

1936

RETAIL STORE LICENSE

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22 RETAIL STORE LICENSE. Referendum against act of Legislature (Chapter 849, Statutes 1935) requiring every person or organization owning, operating or controlling one or more stores, wherein merchandise is sold at retail, obtain annual State license; prescribing fifty cents application fee for each store and one dollar license fee for one store, increasing license fee progressively for second and additional stores to five hundred dollars for each store over nine; excepts filling stations, ice distributing establishments, restaurant facilities of common carriers, newspaper offices, stores wherein sales are incidental to rendering personal service, theatres and motion picture houses.	YES
	NO

(For full text of measure, see page 44, Part II)

Argument in Favor of Retail Store License Referendum Measure

This proposal, providing a graduated scale of taxes for chain stores, represents California's first serious and successful effort to regulate monopoly within the borders of the state.

As such, it was overwhelmingly approved by the State Assembly by a vote of 68 to 8 and by the State Senate, with a vote of 34 to 4.

It should likewise be overwhelmingly approved by voters, to whom it has been referred by the action of wealthy chain store interests in holding off the operation of it as law.

The tax is directly in accord with President Roosevelt's clarion call to curb the activities of "economic royalists" and with Governor Alf Landon's pledge to restrain the rapacious progress of monopoly, which threatens the happiness, the well-being and the economic safety of every individual American citizen.

Hence, this measure should receive the unqualified support at the polls of thinking members of both of the major parties, since it coincides with the expressed viewpoints of both presidential nominees.

Unrestrained by government, chain stores have grown to such colossal size within the past decade that the only proper method to prevent them seizing all forms of business is through taxation.

In California, chain stores, as everyone knows, dot every metropolitan neighborhood and district; they have penetrated to every remote town and village.

Financed and controlled by "economic royalists" of the first water—whose headquarters are in Wall Street and other money centers—they suck the financial lifeblood from every community they enter, concentrating their gigantic profits in the hands of a few to sustain a reactionary oligarchy which is definitely anti-social and dedicated to the continuation of economic slavery.

In an attempt to evade this tax the chain stores have resorted to every subterfuge, and have spent millions of dollars—wrung from the pockets of the underprivileged.

They have claimed that the tax is discriminatory.

[Thirty]

A ludicrous complaint, since it is effective in 26 states and has been held constitutional by the United States Supreme Court.

They have claimed that the consumer will pay the bill of increased taxation.

A false complaint, since imposition of this tax will enable independent merchants to compete with monopoly on a basis of equality, thus tending to create competitive prices, for the consumer's benefit.

The chain stores, already indicted before the bar of public opinion because they constitute monopoly, are to be forced, through this tax, to shoulder their just share of the tax burden—something they may well afford.

The state faces a heavy deficit and this source of revenue must not be overlooked by the heavily burdened taxpayer.

Besides, this is California's protection against the continued encroachment of chain stores on individual opportunity, and against their certain enslavement of the people through the accumulation of vast wealth and the seizure of dangerous power.

Let the spirit of the California pioneer be exemplified in the vote on this measure—the spirit which hated autocracy, whether political or monetary—the spirit which insisted on freedom of opportunity for every son and daughter of the Golden State.

VOTE "YES" FOR THIS TAX BECAUSE IT IS FAIR; BECAUSE IT REGULATES THE CHAINS AND BECAUSE IT UNBARS THE DOOR OF ECONOMIC OPPORTUNITY.

CHRIS N. JESPERSEN,
Senator, Twenty-ninth District.
MELVYN I. CRONIN,
Member of the Assembly,
Twenty-fifth District.

Argument Against Retail Store License Referendum Measure.

VOTE NO—AGAINST ADDITIONAL TAX ON NECESSITIES

The act is not intended as a revenue measure. It does not produce a substantial return. It is a punitive measure intended to destroy ?

mate competition. It is not only unfair in this respect but it is discriminatory as well. Some chains handling the same products are exempted from the tax. It will raise the cost of living. Those whose incomes are modest are vitally affected.

WHAT IT IS. It imposes a discriminatory tax of \$500.00 per store on owners or operators of ten or more stores. It exempts gasoline filling stations, motion picture theatres, beauty parlors, ice distributors and other establishments and facilities where the same commodities are sold. It affects stores selling foods, drugs, shoes, lumber, clothing, automobile supplies, hardware, coffee stores, restaurants, cigars, cigarettes, candy and general merchandise.

