

AMENDED IN ASSEMBLY APRIL 20, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2321

Introduced by Assembly Member Rodriguez

February 18, 2016

An act to amend Sections 6292, 6293, and 6294 of the Revenue and Taxation Code, and to amend Sections 4750.5, 9928, and 38211 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2321, as amended, Rodriguez. Vehicles: registration and transfers of title or interest: use tax.

Existing law requires the Department of Motor Vehicles to withhold the registration or the transfer of registration of any vehicle or vessel, and to withhold identification or transfer of ownership of any off-highway vehicle subject to identification, until the applicant for registration or identification pays to the department the use tax measured by the sales price of the vehicle or vessel as required by the Sales and Use Tax Law, together with penalty, except as specified. Existing law requires the department to transmit all collections of use tax and penalty to the State Board of Equalization.

This bill would require, in addition, that the department determine all local use taxes the applicant is responsible to pay by specific address data provided by the applicant, and where the vehicle or vessel is to be registered. The bill would require the department to transmit the address data to the board, and would make the data subject to specified information sharing provisions: *tax area codes and the amount of local*

use tax and penalty collections attributable to those tax area codes to the board. This bill would require the board to allocate the use taxes transmitted by the department to the jurisdiction where the purchaser registers the purchased vehicle or vessel by the ~~specific address tax area code~~ data provided to the board by the department.

This bill would declare the intent of the Legislature that the department and the board administer the provisions relating to registration of vehicles and vessels and identification of off-highway vehicles for these purposes in a manner that ensures that applicable local sales taxes and local transaction and use taxes are collected and then remitted to the specific jurisdiction where the vehicle or vessel is registered.

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

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

1 SECTION 1. Section 6292 of the Revenue and Taxation Code
2 is amended to read:

3 6292. (a) Except when the sale is by lease, when a mobilehome
4 or commercial coach required to be registered annually under the
5 Health and Safety Code or a vehicle required to be registered under
6 the Vehicle Code is sold at retail by other than a person licensed
7 or certificated pursuant to the Health and Safety Code or the
8 Vehicle Code as a manufacturer, remanufacturer, dealer,
9 dismantler, or lessor-retailer, subject to Section 11615.5 of the
10 Vehicle Code, the retailer is not required or authorized to collect
11 the use tax from the purchaser, but the purchaser of the vehicle
12 shall pay the use tax to the Department of Housing and Community
13 Development acting for and on behalf of the board pursuant to
14 Section 18123 of the Health and Safety Code or to the Department
15 of Motor Vehicles acting for and on behalf of the board pursuant
16 to Section 4750.5 of the Vehicle Code.

17 (b) If the purchaser makes an application to either department
18 that is not timely, and is subject to penalty because of delinquency
19 in effecting registration or transfer of registration of the vehicle,
20 he or she then becomes liable also for penalty as specified in
21 Section 6591, but no interest shall accrue.

22 (c) Application to the appropriate department by the purchaser
23 relieves the purchaser of the obligation to file a return with the
24 board under Section 6452.

1 (d) If the purchaser does not make application to either
2 department, or does not pay the amount of use tax due, or files a
3 return with the board under Section 6455 that is not timely, interest
4 and penalties shall apply with respect to the unpaid amount as
5 provided in Chapter 5 (commencing with Section 6451).

6 (e) Use taxes collected by the Department of Motor Vehicles
7 and transmitted to the board pursuant to Section 4750.5 of the
8 Vehicle Code shall be allocated to the jurisdiction where the
9 purchaser registers the purchased vehicle, by the ~~specific address~~
10 *tax area code* data provided to the board by the Department of
11 Motor Vehicles. The board shall reimburse the Department of
12 Motor Vehicles as prescribed in subdivision (d) of Section 4750.5
13 of the Vehicle Code.

