use	Author:	Harman
Board Position:	Neutral	Related Bills:	

BILL SUMMARY

This bill would require the Board to distribute to the operator of a swap meet, flea market, or special event an explanation of the sales tax law and a statement of the penalties for violating that law.

ANALYSIS

Current Law

Every person desiring to engage in business in this state as a seller of tangible personal property shall apply for a seller's permit with the Board. Due to the unique nature of swap meets, flea markets, and other special events, Section 6073 of the Revenue and Taxation Code provides that the Board may require the operator of a swap meet, flea market, or special event to obtain written evidence that the seller holds a valid seller's permit. A person making sales at a swap meet, flea market, or special event may obtain a temporary seller's permit if that person does not hold a regular seller's permit. There is no fee to obtain a permit.

Proposed Law

This bill would add Section 6073.3 to the Sales and Use Tax Law to require the Board to distribute to the operator of swap meet, flea market, or special event a one-page explanation of the sales tax law that includes, but is not limited to, a description of a seller's obligation and a separate statement in bold face type explaining the penalties for violating the sales tax law. This bill would also require the operator of the swap meet, flea market, or special event to distribute the sales tax law explanation and the statement of penalties described above to each seller upon registering the seller to conduct business at a swap meet, flea market, or special event.

This bill would also provide that any operator of a swap meet, flea market, or special event who fails or refuses to distribute the materials proposed in this bill would be subject to a penalty not exceeding \$1,000 for each offense.

Background

Recognizing that sellers at swap meets and flea markets may attempt to evade sales tax by operating without a seller's permit, the Legislature passed a law in 1973 that requires the operator of the swap meet or flea market to obtain written evidence that the seller is the holder of a valid seller's permit. If the event operator fails or refuses to obtain the necessary information from the seller, the event operator is subject to a penalty not to exceed \$1,000.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position

To ensure compliance with this provision, the Board will typically have staff work with an event operator to ensure that the necessary information is obtained and also to verify that the permit information gathered by the event operator is valid. It is not unusual for the staff person to visit the swap meet or flea market to verify that all persons selling at the event have the proper permit.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author in an effort to increase tax reporting compliance by persons who are selling at swap meets, flea markets, and special events.
2. **Summary of amendments.** April 1 amendments deleted from this bill the requirement that the Board report to the Legislature annually regarding audits of sellers at swap meets, flea markets, and special events. Also, as suggested in the Board's previous analysis, the penalty provision for an operator who fails to distribute the necessary materials was added to this bill.
3. **Penalty for failure to comply.** This bill would require the operator of the swap meet, flea market or special event to distribute the explanation provided by the Board to each seller upon registering the seller to conduct business at the event. In order to enhance compliance, this bill also provides for a penalty not to exceed \$1,000 for each offense if the operator fails to distribute the information as required by this bill. The proposed penalty is consistent with the penalty in current law that applies to event operators who fail to obtain written evidence that the seller is a holder of a valid permit. Enforcement of the proposed penalty would be the responsibility of the Board. Any operator assessed with the proposed penalty would have the right to appeal the proposed penalty in a similar manner as the appeal rights they have currently for the existing penalty for failure to obtain written evidence that a seller has a valid permit.

COST ESTIMATE

Some costs would be incurred in preparing and distributing the forms required by this bill. These costs are expected to be absorbable.

REVENUE ESTIMATE

The provisions of this bill are not expected to impact state or local revenues.

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