

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MAY 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1265**

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**Introduced by Assembly ~~Member Ma~~ *Members Ma and Lieu***

February 27, 2009

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~~An act to add and repeal Section 6018.3 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to amend Section 400 of the Family Code, relating to marriage.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1265, as amended, ~~Ma. Sales and use taxes: consumers: itinerant vendors. Marriages.~~

*Existing law provides that a marriage may be solemnized by authorized persons of any religious denomination, by specified legislators, constitutional officers, and California Members of Congress, while those persons are currently holding that office, and by specified justices, judges, and magistrates, both current and retired.*

*This bill would authorize an elected mayor of a charter city, while that person holds that office, to solemnize a marriage ceremony.*

~~The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. That law, with certain exceptions, defines a retailer as a seller who makes any retail sale of tangible personal property and as a person who makes~~

~~more than 2 retail sales of tangible personal property during any 12-month period, and defines a retail sale as a sale of tangible personal property for any purpose other than resale in the regular course of business.~~

~~This bill would specify, until January 1, 2012, that a qualified itinerant vendor, as defined, is a consumer, and not a retailer, of tangible personal property owned and sold by the qualified itinerant vendor, except for alcoholic beverages or items sold for more than \$100, so that the retail sale subject to tax is the sale of tangible personal property to the qualified itinerant vendor.~~

~~The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and the Transactions and Use Tax Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these laws. Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.~~

~~This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.~~

~~This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.~~

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

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

- 1     SECTION 1. Section 400 of the Family Code is amended to
- 2     read:
- 3     400. Marriage may be solemnized by any of the following who
- 4     is of the age of 18 years or older:
- 5     (a) A priest, minister, rabbi, or authorized person of any religious
- 6     denomination.
- 7     (b) A judge or retired judge, commissioner of civil marriages
- 8     or retired commissioner of civil marriages, commissioner or retired
- 9     commissioner, or assistant commissioner of a court of record in
- 10    this state.

1 (c) A judge or magistrate who has resigned from office.

2 (d) Any of the following judges or magistrates of the United  
3 States:

4 (1) A justice or retired justice of the United States Supreme  
5 Court.

6 (2) A judge or retired judge of a court of appeals, a district court,  
7 or a court created by an act of Congress the judges of which are  
8 entitled to hold office during good behavior.

9 (3) A judge or retired judge of a bankruptcy court or a tax court.

10 (4) A United States magistrate or retired magistrate.

11 (e) A legislator or constitutional officer of this state or a Member  
12 of Congress who represents a district within this state, while that  
13 person holds office.

14 (f) *A mayor of a charter city elected in accordance with Article  
15 3 (commencing with Section 34900) of Chapter 4 of Part 1 of  
16 Division 2 of Title 4 of the Government Code, while that person  
17 holds office.*

18 ~~SECTION 1. Section 6018.3 is added to the Revenue and  
19 Taxation Code, to read:~~

20 ~~6018.3. (a) A qualified itinerant vendor is a consumer of, and  
21 shall not be considered a retailer of, tangible personal property  
22 owned and sold by the qualified itinerant vendor, except alcoholic  
23 beverages or tangible personal property sold for more than one  
24 hundred dollars (\$100).~~

25 ~~(b) For purposes of this section, a person is a “qualified itinerant  
26 vendor” when all of the following apply:~~

27 ~~(1) The person was a member of the United States Armed  
28 Forces, who received an honorable discharge or a release from  
29 active duty under honorable conditions.~~

30 ~~(2) The person is unable to obtain a livelihood by manual labor  
31 due to a service-connected disability.~~

32 ~~(3) For the purposes of selling tangible personal property, the  
33 person is a sole proprietor with no employees.~~

34 ~~(4) The person has no permanent place of business in this state.~~

35 ~~(e) For purposes of this section, “permanent place of business”  
36 means any building or other permanently affixed structure,  
37 including a residence, that is used in whole or in part for the  
38 purpose of making sales of, or taking orders and arranging for  
39 shipment of, tangible personal property. For purposes of this  
40 section, “permanent place of business” does not include any~~

1 ~~building or other permanently affixed structure, including a~~  
2 ~~residence, used for any of the following:~~  
3 ~~(1) The storage of tangible personal property.~~  
4 ~~(2) The cleaning or the storage of equipment or other property~~  
5 ~~used in connection with the manufacture or sale of tangible~~  
6 ~~personal property.~~  
7 ~~(d) This section shall not apply to either of the following:~~  
8 ~~(1) A person engaged in the business of serving meals, food, or~~  
9 ~~drinks to a customer at a location owned, rented, or otherwise~~  
10 ~~supplied by the customer.~~  
11 ~~(2) A person operating a vending machine.~~  
12 ~~(e) This section shall remain in effect only until January 1, 2012,~~  
13 ~~and as of that date is repealed.~~  
14 ~~SEC. 2. Notwithstanding Section 2230 of the Revenue and~~  
15 ~~Taxation Code, no appropriation is made by this act and the state~~  
16 ~~shall not reimburse any local agency for any sales and use tax~~  
17 ~~revenues lost by it under this act.~~  
18 ~~SEC. 3. This act provides for a tax levy within the meaning of~~  
19 ~~Article IV of the Constitution and shall go into immediate effect.~~  
20 ~~However, the provisions of this act shall become operative on the~~  
21 ~~first day of the first calendar quarter commencing more than 90~~  
22 ~~days after the effective date of this act.~~