14 SEC. 2. Section 6293 of the Revenue and Taxation Code is
15 amended to read:

16 6293. (a) Except when the sale is by lease, when a vehicle
17 subject to identification under Division 16.5 (commencing with
18 Section 38000) of the Vehicle Code or a vehicle that qualifies
19 under the permanent trailer identification plate program pursuant
20 to subdivision (a) of Section 5014.1 of the Vehicle Code, is sold
21 at retail by other than a person licensed or certificated pursuant to
22 the Vehicle Code as a manufacturer, remanufacturer, dealer,
23 dismantler, or lessor-retailer, subject to Section 11615.5 of the
24 Vehicle Code, or a person required to hold a seller's permit
25 pursuant to Article 2 (commencing with Section 6066) of Chapter
26 2 by reason of the number, scope, and character of his or her sales
27 of those vehicles, the retailer is not required or authorized to collect
28 the use tax from the purchaser, but the purchaser of the vehicle
29 shall pay the use tax to the Department of Motor Vehicles acting
30 for and on behalf of the board pursuant to Section 38211 of the
31 Vehicle Code.

32 (b) If the purchaser makes an application to ~~that~~ *the* department
33 ~~which~~ *that* is not timely, and is subject to penalty because of
34 delinquency in effecting identification or transfer of ownership of
35 the vehicle, he or she then becomes liable also for penalty as
36 specified in Section 6591 of this code, but no interest shall accrue.

37 (c) Application to ~~that~~ *the* department by the purchaser relieves
38 the purchaser of the obligation to file a return with the board under
39 Section 6452.

1 (d) If the purchaser does not make application to ~~that the~~
2 department, or does not pay the amount of use tax due, or files a
3 return with the board under Section 6455 ~~which that~~ is not timely,
4 interest and penalties shall apply with respect to the unpaid amount
5 as provided in Chapter 5 (commencing with Section 6451).

6 (e) Use taxes collected by the Department of Motor Vehicles
7 and transmitted to the board pursuant to Section 38211 of the
8 Vehicle Code shall be allocated to the jurisdiction where the
9 purchaser registers the purchased vehicle, by the tax area code
10 data provided to the board by the Department of Motor Vehicles.
11 The board shall reimburse the Department of Motor Vehicles as
12 prescribed in subdivision (d) of Section 38211 of the Vehicle Code.

13 SEC. 3. Section 6294 of the Revenue and Taxation Code is
14 amended to read:

15 6294. (a) When an undocumented vessel required to be
16 registered under the Vehicle Code is sold at retail by other than a
17 person holding a seller's permit and regularly engaged in the
18 business of selling vessels, the retailer is not required or authorized
19 to collect the use tax from the purchaser, but the purchaser of the
20 vessel must pay the use tax to the Department of Motor Vehicles
21 acting for, and on behalf of, the board pursuant to Section 9928
22 of the Vehicle Code.

23 (b) If the purchaser makes an application to the department that
24 is not timely, and is subject to penalty because of delinquency in
25 effecting registration or transfer of registration of the
26 undocumented vessel, he or she then becomes liable also for
27 penalty as specified in Section 6591, but no interest shall accrue.

28 (c) Application to the department by the purchaser shall relieve
29 the purchaser of the obligation to file a return with the board under
30 Section 6452.

31 (d) If the purchaser does not make application to either
32 department, or does not pay the amount of use tax due, or files a
33 return with the board under Section 6455 that is not timely, interest
34 and penalties shall apply with respect to the unpaid amount as
35 provided in Chapter 5 (commencing with Section 6451).

36 (e) Use taxes collected by the Department of Motor Vehicles
37 and transmitted to the board pursuant to Section 9928 of the
38 Vehicle Code shall be allocated to the jurisdiction where the
39 purchaser registers the purchased vessel, by the ~~specific address~~
40 tax area code data provided to the board by the Department of

1 Motor Vehicles. The board shall reimburse the Department of
2 Motor Vehicles as prescribed in subdivision (d) of Section 9928
3 of the Vehicle Code.

