

AMENDED IN ASSEMBLY MAY 14, 2012  
AMENDED IN ASSEMBLY APRIL 19, 2012  
AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2441**

---

---

**Introduced by Assembly Member Williams**  
**(Coauthors: Assembly Members Allen, Bradford, Brownley, Eng,**  
**Mendoza, Mitchell, and Portantino)**  
(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 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 impose a tax on persons operating a sexually oriented business, as defined, at the rate of \$10 per ~~entry~~ *visit by a customer* to the business ~~by a customer per visit~~ *inclusive of admission and reentry*. 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  $\frac{2}{3}$  of the membership of each house of the Legislature.

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. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) It is the intent of the Legislature that an award of a grant to
- 4 an organization pursuant to this act shall not result in a reduction
- 5 in moneys appropriated by the Legislature to that organization.
- 6 The taxes imposed by this measure are intended to ameliorate the
- 7 negative secondary effects associated with the combination of
- 8 sexually oriented businesses and alcohol so as to promote the
- 9 health, safety, and welfare of the citizens of California.
- 10 (b) *Sexually oriented businesses that serve alcohol or that are*
- 11 *located near liquor-serving businesses pose larger and*
- 12 *qualitatively different ambient public safety hazards. Governments*
- 13 *rely on this consistent finding of the empirical secondary effect*

1 *literature as a rationale for limiting nudity in liquor-serving*  
2 *businesses.*

3 *(c) Accordingly, the consumption of alcohol on the premises of*  
4 *a sexually oriented business contributes to the need for*  
5 *community-based services to respond to victims of all forms of*  
6 *sexual exploitation, including sexual harassment, trafficking, and*  
7 *sexual assault.*

8 *(d) Rape crisis centers and other victim service providers play*  
9 *a unique role in responding to assault, sexual abuse, trafficking,*  
10 *and domestic violence. They also work to prevent crimes such as*  
11 *these through the creation of public awareness and prevention*  
12 *that empowers and restores persons who have been sexually*  
13 *violated.*

14 *(e) This act is not intended to directly or indirectly impose*  
15 *limitations or restrictions on live nude dancing, nor is it the intent*  
16 *of this act to restrict or deny access by adults to live nude dancing*  
17 *performances that may be protected by the First Amendment to*  
18 *the United States Constitution or by the California Constitution.*

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

21

22 CHAPTER 20. SEXUAL ASSAULT TREATMENT AND PREVENTION

23

24 26300. The California Emergency Management Agency shall  
25 use funds transferred from the Sexual Assault Treatment and  
26 Prevention Fund only for the following purposes:

27 (a) To award grants for intervention services related to sexual  
28 assault survivors and rape prevention programs provided by rape  
29 crisis centers, as stipulated in Section 13837 of the Penal Code,  
30 and for the following services:

31 (1) Civil legal services to sexual assault survivors.

32 (2) Coordination of sexual assault response teams that provide  
33 multidisciplinary response services to sexual assault survivors.

34 (3) Culturally and linguistically appropriate intervention services  
35 to sexual assault survivors from underrepresented or underserved  
36 communities.

37 (b) To award grants to reimburse the payment of sexual assault  
38 forensic exams.

39 (c) To award grants to, and contracts with, a statewide  
40 organization organized and operated as described in Section

1 501(c)(3) of the Internal Revenue Code that has the primary  
2 purpose of ending sexual violence in this state, for programs for  
3 the intervention and prevention of sexual violence, outreach  
4 programs, training, and technical assistance to and support of  
5 California rape crisis centers, as stipulated in Section 13837 of  
6 Penal Code, and other organizations funded by the Sexual Assault  
7 Treatment and Prevention Fund to prevent and intervene in sexual  
8 violence in underserved communities.

9 (d) To award grants to nonprofit, community-based  
10 organizations to support intervention and treatment services for  
11 victims of sexual exploitation of human trafficking, including, but  
12 not limited to, those that are engaged in work to end and prevent  
13 sexual and domestic violence.