WHAT CHAIN STORES DO. Chain Stores distribute high grade merchandise directly from farm and factory to the consumer. They buy in large quantities at a lower price because of quantity and take advantage of cash discounts. The costly service of the middleman is eliminated. Sales for cash avoid slow and bad accounts. The savings thereby effected result in the lowest possible price to the consumer.

Chain Stores are of tremendous value to California because they move farm and factory products in large volume. By efficient organization, advertising and promotion, they stimulate demand and provide a ready cash market to all producers.

Of one hundred and thirty chains in California which would be seriously affected by the chain stores tax, one hundred are locally owned by California citizens and transact all their business in this State. National chains do less than seven per cent of the retail business in

California. National food chains, alone, annually buy in California and ship to other states Eighty-Nine Million Dollars more in farm products than they receive for goods sold here.

HOW THE TAX WILL AFFECT YOU. Chain stores operate on an exceedingly small margin of profit. In many cases the net profit per store is not much more, if any, than the amount of the proposed tax. Therefore, the tax must be added to the price of the food, clothing and other necessities; naturally other storekeepers influenced by larger profit, will raise their prices accordingly for the goods you buy. You will not benefit. You will pay the amount of the tax in the increased price of the necessities of life and you will be compelled to deny yourself some of the modest luxuries that you may now enjoy. Many stores will be forced to close creating unemployment and affecting realty values.

WHO BENEFITS BY THE TAX. The net revenue to the State will be only a fraction of one per cent of total revenues collected. It cannot possibly benefit the so-called independent merchant. Legitimate competition will continue. The wholesalers and middlemen will be the gainers. It is for their own selfish and personal gain that they are attempting to obstruct a marketing system which benefits you.

VOTE NO—AGAINST ADDITIONAL TAX ON NECESSITIES.

RAY W. HAYS,
Senator, Thirtieth District.

PAUL A. RICHIE,
Member of the Assembly,
Seventy-ninth District.

PUBLIC SERVICE COMMISSION. Assembly Constitutional Amendment

23

63. Amends section 22 of Article XII of Constitution. Declares the Railroad Commission shall hereafter be known as the Public Service Commission of the State of California; the commissioners in office when this amendment takes effect to serve out term for which they were appointed; vacancies to be filled by Governor's appointment. Eliminates present fixed terms of office of commissioners of six years.

YES

NO

(For full text of measure, see page 46, Part II)

Argument Against Assembly Constitutional Amendment No. 63

This proposed constitutional amendment should be defeated.

It was the intention of its authors that the result be merely to change the name of the Railroad Commission to that of Public Service Commission, such change of name being considered desirable. It now appears that in the final drafting of those changes in wording considered necessary to effect such intended result, some substantive changes have inadvertently been made which, if approved, will result in calling some of the most desirable provisions

of the original constitutional provision of 1911 creating the Railroad Commission.

Therefore, we, the authors and proponents of this measure, have withdrawn our support of this amendment. *We respectfully urge the voters to vote NO.*

CHARLES H. DEUEL,
Senator, Sixth District.

J. E. FRAZIER,
Member of the Assembly,
Fourth District.

C. C. COTTRELL,
Member of the Assembly,
Thirty-first District.

[Thirty-one]

22 **RETAIL STORE LICENSE.** Referendum against act of Legislature (Chapter 849, Statutes 1935) requiring every person or organization owning, operating or controlling one or more stores, wherein merchandise is sold at retail, obtain annual State license; prescribing fifty cents application fee for each store and one dollar license fee for one store, increasing license fee progressively for second and additional stores to five hundred dollars for each store over nine; excepts filling stations, ice distributing establishments, restaurant facilities of common carriers, newspaper offices, stores wherein sales are incidental to rendering personal service, theatres and motion picture houses.

YES	
NO	

The Legislature of the State of California, in regular session in 1935, passed, and the Governor of the State of California, on the twentieth day of July, 1935, approved the following act, and a petition bearing the signatures of a sufficient number of electors asking that the act be submitted to the electors for their approval or rejection, having been filed with the Secretary of State, in due time, the said act is hereby submitted on referendum.