4 SEC. 4. Section 4750.5 of the Vehicle Code is amended to
5 read:

6 4750.5. (a) The department shall withhold the registration or
7 the transfer of registration of a vehicle sold at retail to an applicant
8 by a person other than a vehicle manufacturer or dealer holding a
9 license and certificate issued pursuant to Chapter 4 (commencing
10 with Section 11700) of Division 5, or an automobile dismantler
11 holding a license and certificate issued pursuant to Chapter 3
12 (commencing with Section 11500) of Division 5, or a lessor-retailer
13 holding a license issued pursuant to Chapter 3.5 (commencing
14 with Section 11600) of Division 5, and subject to the provisions
15 of Section 11615.5, until the applicant pays to the department the
16 use tax measured by the sales price of the vehicle as required by
17 the Sales and Use Tax Law (Part 1 (commencing with Section
18 6001) of Division 2 of the Revenue and Taxation Code), together
19 with penalty, if any, unless the State Board of Equalization finds
20 that no use tax is due. If the applicant so desires, he or she may
21 pay the use tax and penalty, if any, to the department so as to secure
22 immediate action upon his or her application for registration or
23 transfer of registration, and thereafter he or she may apply through
24 the Department of Motor Vehicles to the State Board of
25 Equalization under the Sales and Use Tax Law for a refund of the
26 amount paid.

27 (b) (1) If applicable, the department shall determine all local
28 use taxes that the applicant is responsible to pay by specific address
29 data provided by the applicant and to which the vehicle shall be
30 registered. ~~The department shall utilize all available tools, including~~
31 ~~those available through the State Board of Equalization, to~~
32 ~~determine the correct use tax rates to apply to the applicant.~~

33 (2) Using the specific address data provided by the applicant
34 and to which the vehicle shall be registered, the department shall
35 identify the correct tax area code for the applicable local
36 jurisdiction to which the vehicle shall be registered and to which
37 the local use tax shall be allocated. The State Board of Equalization
38 shall provide a list of state tax area codes applicable to each
39 jurisdiction for purposes of allocating the local use taxes directly,
40 pursuant to the Bradley-Burns Uniform Local Sales and Use Tax

1 Law (Part 1.5 (commencing with Section 7200) of Division 2 of
2 the Revenue and Taxation Code) and the Transactions and Use
3 Tax Law (Part 1.6 (commencing with Section 7251) of Division
4 2 of the Revenue and Taxation Code).

5 (c) The department shall transmit all collections of use tax and
6 penalty made under this section to the State Board of Equalization.
7 The department also shall ~~collect and transmit to the board specific~~
8 ~~address data provided by applicants upon application and to which~~
9 ~~a purchased vehicle will be registered, for proper allocation of use~~
10 ~~tax collections. The transmitted data shall be subject to the~~
11 ~~requirements of Section 7056 of the Revenue and Taxation Code.~~
12 ~~transmit the tax area codes and the amount of local use tax and~~
13 ~~penalty collections attributable to those tax area codes to the board~~
14 ~~for the proper direct allocation of local use tax collections.~~ This
15 transmittal shall be made at least monthly, accompanied by a
16 schedule in the form that the department and board may prescribe.

17 (d) The State Board of Equalization shall reimburse the
18 department for its costs incurred in carrying out the provisions of
19 this section. The reimbursement shall be effected under agreement
20 between the agencies, approved by the Department of Finance.

21 (e) In computing any use tax or penalty under this section, dollar
22 fractions shall be disregarded in the manner specified in Section
23 9559. Payment of tax and penalty on this basis shall be deemed
24 full compliance with the requirements of the Sales and Use Tax
25 Law and local transaction and use tax law insofar as they are
26 applicable to the use of vehicles to which this section relates.

