

AMENDED IN SENATE MAY 18, 2009
AMENDED IN SENATE APRIL 28, 2009
AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 601

**Introduced by Senator Padilla
(Principal coauthor: Senator Oropeza)
(Coauthors: Senators DeSaulnier, *Leno*, and Romero)**

February 27, 2009

An act to add Section 22973.4 to the Business and Professions Code, relating to cigarette and tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, as amended, Padilla. Retail tobacco licenses.

The California Cigarette and Tobacco Products Licensing Act of 2003 requires a retailer to obtain a license from the State Board of Equalization to engage in the sale of cigarette and tobacco products in this state. A retailer owning more than one retail location must obtain a separate license for each retail location.

This bill would specify that a new license may not be issued to a retailer for a retail location that is located within 600 feet of a school, except as specified, and would limit the issuance of licenses to retailers for a traditional retail location, as defined.

This bill would require the Department of Alcoholic Beverage Control and the State Department of Public Health to provide specified information to the board upon request.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 22973.4 is added to the Business and Professions Code, to read:

22973.4. (a) The board shall not issue a new retail license to a retailer for a retail location that is located within 600 feet of a public or private elementary or secondary school.

(b) The board shall issue a new retail license to a retailer only for a retail location that is a traditional retail location. For purposes of this section, “traditional retail location” includes, but is not limited to, a grocery store, convenience store, pharmacy, liquor store, gas station, smoke shop, wine and cigar store, superstore, or a tobacco or cigar store. ~~The board may adopt regulations that~~ *The State Department of Public Health may petition the board to adopt regulations that* specify other locations that would constitute a traditional retail location.

(c) For purposes of a traditional retail location and notwithstanding subdivision (c) of Section 22972, this section shall not apply to the renewal or transfer of a retail license.

(d) (1) Notwithstanding subdivision (a), the State Board of Equalization may issue a new retail license to a retailer for a retail location that is located within ~~4,000~~ 600 feet of a public or private elementary school if the local governing body of the area in which the applicant’s premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of either of the following:

(A) Notification by the State Board of Equalization of an application for licensure.

(B) A completed application according to local requirements, if any, whichever is later.

(2) If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, ~~then the State Board of Equalization may issue a license under paragraph (1) if the applicant shows the State Board of Equalization that public convenience or necessity would be served by the issuance. In making its determination, the State Board of Equalization shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body,~~

1 ~~to make a determination regarding public convenience or necessity~~
2 ~~within the 90-day period. period, the license shall be deemed~~
3 ~~denied.~~

4 (e) This section shall not preempt a local jurisdiction from
5 adopting an ordinance that is more restrictive than this section with
6 regard to retailers or proximity to a school.

7 ~~(f) For purposes of this act, the State Board of Equalization, the~~
8 ~~State Department of Public Health, and the Department of~~
9 ~~Alcoholic Beverage Control shall share all information in regards~~
10 ~~to retailers as necessary to implement this act.~~

11 (f) *The Department of Alcoholic Beverage Control, shall, upon*
12 *request, provide to the board any licensure information, including,*
13 *but not limited to, applications, license issuance, license transfers,*
14 *license denials, or any other information necessary to administer*
15 *this chapter. The State Department of Public Health, shall, upon*
16 *request, provide to the board any information, including, but not*
17 *limited to, statewide information on the annual Youth Tobacco*
18 *Purchase Survey, STAKE compliance checks, California retailers*
19 *and youth tobacco control laws, or any other information necessary*
20 *to administer this chapter.*