

AMENDED IN ASSEMBLY APRIL 19, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2441**

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

February 24, 2012

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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 assaults.

LEGISLATIVE COUNSEL'S DIGEST

AB 2441, as amended, 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, ~~on or after January 1, 2013,~~ impose a tax on ~~the privilege of~~ *persons* 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 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 become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this bill.*

This bill would include a change in state statute that would result in a taxpayer paying a higher tax 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. It is the intent of the Legislature that an award  
2 of a grant to an organization pursuant to this act shall not result in  
3 a reduction in moneys appropriated by the Legislature to that  
4 organization. *The taxes imposed by this measure are intended to*  
5 *ameliorate the negative secondary effects associated with the*  
6 *combination of sexually oriented businesses and alcohol so as to*  
7 *promote the health, safety, and welfare of the citizens of California.*

8 SEC. 2. Chapter 20 (commencing with Section 26300) is added  
9 to Division 20 of the Health and Safety Code, to read:

10  
11 CHAPTER 20. SEXUAL ASSAULT TREATMENT AND PREVENTION  
12

13 26300. The California Emergency Management Agency shall  
14 use funds transferred from the Sexual Assault Treatment and  
15 Prevention Fund only for the following purposes:

- 1 (a) To award grants for intervention services related to sexual  
2 assault survivors and rape prevention programs provided by rape  
3 crisis centers, as stipulated in Section 13837 of the Penal Code,  
4 and for the following services:
- 5 (1) Civil legal services to sexual assault survivors.
  - 6 (2) Coordination of sexual assault response teams that provide  
7 multidisciplinary response services to sexual assault survivors.
  - 8 (3) Culturally and linguistically appropriate intervention services  
9 to sexual assault survivors from underrepresented or underserved  
10 communities.
- 11 (b) To award grants to reimburse the payment of sexual assault  
12 forensic exams.
- 13 (c) To award grants to, and contracts with, a statewide  
14 organization organized and operated as described in Section  
15 501(c)(3) of the Internal Revenue Code that has the primary  
16 purpose of ending sexual violence in this state, for programs for  
17 the intervention and prevention of sexual violence, outreach  
18 programs, training, and technical assistance to and support of  
19 California rape crisis centers, as stipulated in Section 13837 of  
20 Penal Code, and other organizations funded by the Sexual Assault  
21 Treatment and Prevention Fund to prevent and intervene in sexual  
22 violence in underserved communities.
- 23 (d) To award grants to nonprofit, community-based  
24 organizations to support intervention and treatment services for  
25 victims of sexual exploitation of human trafficking, including, but  
26 not limited to, those that are engaged in work to end and prevent  
27 sexual and domestic violence.
- 28 (e) To award grants to nonprofit, community-based organizations  
29 to support the intervention and treatment services for victims of  
30 sexual assault as part of dating or domestic violence, including,  
31 but not limited to, sexual assault services programs, as defined in  
32 Section 13837 of the Penal Code, or domestic violence victim  
33 service organizations, as defined in Section 1037.1 of the Evidence  
34 Code.
- 35 (f) No more than 5 percent annually of the funds deposited in  
36 the Sexual Assault Treatment and Prevention Fund may be used  
37 for the administration by the California Emergency Management  
38 Agency of these grant programs.

1 (g) (1) To fund a report created by the California Emergency  
2 Management Agency to the Governor and the Legislature reporting  
3 the following:

4 (A) The deficiencies with respect to research, prevention,  
5 response, victim services, adjudication, and incarceration, related  
6 to sexual assaults at state and local levels.

7 (B) The effectiveness of appropriations made to fund this chapter  
8 and other legislation related to sexual assault intervention enacted  
9 by the Legislature.

10 (C) Recommendations for appropriate performance measures  
11 that enable the Governor and the Legislature to assess and respond  
12 to the status of sexual assault prevention in this state.

13 (2) Notwithstanding Section 10231.5 of the Government Code,  
14 a report, pursuant to paragraph (1), shall be submitted on July 1,  
15 2015, and biennially thereafter.

16 (3) A report to be submitted pursuant to this subdivision shall  
17 be submitted in compliance with Section 9795 of the Government  
18 Code.