27 (f) It is the intent of the Legislature that the department and the
28 State Board of Equalization administer this part in a manner that
29 ensures that applicable Bradley-Burns uniform local ~~sales use~~ taxes
30 and local transaction and use taxes are collected and then remitted
31 to the specific jurisdiction where the vehicle is registered.

32 SEC. 5. Section 9928 of the Vehicle Code is amended to read:

33 9928. (a) The department shall withhold the certificate of
34 number or the transfer of registration of a vessel sold at retail to
35 an applicant by a person other than a person holding a seller's
36 permit pursuant to Section 6066 of the Revenue and Taxation
37 Code, and regularly engaged in the business of selling vessels,
38 until the applicant pays to the department the use tax measured by
39 the sales price of the vessel as required by the Sales and Use Tax
40 Law (Part 1 (commencing with Section 6001) of Division 2 of the

1 Revenue and Taxation Code), together with penalty, if any, unless
2 the State Board of Equalization finds that no use tax is due. If the
3 applicant so desires, he or she may pay the use tax and penalty, if
4 any, to the department so as to secure immediate action upon his
5 or her application for registration or transfer of registration and
6 thereafter he or she may apply through the Department of Motor
7 Vehicles to the State Board of Equalization under the Sales and
8 Use Tax Law for a refund of the amount paid.

9 (b) (1) If applicable, the department shall determine all local
10 use taxes that the applicant is responsible to pay by specific address
11 data provided by the applicant and to which the vessel shall be
12 registered. ~~The department shall utilize all available tools, including~~
13 ~~those available through the State Board of Equalization, to~~
14 ~~determine the correct use tax rates to apply to the applicant.~~

15 (2) Using the specific address data provided by the applicant
16 and to which the vehicle shall be registered, the department shall
17 identify the correct tax area code for the applicable local
18 jurisdiction to which the vessel shall be registered and to which
19 the local use tax shall be allocated. The State Board of Equalization
20 shall provide a list of state tax area codes applicable to each
21 jurisdiction for purposes of allocating the local use taxes directly,
22 pursuant to the Bradley-Burns Uniform Local Sales and Use Tax
23 Law (Part 1.5 (commencing with Section 7200) of Division 2 of
24 the Revenue and Taxation Code) and the Transactions and Use
25 Tax Law (Part 1.6 (commencing with Section 7251) of Division
26 2 of the Revenue and Taxation Code).

27 (c) The department shall transmit all collections of the use tax
28 and penalty made under this section to the State Board of
29 Equalization. The department also shall ~~collect and transmit to the~~
30 ~~board specific address data provided by applicants upon application~~
31 ~~and to which a purchased vessel will be registered, for proper~~
32 ~~allocation of use tax collections. The transmitted data shall be~~
33 ~~subject to the requirements of Section 7056 of the Revenue and~~
34 ~~Taxation Code.~~ *transmit the tax area codes and the amount of*
35 *local use tax and penalty collections attributable to those tax area*
36 *codes to the board for the proper direct allocation of local use tax*
37 *collections.* This transmittal shall be made at least monthly,
38 accompanied by a schedule in the form that the department and
39 board may prescribe.

1 (d) The State Board of Equalization shall reimburse the
2 department for its costs incurred in carrying out the provisions of
3 this section.

4 (e) In computing any use tax or penalty under this section, dollar
5 fractions shall be disregarded in the manner specified in Section
6 9559. Payment of tax and penalty on this basis shall be deemed
7 full compliance with the requirements of the Sales and Use Tax
8 Law and local transaction and use tax law insofar as they are
9 applicable to the use of vessels to which this section relates.

10 (f) The department and the State Board of Equalization shall
11 enter into an agreement for the collection of the use tax pursuant
12 to this section and Section 6294 of the Revenue and Taxation Code.
13 The agreement shall specify the procedures agreed upon by the
14 department and the board for collection of the tax and the
15 reimbursement provided for in subdivision (d). The agreement
16 shall be approved by the Department of Finance.

