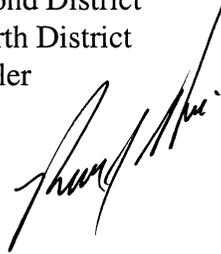


Memorandum

To: Honorable Carole Migden, Chairwoman
Honorable Claude Parrish, Vice Chairman
Honorable Bill Leonard, Member, Second District
Honorable John Chiang, Member, Fourth District
Honorable Steve Westly, State Controller

Date: October 7, 2004

From: Ramon J. Hirsig, Executive Director



Subject: October 19, 2004 Board Meeting, Administrative Agenda
Report on Interagency License Requirements

Attached for your review is the report that the Board requested at its September 22, 2004 meeting concerning state agencies that issue occupational licenses to retailers. In particular, the Board asked staff to determine if state agencies issuing occupational licenses require the applicant to provide evidence of having a seller's permit prior to issuance of the license.

Staff found that only three business categories both generate significant revenues and require occupational licenses specific to the business: vehicle dealers, on- and off-site sellers of liquor, and firearms dealers. These licenses are issued respectively by the Department of Motor Vehicles (DMV), the Alcohol Beverage Control Board (ABC), and the Department of Justice (DOJ). The DMV and the DOJ require an applicant to have a seller's permit prior to issuance of a license. The ABC has no such requirement.

The ABC has indicated interest in developing an administrative procedure to ensure an applicant has a seller's permit prior to issuance of a liquor license. Staff recommends that further discussions be held with ABC on an administrative remedy and that legislation be proposed only if a satisfactory administrative solution cannot be established.

If you have any questions, please contact me or contact Mr. Jeffrey L. McGuire, Tax Policy Manager, at (916) 324-1825.

RJH:ph

Attachment

cc: Ms. Marcy Jo Mandel, Deputy Controller
Mr. Timothy Boyer (MIC 83)
Ms. Janice L. Thurston (MIC 82)
Ms. Margaret Shedd (MIC 66)
Mr. Jeffrey L. McGuire (MIC 92)
Ms. Deborah Pellegrini (MIC 81)

bc: Mr. Geoffrey E. Lyle (MIC 50)
Ms. Leila Khabbaz (MIC 50)
Ms. Cecilia Watkins (MIC 50)
Mr. Peter Horton, (MIC 50)

INTERAGENCY LICENSE REQUIREMENTS Management Report—September 29, 2004

At its September 22, 2004 meeting, the Board requested a report concerning state agencies that issue occupational permits to retailers. In particular, staff was asked to research whether or not these state agencies require retailers to provide copies of their sellers' permits before issuing the license. The Board noted specific concerns about liquor licenses issued by the Alcoholic Beverages Control (ABC) and dealer licenses issued by the Department of Motor Vehicles (DMV). The Board also asked for information about other types of permits. Where current law or regulations do not require an applicant to provide evidence of a seller's permit, staff was asked to prepare legislative proposals.

Findings

Staff concentrated its research on licenses and permits issued by state agencies. Cities and counties provide information to the Board concerning possible retailers under the provisions of Revenue and Taxation Code sections 6066.3 and 6606.4.

To research permits and licenses issued by state agencies, staff reviewed the business listings in "Permits and Licenses" page of the state website. Of the 147 business types listed on this page, staff selected the 65 most likely to require sellers' permits as retailers. Of these 65, only three categories of retailers generating significant taxable sales need specific occupational licenses to operate their business: vehicle sellers, sellers of liquor for on- or off-site use, and firearms dealers. The licenses required were respectively, 1) DMV new and used dealers licenses, 2) ABC's on- and off-sale liquor licenses, and 3) Department of Justice's (DOJ) firearms dealer license. Two of the agencies require possession of a seller's permit prior to issuance of licenses: the DMV and the DOJ. DMV administratively requires a copy of a seller's permit from an applicant for a dealer's license. The agency enforces this requirement by including the seller's permit in the list of those documents that must be provided prior to issuance of the dealer's license. The DOJ requires a seller's permit under Penal Code section 12071, which provides that a person must have a seller's permit to obtain a firearm dealer's license.

ABC informed staff that it does not have a legal requirement to request a seller's permit prior to issuing a liquor license. This information is supported by a review of ABC application forms, none of which request a seller's permit number. The only reference to an applicant needing a seller's permit is a notice on its website:

Each alcoholic beverage licensee must possess a seller's permit from the Sales Tax Division, State Board of Equalization. It is a misdemeanor to sell in this State without such a permit.

ABC did indicate an interest in discussing with the Board the possibility of requesting seller's permit verification from liquor license applicants.

Of the other categories of businesses reviewed on the "Permits and Licenses" page of the state website, a number required permits specific to their types of sales. However, these businesses

**INTERAGENCY LICENSE REQUIREMENTS
Management Report—September 29, 2004**

generally do not generate significant taxable sales. These businesses include barbers and beauticians, contractors, medical equipment manufacturers and suppliers, food and beverage producers, cemeteries and crematories, repair facilities, furniture and bedding manufacturers, seed and fertilizer sellers, and pet sellers. All categories except for food and non-alcoholic beverage producers and seed and fertilizer sellers require permits issued by regulatory boards that are part of the Department of Consumer Affairs (DCA). Food and non-alcoholic beverage producers require permits from the Department of Health Services (DHS). Seed and fertilizer sellers require permits from the California Department of Food and Agriculture (CDFA).

Recommendation

It is recommended that staff follow up with the ABC on its offer to discuss measures for ensuring applicants have seller's permits before they are issued a liquor license. If it is determined that ABC is unable to institute effective administrative procedures, staff should prepare a legislative remedy.

Staff does not recommend entering into discussions with DCA, DHS, and CDFA. As noted above, most of the businesses administered by these agencies have a large volume of non-taxable sales, particularly contractors many of whom make no retail sales and need no seller's permit. In addition, most of these businesses would normally obtain a seller's permit in order to purchase inventory for resale.