

AMENDED IN SENATE MAY 21, 2014

**SENATE BILL**

**No. 983**

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**Introduced by Senator Hernandez**

February 11, 2014

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An act to amend Section ~~7205 of the Revenue and Taxation Code,~~ relating to taxation ~~53084.5 of the Government Code,~~ relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 983, as amended, Hernandez. ~~Local sales taxes: card lock fuel: place of sale. Cities and counties: sales and use taxes: revenue sharing agreement: card lock system.~~

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. That law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer unless otherwise specified.

~~This bill would instead provide that, in the case of a sale of fuel for card lock systems, the place at which the retail sale of card lock fuel is consummated is the point of delivery of fuel to the vehicle.~~

*Existing law prohibits a local agency, including a city or county, from entering into any form of agreement with any other person that would involve the payment, transfer, diversion, or rebate of any amount of Bradley-Burns local tax proceeds for any purpose if the agreement results in a reduction in the amount of revenue that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of that*

*other local agency, with specified exceptions, including an exception for an agreement to pay or rebate any Bradley-Burns local tax revenue relating to a buying company, as defined.*

*This bill would provide that, on or after May 1, 2014, a buying company does not include a retailer that contracts to sell fuel through a card lock system.*

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

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

1 SECTION 1. Section 53084.5 of the Government Code is  
2 amended to read:

3 53084.5. (a) On or after the date the act adding this section  
4 takes effect, a local agency shall not enter into any form of  
5 agreement that would result, directly or indirectly, in the payment,  
6 transfer, diversion, or rebate of any tax revenue resulting from the  
7 imposition of a sales and use tax under the Bradley-Burns Uniform  
8 Local Sales and Use Tax Law (Part 1.5 (commencing with Section  
9 7200) of Division 2 of the Revenue and Taxation Code) to any  
10 person for any purpose when both of the following apply:

11 (1) The agreement results in a reduction in the amount of  
12 revenue that is received by another local agency from a retailer  
13 that is located within the territorial jurisdiction of that other local  
14 agency from the tax proceeds collected under the Bradley-Burns  
15 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
16 with Section 7200) of Division 2 of the Revenue and Taxation  
17 Code). This subdivision shall not apply to a reduction in the use  
18 tax proceeds that are distributed to that other local agency through  
19 one or more countywide pools.

20 (2) The retailer continues to maintain a physical presence within  
21 the territorial jurisdiction of that other local agency. This  
22 subdivision shall not apply if the retailer has expanded its  
23 operations into another jurisdiction with the result that the retailer  
24 is conducting a comparable operation within the jurisdiction of  
25 both local agencies.

26 (b) For the purposes of this section, the following definitions  
27 have the following meanings:

28 (1) "Local agency" means a chartered or general law city, a  
29 chartered or general law county, or a city and county.

1 (2) “Retailer” means a retailer as defined by Section 6015 of  
2 the Revenue and Taxation Code.

3 (3) “Physical presence” means the lease or ownership of any  
4 real property for the purpose of carrying on business operations.

5 (c) This section shall not apply to local tax proceeds provided  
6 by a local agency to a retailer if the funds are used to reimburse  
7 the retailer for the construction of public works improvements that  
8 serve all or a portion of the territorial jurisdiction of the local  
9 agency.

10 (d) (1) This section shall not apply to an agreement to pay or  
11 rebate any tax revenue resulting from the imposition of a sales and  
12 use tax under the Bradley-Burns Uniform Local Sales and Use  
13 Tax Law (Part 1.5 (commencing with Section 7200) of Division  
14 2 of the Revenue and Taxation Code) relating to a buying company.  
15 “Buying company” means, and is limited to, a legal entity that is  
16 separate from another legal entity that owns, controls, or is  
17 otherwise related to, the buying company and which has been  
18 created for the purpose of performing administrative functions,  
19 including acquiring goods and services for the other entity, as  
20 defined by the State Board of Equalization, and meets requirements  
21 of a buying company under Sections 6066 to 6075, inclusive, of  
22 the Revenue and Taxation Code, and the regulations adopted  
23 pursuant to those sections.