(This proposed law does not expressly amend any existing law; therefore, the provisions thereof are printed in BLACK-FACED TYPE to indicate that they are NEW.)

PROPOSED LAW

An act requiring licenses for the operation, maintenance or establishment of stores in this State, prescribing the license and filing fees to be paid therefor; providing for penalties for the violation of this act, providing for the enforcement of this act.

[Approved by the Governor July 20, 1935.]

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

Section 1. (a) The term "person" when used in this act shall include individuals, partnerships, trusts, associations, joint stock companies, corporations and firms however organized or whatever be the plan of operation.

(b) "Board" means the State Board of Equalization.

(c) The term "store" as used in this act, shall be construed to mean and include any store or stores, or any mercantile establishment or establishments which are owned, operated, maintained, or controlled by the same person, in which goods, wares or merchandise of any kind are sold at retail, provided, however, the term "store" shall not apply to any office or warehouse maintained by a manufacturer in the distribution of its merchandise if no orders therefor are taken and no sales thereof are made in the premises of such office or warehouse;

and provided, further, that the term "store" shall not include any place or places of business commonly known as filling stations, or gasoline bulk plants, engaged primarily in the sale or distribution of gasoline or other petroleum products; and provided, further, the term "store" shall not apply to any branch, depot, warehouse, or other facility owned and maintained by a manufacturer of ice for distribution of his product to consumers. The provisions of this act shall not apply to establishments or facilities maintained as part of the transportation facilities of common carriers primarily for the furnishing of meals and other commodities to their passengers and employees. This act shall not be construed to apply to or include (a) any agricultural cooperative organization, operating under by virtue of the laws of the State of California or of any other State or under the District of Columbia or under Federal statutes, or the agents, individual or corporate, of such organizations in the performance of their duties as such agents, except where stores operated by such organization or agent sell to nonmembers of such organization, nor shall it apply to or include (b) newspaper establishments who maintain as a part of their business branch offices for the distribution of their papers or for taking subscriptions for said newspapers or for advertisements for said newspapers; nor shall the provisions of this act apply to any shop store, or establishment engaged in the sale of goods, wares or merchandise of any kind sold at retail which is merely incidental to the rendering of personal services.

(c) This act shall not be construed to apply to or include any place or places of business commonly known as theatres, motion picture theatres or cinemas.

Sec. 2. From and after the first day of October, 1935, it shall be unlawful for any person to operate, maintain, open or establish any store in this State without first having obtained a license so to do from the board as hereinafter provided.

Sec. 3. Any person desiring to operate, maintain, open, or establish a store in this State

apply to the board for a license so to do. The application for a license shall be made on a form prescribed and furnished by the board, and shall set forth the name of the owner, manager, trustee, lessee, receiver or other person desiring such license; the name of such store, the location thereof and such other facts as the board may require.

If the applicant desires to operate, maintain, open or establish more than one such store he shall make a separate application for a license to operate, maintain, open or establish each such store, but the respective stores for which the applicant desires to secure licenses may all be listed on one application blank, and such application blank shall be deemed to be a separate application for each such store.

Each such application shall be accompanied by a filing fee of fifty cents and by a license fee as prescribed in section 6 of this act.

Sec. 4. As soon as practicable after the receipt of such application the board shall carefully examine such application to ascertain whether it is in the proper form and contains the necessary and requisite information. If, upon examination, the board shall find that any such application is not in proper form and does not contain the necessary and requisite information, he shall return such application for correction.

If an application is found to be satisfactory, and if the filing and license fees, as herein prescribed, shall have been paid, the board shall issue to the applicant a license for each store for which an application for a license shall have been made.

Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Sec. 5. All licenses shall be so issued as to expire on the thirty-first day of December of each calendar year. On or before the first day of January of each year, every person having a license, shall apply to the board for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the board.

No license shall lapse prior to the thirty-first day of January of the year next following the year for which such license was issued, but if, by such thirty-first day of January, an application for a renewal license has not been made, the board shall notify such delinquent license holder thereof, by registered mail, and if application is not made for and a renewal license issued on or before the last day of February, next ensuing, the former license shall lapse and become null and void.

Each such application for a renewal license shall be accompanied by a filing fee of fifty cents and by the license fee as prescribed in section 6 of this act.