14 (e) To award grants to nonprofit, community-based organizations  
15 to support the intervention and treatment services for victims of  
16 sexual assault as part of dating or domestic violence, including,  
17 but not limited to, sexual assault services programs, as defined in  
18 Section 13837 of the Penal Code, or domestic violence victim  
19 service organizations, as defined in Section 1037.1 of the Evidence  
20 Code.

21 (f) No more than 5 percent annually of the funds deposited in  
22 the Sexual Assault Treatment and Prevention Fund may be used  
23 for the administration by the California Emergency Management  
24 Agency of these grant programs.

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

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

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

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

37 (2) Notwithstanding Section 10231.5 of the Government Code,  
38 a report, pursuant to paragraph (1), shall be submitted on July 1,  
39 2015, and biennially thereafter.

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

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

6  
7 PART 14.7. SEXUALLY ORIENTED BUSINESS TAX

8  
9 34001. For purposes of this part, the following definitions  
10 apply:

11 (a) "Nude" means clothed in a manner that leaves uncovered  
12 or visible through less than fully opaque clothing, any portion of  
13 the genitals ~~or buttocks~~ or, in the case of a female, any portion of  
14 the breasts below the top of the areola of the breasts.

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

18 (1) Provides for an audience of two or more individuals live  
19 nude entertainment or live nude performances *where the nudity is*  
20 *a function of everyday business operations and where nudity is a*  
21 *planned and intentional part of the entertainment or performance.*

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. For the privilege of operating a sexually oriented  
29 business, a tax is hereby imposed upon all persons who operate a  
30 sexually oriented business at the rate of ten dollars (\$10) ~~per entry~~  
31 *visit by a customer to the business by a customer per visit inclusive*  
32 *of admission and reentry.*

33 34004. A person who operates a sexually oriented business  
34 shall record daily in the manner required by the board the number  
35 of customers admitted to the business.

36 34005. A person who operates a sexually oriented business  
37 may not require the tax imposed by this part to be reimbursed by  
38 an employee or independent contractor of the sexually oriented  
39 business, but may require the tax to be reimbursed by the customer

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

3 34006. (a) The taxes imposed by the part shall be due and  
4 payable to the board on or before the last day of the month  
5 following each calendar quarter.

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

9 (2) The board may prescribe those forms and reporting  
10 requirements as are necessary to implement the tax, including, but  
11 not limited to, information regarding the number of entries to the  
12 business and the amount of tax due.

13 34006.5. Every person required to pay the tax imposed under  
14 this part shall register with the board. Every application for  
15 registration shall be made upon a form prescribed by the board  
16 and shall set forth the name under which the applicant transacts  
17 or intends to ~~transacts~~ *transact* business, the location of the  
18 applicant's place or places of business, and such other information  
19 as the board may require. An application for an account shall be  
20 authenticated in a form or pursuant to methods as may be  
21 prescribed by the board.

22 34007. The board shall administer and collect the tax imposed  
23 by this part pursuant to the Fee Collection Procedures Law (Part  
24 30 (commencing with Section 55001)). For purposes of this part,  
25 the references in the Fee Collection Procedures Law to "fee" shall  
26 include the tax imposed by this part and references to "feepayer"  
27 shall include a person required to pay the tax imposed by this part.

28 34008. The board shall enforce the provisions of this part and  
29 may prescribe, adopt, and enforce rules and regulations relating  
30 to the administration and enforcement of this part. The board may  
31 prescribe the extent to which any ruling or regulation shall be  
32 applied without retroactive effect.

33 34009. (a) The board shall transmit all payments, less refunds  
34 and the board's costs of administration, to the Treasurer to be  
35 deposited in the State Treasury to the credit of the Sexual Assault  
36 Treatment and Prevention Fund, which is hereby created.

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

1 SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

10 SEC. 5. The provisions of this act shall become operative on  
11 the first day of the first calendar quarter commencing more than  
12 90 days after the effective date of this act.

O