24 (2) (A) *Notwithstanding paragraph (1), on or after May 1,*  
25 *2014, a buying company does not include a retailer that contracts*  
26 *to sell fuel through a card lock system.*

27 (B) *“Card lock system” means a system in which owners of*  
28 *unattended card lock fueling stations form a network whereby*  
29 *customers may purchase fuel at any of the network’s participating*  
30 *fueling stations by use of a card issued to the customer, and where*  
31 *prices are not posted at the pump and no receipt is given at the*  
32 *time of delivery.*

33 (C) *This paragraph does not apply to an agreement entered*  
34 *into before May 1, 2014, to pay or rebate any tax revenue resulting*  
35 *from the imposition of a sales and use tax under the Bradley-Burns*  
36 *Uniform Local Sales and Use Tax Law (Part 1.5 (commencing*  
37 *with Section 7200) of Division 2 of the Revenue and Taxation*  
38 *Code) relating to a buying company that is a retailer that contracts*  
39 *to sell fuel through a card lock system.*

1 (e) This section shall not apply to any agreement by a local  
2 agency to pay or rebate any use tax revenue resulting from the  
3 imposition of a sales and use tax under the Bradley-Burns Uniform  
4 Local Sales and Use Tax Law (Part 1.5 (commencing with Section  
5 7200) of Division 2 of the Revenue and Taxation Code) relating  
6 to a use tax direct payment permit issued under Section 7051.3 of  
7 the Revenue and Taxation Code.

8 (f) Nothing in this section shall be interpreted to limit the ability  
9 of a local agency to contract with or otherwise enter into an  
10 agreement pursuant to subdivision (b) of Section 7056 of the  
11 Revenue and Taxation Code.

12 ~~SECTION 1. Section 7205 of the Revenue and Taxation Code~~  
13 ~~is amended to read:~~

14 ~~7205. (a) For the purpose of a sales tax imposed by an~~  
15 ~~ordinance adopted pursuant to this part, all retail sales are~~  
16 ~~consummated at the place of business of the retailer unless the~~  
17 ~~tangible personal property sold is delivered by the retailer or his~~  
18 ~~or her agent to an out-of-state destination or to a common carrier~~  
19 ~~for delivery to an out-of-state destination. The gross receipts from~~  
20 ~~those sales shall include delivery charges, when those charges are~~  
21 ~~subject to the state sales and use tax, regardless of the place to~~  
22 ~~which delivery is made.~~

23 ~~(b) (1) In the event a retailer has no permanent place of business~~  
24 ~~in the state or has more than one place of business, the place or~~  
25 ~~places at which the retail sales are consummated for the purpose~~  
26 ~~of a sales tax imposed by an ordinance adopted pursuant to this~~  
27 ~~part shall, subject to paragraph (2), be determined under rules and~~  
28 ~~regulations to be prescribed and adopted by the board.~~

29 ~~(2) In the case of a sale of jet fuel, the place at which the retail~~  
30 ~~sale of that jet fuel is consummated for the purpose of a sales tax~~  
31 ~~imposed by an ordinance adopted pursuant to this part is the point~~  
32 ~~of the delivery of that jet fuel to the aircraft.~~

33 ~~(3) (A) In the case of a sale of fuel for card lock systems, the~~  
34 ~~place at which the retail sale of card lock fuel is consummated for~~  
35 ~~the purpose of a sales tax imposed by an ordinance adopted~~  
36 ~~pursuant to this part is the point of delivery of fuel to the vehicle.~~

37 ~~(B) "Card lock system" means a system where owners of~~  
38 ~~unattended card lock fueling stations form a network whereby~~  
39 ~~customers may purchase fuel at any of the network's participating~~  
40 ~~fueling stations by use of a card issued to the customer, and where~~

- 1 ~~prices are not posted at the pump and no receipt is given at the~~
- 2 ~~time of delivery.~~

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