



STATE BOARD OF EQUALIZATION STAFF ENROLLED BILL ANALYSIS

Date Amended:	Enrolled	Bill No:	SB 322
Tax:	Sales and Use	Author:	Migden
Related Bills:			

BILL SUMMARY

This bill would require the Alcoholic Beverage Control Board (ABC) each quarter to electronically transmit to the Board a report on the alcoholic beverage licenses issued or transferred, as specified, at no cost.

ANALYSIS

Current Law

Under the State Constitution, the ABC is granted the exclusive authority to administer the provisions of the Alcoholic Beverage Control Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation, and sale of alcoholic beverages in this state and the collection of license fees or occupation taxes for this purpose. Under this Act, a license is required for the privilege of selling all types of alcoholic beverages, namely, beer, wine, and distilled spirits. However, this Act does not require that a seller's permit be obtained as a prerequisite to obtaining a license.

Under California's Sales and Use Tax Law, every person desiring to engage in or conduct business as a seller of tangible personal property within this state is required to apply to the Board for a seller's permit for each place of business. In general, a seller's permit must be obtained if a person intends to sell or lease tangible personal property, including alcohol, that would ordinarily be subject to sales tax if sold at retail. The requirement to obtain a seller's permit applies to individuals, partnerships, corporations, organizations, limited liability partnerships and limited liability companies. Both wholesalers and retailers are required to apply for a seller's permit.

Proposed Law

This bill would add Section 23058 to the Business and Professions Code to require the ABC to electronically transmit to the Board each quarter, at no cost, a report on the licenses issued or transferred pursuant the Alcoholic Beverage Control Act. The bill would require that the report include the names and addresses of all persons to whom the license is issued or transferred, the type of license issued or transferred, and the effective date of the license or transfer. With respect to transfers, the bill would require that the report additionally include the names and addresses of the transferors.

The bill would also require that the information be transmitted to the Board in a format agreed upon by the Board and the ABC.

The bill would become operative January 1, 2006.

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.

In General

Current law does not specifically require an applicant to possess a seller's permit prior to applying for an alcoholic beverage license; however, both the Board and the ABC alert applicants of the requirements under the law. The Board's seller's permit application has a space to designate the applicant's alcoholic beverage license number. If an alcoholic beverage license is applied for, but not yet issued, the BOE will nevertheless issue a seller's permit and make a notation that the alcoholic beverage license is pending. BOE staff instructs the applicant to provide the alcoholic beverage license information when it is obtained. Applicants generally do respond back with the number.

The ABC, as part of its application requirements, currently provides information on its web site alerting potential applicants of the seller's permit requirements and provides a link to the BOE's web site for further information.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author to ensure that every person that obtains a liquor license is properly registered as a seller with the Board.
2. **The April 21, 2005 amendments** delete the provisions contained in the introduced version which would have required that the application to obtain a license to sell alcoholic beverages include a copy of the applicant's valid seller's permit issued by the Board. Instead the bill would now require ABC to electronically transmit to the Board specified information regarding licenses and transfers issued.
3. **The bill would enable the BOE to verify whether an alcoholic beverage licensee is properly registered under the Sales and Use Tax Law.** Having access to the information that ABC has in an electronic format would provide a valuable tool for the Board to identify any persons to whom an ABC license is issued or transferred that may be operating without a seller's permit. Also, the information regarding transferors that ABC would be required to transmit to the Board would also enable the Board to update current permitholders' registration information.

COST ESTIMATE

Some costs would be incurred in reviewing the data that ABC transmits to the Board. However, these costs are expected to be insignificant.

REVENUE ESTIMATE

Enactment of this bill could assist the Board in identifying any unregistered sellers or inactive sales and use tax seller's permitholders. This could result in an increase in compliance with the Sales and Use Tax Law, which could result in additional revenues. However, the magnitude of this increase is unknown.

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