19 SEC. 3. Part 14.7 (commencing with Section 34001) is added  
20 to Division 2 of the Revenue and Taxation Code, to read:

21

22 PART 14.7. SEXUALLY ORIENTED BUSINESS TAX

23

24 34001. For purposes of this part, the following definitions  
25 apply:

26 (a) "Nude" means clothed in a manner that leaves uncovered  
27 or visible through less than fully opaque clothing, any portion of  
28 the genitals or buttocks or, in the case of a female, any portion of  
29 the breasts below the top of the areola of the breasts.

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

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

35 (2) Authorizes on-premises consumption of alcoholic beverages,  
36 regardless of whether the consumption of alcoholic beverages is  
37 under a license or permit issued under the Alcoholic Beverage  
38 Control Act.

39 34002. The tax imposed by this part shall be in addition to any  
40 other taxes imposed by law.

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

5     34003. *For the privilege of operating a sexually oriented*  
6 *business, a tax is hereby imposed upon all persons who operate a*  
7 *sexually oriented business at the rate of ten dollars (\$10) per entry*  
8 *to the business by a customer per visit.*

9     34004. *A person who operates a sexually oriented business*  
10 *shall record daily in the manner required by the board the number*  
11 *of customers admitted to the business. ~~The business shall maintain~~*  
12 *~~the records for the period required by the board and shall make~~*  
13 *~~the records available for inspection and audit upon the request of~~*  
14 *~~the board.~~*

15     34005. *A person who operates a sexually oriented business*  
16 *may not require the tax imposed by this part to be reimbursed by*  
17 *an employee or independent contractor of the sexually oriented*  
18 *business, but may require the tax to be reimbursed by the customer*  
19 *whose entry the tax is imposed upon, in a manner prescribed by*  
20 *the board.*

21     ~~34006. Each quarter a sexually oriented business shall do both~~  
22 ~~of the following:~~

23     ~~(a) Remit the tax imposed under Section 34003 to the board in~~  
24 ~~the manner prescribed by the board.~~

25     ~~(b) File a report with the board in the manner and containing~~  
26 ~~the information required by the board.~~

27     34006. *(a) The taxes imposed by the part shall be due and*  
28 *payable to the board on or before the last day of the month*  
29 *following each calendar quarter.*

30     *(b) (1) On or before the last day of the month following each*  
31 *calendar quarter, a return for the preceding quarterly period shall*  
32 *be filed with the board using electronic media.*

33     *(2) The board may prescribe those forms and reporting*  
34 *requirements as are necessary to implement the tax, including, but*  
35 *not limited to, information regarding the number of entries to the*  
36 *business and the amount of tax due.*

37     34006.5. *Every person required to pay the tax imposed under*  
38 *this part shall register with the board. Every application for*  
39 *registration shall be made upon a form prescribed by the board*  
40 *and shall set forth the name under which the applicant transacts*

1 *or intends to transacts business, the location of the applicant’s*  
2 *place or places of business, and such other information as the*  
3 *board may require. An application for an account shall be*  
4 *authenticated in a form or pursuant to methods as may be*  
5 *prescribed by the board.*

6 34007. The board shall administer and collect the tax imposed  
7 by this part pursuant to the Fee Collection Procedures Law (Part  
8 30 (commencing with Section 55001)). For purposes of this part,  
9 the references in the Fee Collection Procedures Law to “fee” shall  
10 include the tax imposed by this part and references to “feepayer”  
11 shall include a person required to pay the tax imposed by this part.

12 34008. The board shall enforce the provisions of this part and  
13 may prescribe, adopt, and enforce rules and regulations relating  
14 to the administration and enforcement of this part. The board may  
15 prescribe the extent to which any ruling or regulation shall be  
16 applied without retroactive effect.

17 34009. (a) The board shall transmit all payments, less refunds  
18 and the board’s costs of administration, to the Treasurer to be  
19 deposited in the State Treasury to the credit of the Sexual Assault  
20 Treatment and Prevention Fund, which is hereby created.

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

24 SEC. 4. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

33 SEC. 5. *The provisions of this act shall become operative on*  
34 *the first day of the first calendar quarter commencing more than*  
35 *90 days after the effective date of this act.*

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