17 (g) It is the intent of the Legislature that the department and the
18 State Board of Equalization administer this part in a manner that
19 ensures that applicable Bradley-Burns uniform local ~~sales~~ *use* taxes
20 and local transaction and use taxes are collected and then remitted
21 to the specific jurisdiction where the vessel is registered.

22 SEC. 6. Section 38211 of the Vehicle Code is amended to read:

23 38211. (a) The department shall withhold identification of or
24 the transfer of ownership of a vehicle subject to identification
25 under this division until the applicant pays to the department the
26 use tax measured by the sales price of the vehicle as required by
27 the Sales and Use Tax Law, together with penalty, if any, unless
28 the purchaser presents evidence on a form prescribed by the State
29 Board of Equalization that sales tax will be paid by the seller or
30 that use tax has been collected by the seller or that the State Board
31 of Equalization finds that no use tax is due. If the applicant so
32 desires, he or she may pay the use tax and penalty, if any, to the
33 department so as to secure immediate action upon his or her
34 application for identification or transfer of ownership, and
35 thereafter he or she may apply through the Department of Motor
36 Vehicles to the State Board of Equalization under the Sales and
37 Use Tax Law for a refund of the amount paid.

38 (b) (1) If applicable, the department shall determine all local
39 use taxes that the applicant is responsible to pay by specific address
40 data provided by the applicant and to which the vehicle shall be

1 registered. ~~The department shall utilize all available tools, including~~
2 ~~those available through the State Board of Equalization, to~~
3 ~~determine the correct use tax rates to apply to the applicant.~~

4 (2) Using the specific address data provided by the applicant
5 and to which the vehicle shall be registered, the department shall
6 identify the correct tax area code for the applicable local
7 jurisdiction to which the vehicle shall be registered and to which
8 the local use tax shall be allocated. The State Board of Equalization
9 shall provide a list of state tax area codes applicable to each
10 jurisdiction for purposes of allocating the local use taxes directly,
11 pursuant to the Bradley-Burns Uniform Local Sales and Use Tax
12 Law (Part 1.5 (commencing with Section 7200) of Division 2 of
13 the Revenue and Taxation Code) and the Transactions and Use
14 Tax Law (Part 1.6 (commencing with Section 7251) of Division
15 2 of the Revenue and Taxation Code).

16 (c) The department shall transmit all collections of use tax and
17 penalty made under this section to the State Board of Equalization.
18 ~~The department also shall collect and transmit to the board specific~~
19 ~~address data provided by applicants upon application and to which~~
20 ~~a purchased vehicle will be registered, for proper allocation of use~~
21 ~~tax collections. The transmitted data shall be subject to the~~
22 ~~requirements of Section 7056 of the Revenue and Taxation Code.~~
23 *transmit the tax area codes and the amount of local use tax and*
24 *penalty collections attributable to those tax area codes to the board*
25 *for the proper direct allocation of local use tax collections.* This
26 transmittal shall be made at least monthly, accompanied by a
27 schedule in the form that the department and board may prescribe.

28 (d) The State Board of Equalization shall reimburse the
29 department for its costs incurred in carrying out the provisions of
30 this section. The reimbursement shall be effected under agreement
31 between the agencies, approved by the Department of Finance.

32 (e) In computing any use tax or penalty under this section, dollar
33 fractions shall be disregarded in the manner specified in Section
34 9559. Payment of tax and penalty on this basis shall be deemed
35 full compliance with the requirements of the Sales and Use Tax
36 Law and local transaction and use tax law insofar as they are
37 applicable to the use of vehicles to which this section relates.

38 (f) It is the intent of the Legislature that the department and the
39 State Board of Equalization administer this part in a manner that
40 ensures that applicable Bradley-Burns uniform local ~~sales~~ *use* taxes

- 1 and local transaction and use taxes are collected and then remitted
- 2 to the specific jurisdiction where the vehicle is registered.

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