

SENATE BILL

No. 62

Introduced by Senator Calderon

February 12, 2010

An act to add Part 13.3 (commencing with Section 31001) to Division 2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 62, as introduced, Calderon. Taxation: marijuana.

Existing law provides for the imposition of various taxes within the state, including taxes upon the distribution of cigarettes and tobacco products.

This bill would, commencing on and after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose a tax on the distribution, as defined, of medical marijuana, as defined, at a rate that is equivalent to that imposed upon tobacco products under the Cigarette and Tobacco Products Tax Law and would require the taxes to be administered in accordance with the provisions of the Cigarette and Tobacco Products Tax Law, as provided. The revenues collected from the tax would be deposited in the Marijuana Tax Account, which would be created by the measure.

Because this bill would expand the application of the provisions of the Cigarette and Tobacco Products Tax Law, the violation of which is a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

1 SECTION 1. Part 13.3 (commencing with Section 31001) is
 2 added to Division 2 of the Revenue and Taxation Code, to read:

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4 PART 13.3. MARIJUANA TAX LAW

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6 31001. This part shall be known and may be cited as the
 7 Marijuana Tax Law.

8 31002. For purposes of this part:

9 (a) “Distribution” or “distributes” means the sale in this state
 10 of untaxed medical marijuana, other than the lawful sale of untaxed
 11 medical marijuana to a collective or cooperative, as described in
 12 Article 2.5 (commencing with Section 11362.7) of Chapter 6 of
 13 Division 10 of the Health and Safety Code.

14 (b) “Distributor” means every person who distributes medical
 15 marijuana.

16 (c) “Medical marijuana” means marijuana that is regulated under
 17 Article 2.5 (commencing with Section 11362.7) of Chapter 6 of
 18 Division 10 of the Health and Safety Code.

19 31003. There shall be imposed upon every distributor a tax
 20 upon the distribution of medical marijuana at a rate equal to the

1 tobacco products tax rate, as determined pursuant to Part 13
2 (commencing with Section 30001), for medical marijuana
3 distributed on and after the first day of the first calendar quarter
4 commencing more than 90 days after the effective date of this part.

5 31004. The taxes imposed under this part shall be administered
6 in accordance with Part 13, or its successor statute, with such
7 changes as to substitute “medical marijuana” for “tobacco
8 products,” to the extent that Part 13, or its successor statute, is not
9 inconsistent with this part.

10 31005. All revenues, less refunds, derived from a tax imposed
11 pursuant to this part shall be transferred to the Marijuana Tax
12 Account, which is hereby created in the General Fund.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 SEC. 3. This act addresses the fiscal emergency declared by
23 the Governor by proclamation on January 8, 2010, pursuant to
24 subdivision (f) of Section 10 of Article IV of the California
25 Constitution.

26 SEC. 4. This act provides for a tax levy within the meaning of
27 Article IV of the Constitution and shall go into immediate effect.

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