

ASSEMBLY BILL

No. 2441

Introduced by Assembly Member Williams
(Coauthors: Assembly Members Allen, Bradford, Brownley, Eng,
Mendoza, and Mitchell)
(Coauthor: Senator Evans)

February 24, 2012

An act to add Chapter 20 (commencing with Section 26300) to Division 20 of the Health and Safety Code, and to add Part 14.7 (commencing with Section 34001) to Division 2 of the Revenue and Taxation Code, relating to sexual assault.

LEGISLATIVE COUNSEL'S DIGEST

AB 2441, as introduced, Williams. Sexual assault treatment and prevention: sexually oriented business tax.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose a tax on the privilege of operating a sexually oriented business, as defined, at the rate of \$10 per entry to the business by a customer per visit. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would create the Sexual Assault Treatment and Prevention Fund, and would require that all revenues, less refunds and the costs of the administration of the tax, derived from the tax be transferred to the fund. This bill would provide that moneys in the fund, upon appropriation by the Legislature, be used by the State Department of Public Health and the California

Emergency Management Agency for specified purposes related to the treatment and prevention of sexual assault.

Because this bill would expand application of the Fee Collection Procedures 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.

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 2/3 of the membership of each house of the Legislature.

Vote: 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. Chapter 20 (commencing with Section 26300)
- 2 is added to Division 20 of the Health and Safety Code, to read:
- 3
- 4 CHAPTER 20. SEXUAL ASSAULT TREATMENT AND PREVENTION
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- 6 26300. (a) The State Department of Public Health shall use
- 7 funds transferred from the Sexual Assault Treatment and
- 8 Prevention Fund to measure the prevalence of sexual assault in
- 9 this state and for grants to support programs assisting victims of
- 10 sexual exploitation and of human trafficking.
- 11 (b) The California Emergency Management Agency shall use
- 12 funds transferred from the Sexual Assault Treatment and
- 13 Prevention Fund only for the following purposes:
- 14 (1) (A) The award of grants for programs that provide one or
- 15 more of the following services related to sexual assault:
- 16 (i) Twenty-four hours per day, seven days per week crisis
- 17 intervention.
- 18 (ii) Followup counseling services.
- 19 (iii) In-person counseling, including group counseling.

1 (iv) Advocacy and accompaniment services to hospitals, law
2 enforcement offices, prosecutors' offices, and courts for survivors
3 and their family members.

4 (v) Information and referrals to victims and the general public
5 related to sexual assault.

6 (vi) Community education presentations on sexual assault
7 awareness.

8 (vii) Rape prevention education.

9 (B) The award of a grant under this paragraph shall not result
10 in a reduction in financial support that a program receives from
11 another source.

12 (2) The award of grants to nonprofit, community-based
13 organizations with a mission of providing sexual violence
14 awareness, intervention, and prevention programs.

15 (3) The award of grants to support forensic examination rape
16 kits.

17 (4) The award of grants to support technology in rape crisis
18 centers.

19 (5) The award of grants to, and contracts with, a statewide
20 organization organized and operated as described in Section
21 501(c)(3) of the Internal Revenue Code that has the primary
22 purpose of ending sexual violence in this state, for programs for
23 the intervention and prevention of sexual violence, outreach
24 programs, training, and technical assistance to and support of
25 California rape crisis centers working to intervene in, and prevent,
26 sexual violence.

27 (6) The award of grants to nonprofit, community-based providers
28 of civil legal services to provide legal assistance for sexual assault
29 victims.

30 (7) No more than 5 percent annually of the funds deposited in
31 the Sexual Assault Treatment and Prevention Fund may be used
32 for the administration by the California Emergency Management
33 Agency of these grant programs.

34 (8) To fund a report to the Governor and the Legislature
35 reporting the result of actions taken by the Legislature on any gaps
36 with respect to research, prevention, response, other victims'
37 services, adjudication, and incarceration at state and local levels.

38 (9) To develop recommendations for appropriate performance
39 measures that enable the Governor and the Legislature to biennially
40 assess and respond to the status of sexual assault in this state.

1 (10) To report to the Legislature on the effectiveness of
2 appropriations made to fund this chapter and other legislation
3 related to sexual assault enacted by the Legislature.

4 SEC. 2. Part 14.7 (commencing with Section 34001) is added
5 to Division 2 of the Revenue and Taxation Code, to read:

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7 PART 14.7. SEXUALLY ORIENTED BUSINESS TAX

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9 34001. For purposes of this part, the following definitions
10 apply:

11 (a) "Nude" means either:

12 (1) Entirely unclothed.

13 (2) Clothed in a manner that leaves uncovered or visible through
14 less than fully opaque clothing, any portion of the genitals or
15 buttocks or, in the case of a female, any portion of the breasts
16 below the top of the areola of the breasts.

17 (b) "Sexually oriented business" means a nightclub, bar,
18 restaurant, or similar commercial enterprise that does both of the
19 following:

20 (1) Provides for an audience of two or more individuals live
21 nude entertainment or live nude performances.

22 (2) Authorizes on-premises consumption of alcoholic beverages,
23 regardless of whether the consumption of alcoholic beverages is
24 under a license or permit issued under the Alcoholic Beverage
25 Control Act.

26 34002. The tax imposed by this part shall be in addition to any
27 other taxes imposed by law.

28 34003. On or after January 1, 2013, a tax is hereby imposed
29 upon the privilege of operating a sexually oriented business at the
30 rate of ten dollars (\$10) per entry to the business by a customer
31 per visit.

32 34004. A sexually oriented business shall record daily in the
33 manner required by the board the number of customers admitted
34 to the business. The business shall maintain the records for the
35 period required by the board and shall make the records available
36 for inspection and audit upon the request of the board.

37 34005. A sexually oriented business may not require the tax
38 imposed by this part to be reimbursed by an employee of the
39 sexually oriented business, but may require the tax to be reimbursed

1 by the customer whose entry the tax is imposed upon, in a manner
2 prescribed by the board.

3 34006. Each quarter a sexually oriented business shall do both
4 of the following:

5 (a) Remit the tax imposed under Section 34003 to the board in
6 the manner prescribed by the board.

7 (b) File a report with the board in the manner and containing
8 the information required by the board.

9 34007. The board shall administer and collect the tax imposed
10 by this part pursuant to the Fee Collection Procedures Law (Part
11 30 (commencing with Section 55001)). For purposes of this part,
12 the references in the Fee Collection Procedures Law to “fee” shall
13 include the tax imposed by this part and references to “feepayer”
14 shall include a person required to pay the tax imposed by this part.

15 34008. The board shall enforce the provisions of this part and
16 may prescribe, adopt, and enforce rules and regulations relating
17 to the administration and enforcement of this part. The board may
18 prescribe the extent to which any ruling or regulation shall be
19 applied without retroactive effect.

20 34009. (a) The board shall transmit all payments, less refunds
21 and the board’s costs of administration, to the Treasurer to be
22 deposited in the State Treasury to the credit of the Sexual Assault
23 Treatment and Prevention Fund, which is hereby created.

24 (b) Moneys in the Sexual Assault Treatment and Prevention
25 Fund shall, upon appropriation by the Legislature, be used as
26 specified in Section 26300 of the Health and Safety Code.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

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