Sec. 6. Every person opening, establishing, operating or maintaining one or more stores within this State, under the same general management, super-

vision or ownership, shall pay the license fees hereinafter prescribed, for the privilege of opening, establishing, operating or maintaining such stores.

The license fee herein prescribed shall be paid for the calendar year in equal quarterly installments, payable quarterly in advance and shall be in addition to the filing fee prescribed in sections 3 and 5 of this act.

Store number one (1)—one (1) dollar, store number two (2)—two (2) dollars, store number three (3)—four (4) dollars, store number four (4)—eight (8) dollars, store number five (5)—sixteen (16) dollars, store number six (6)—thirty-two (32) dollars, store number seven (7)—sixty-four (64) dollars, store number eight (8)—one hundred twenty-eight (128) dollars, store number nine (9)—two hundred fifty-six (256) dollars, store number ten (10)—five hundred (500) dollars, and each and every store above this number—five hundred (500) dollars, for each such store.

Sec. 7. Each and every license issued prior to the first day of July of any year, shall be charged for at the full rate, and each and every license issued on or after the first day of July of any year, shall be charged for at one half of the full rate as prescribed in section 6 of this act.

Sec. 8. The provisions of this act shall be construed to apply to every person, firm, corporation, association or copartnership, either domestic or foreign, which is controlled or held with others by a majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

Sec. 9. Any person, firm, corporation, copartnership or association who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than two hundred dollars and each and every day that such violation shall continue, shall constitute a separate and distinct offense.

Sec. 10. The board shall administer and enforce the collection of the filing and licensing fees imposed by this act. It may make and establish such rules not inconsistent with this act as it deems necessary to enforce its provisions. It shall prepare forms or applications and licenses as provided herein.

Sec. 11. All moneys collected under this act by the board shall be transmitted forthwith to the State Treasurer to be deposited in the State treasury to the credit of the general fund.

Sec. 12. At any time within two years after the delinquency of any license fee the board may bring an action in a court of competent jurisdiction in the name of the people of the State of California to collect the amount delinquent together with interest thereon at one per cent per month from the date such fee was due. The Attorney General must prosecute such action and the provisions of the Code of Civil Procedure relating to service and summons, pleadings, proofs, trials and appeals are applicable to the

proceedings herein provided for. In such action a writ of attachment may issue and no bond or affidavit previous to the issuing of said attachment is required.

Sec. 13. If any section, subsection, sentence, clause or phrase of this act be for any reason held to be unconstitutional, such decision shall not affect the

validity of the remaining portions of this act, and the Legislature hereby declares that it would have passed this act and each and every other section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of this act be declared unconstitutional.

23 **PUBLIC SERVICE COMMISSION. Assembly Constitutional Amendment 63.** Amends section 22 of Article XII of Constitution. Declares the Railroad Commission shall hereafter be known as the Public Service Commission of the State of California; the commissioners in office when this amendment takes effect to serve out term for which they were appointed; vacancies to be filled by Governor's appointment. Eliminates present fixed terms of office of commissioners of six years.

YES	
NO	

Assembly Constitutional Amendment No. 63—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by amending section 22 of Article XII of the Constitution of said State, relating to the creation and powers of the Public Service Commission.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that section 22 of Article XII of the Constitution of said State be amended to read as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 22. There is hereby created a **Railroad Public Service Commission** which shall consist of five members and which shall be known as the **Railroad Public Service Commission** of the State of California. The commission shall be appointed by the Governor from the State at large; provided, that the Legislature, in its discretion, may divide the State into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; and provided further, that the ~~three~~ commissioners in office at the time this ~~section amendment~~ takes effect shall serve out the term for which they were elected, and that ~~two additional commissioners shall be appointed by the Governor immediately~~

~~after the adoption of this section, to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921 appointed.~~ Whenever a vacancy in the office of commissioner shall occur, the Governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Commission appointed for regular terms shall, at the beginning of the term for which they are appointed, and those appointed to fill vacancies, shall, immediately upon their appointment, enter upon the duties of their offices. The Legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain as now fixed by law. The Legislature shall have the power, by a two-thirds vote of all members elected to each house, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this State, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said **Railroad Public Service Commission** and no persons owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of **Railroad Public Service Commissioner**. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner