

AMENDED IN ASSEMBLY JUNE 20, 2011

SENATE BILL

No. 805

Introduced by Committee on Veterans Affairs (Senators Correa (Chair), Berryhill, Calderon, Cannella, La Malfa, Negrete McLeod, and Rubio)

February 18, 2011

An act to amend Section 6018.3 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 805, as amended, Committee on Veterans Affairs. Sales and use taxes: consumers: veterans: itinerant vendors.

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.

Existing law provides, ~~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. *This provision will be repealed on January 1, 2012.*

~~This bill would delete the extend that repeal date of to January 1, 2012, thereby making the provision that a qualified itinerant vendor is a consumer, and not a retailer, of tangible personal property, as specified, operative indefinitely 2022.~~

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 existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Amendments to state sales and use taxes are incorporated into 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.

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

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

- 1 SECTION 1. Section 6018.3 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 6018.3. (a) A qualified itinerant vendor is a consumer of, and
- 4 shall not be considered a retailer of, tangible personal property
- 5 owned and sold by the qualified itinerant vendor, except alcoholic
- 6 beverages or tangible personal property sold for more than one
- 7 hundred dollars (\$100).
- 8 (b) For purposes of this section, a person is a “qualified itinerant
- 9 vendor” when all of the following apply:
- 10 (1) The person was a member of the Armed Forces of the United
- 11 States, who received an honorable discharge or a release from
- 12 active duty under honorable conditions.
- 13 (2) The person is unable to obtain a livelihood by manual labor
- 14 due to a service-connected disability.

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

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

4 (c) For purposes of this section, “permanent place of business”
5 means any building or other permanently affixed structure,
6 including a residence, that is used in whole or in part for the
7 purpose of making sales of, or taking orders and arranging for
8 shipment of, tangible personal property. For purposes of this
9 section, “permanent place of business” does not include any
10 building or other permanently affixed structure, including a
11 residence, used for any of the following:

12 (1) The storage of tangible personal property.

13 (2) The cleaning or the storage of equipment or other property
14 used in connection with the manufacture or sale of tangible
15 personal property.

16 (d) This section shall not apply to either of the following:

17 (1) A person engaged in the business of serving meals, food, or
18 drinks to a customer at a location owned, rented, or otherwise
19 supplied by the customer.

20 (2) A person operating a vending machine.

21 (e) *This section shall remain in effect only until January 1, 2022,*
22 *and as of that date is repealed.*

23 SEC. 2. Notwithstanding Section 2230 of the Revenue and
24 Taxation Code, no appropriation is made by this act and the state
25 shall not reimburse any local agency for any sales and use tax
26 revenues lost by it under this act.

27 SEC. 3. This act provides for a tax levy within the meaning of
28 Article IV of the Constitution and shall go into immediate effect.