

**Introduced by Senator Lara**February 19, 2016

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An act to add Section 6377.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as introduced, Lara. Sales and use taxes: exemption: zero-emission and near-zero-emission equipment.

Existing sales and use tax laws impose 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, and provides various exemptions from those taxes.

The bill would exempt from those taxes, on and after January 1, 2017, and before January 1, 2030, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person, as defined, for use primarily in, at, or on a marine terminal or qualified tangible personal property used primarily to maintain, repair, or test the above-described equipment, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

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 conformity with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, or the Local Revenue Fund 2011.

This bill would take effect immediately as a tax levy.

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. (a) The Legislature finds and declares:  
 2 (1) California’s complex freight transportation system is  
 3 responsible for one-third of the state’s economy and jobs, with  
 4 freight-dependent industries accounting for over \$700 billion in  
 5 revenue and over 5 million jobs in 2013, and is home to the largest  
 6 gateway for international trade and domestic commerce in the  
 7 nation, with an interconnected system of ports, railroads, highways,  
 8 and roads that allow goods from around the world to move  
 9 throughout the state.  
 10 (2) Significant investments in freight infrastructure are necessary  
 11 to ensure the continued economic competitiveness of our state’s  
 12 seaports and to deploy zero-emission and near-zero-emission  
 13 equipment. There are additional expenses that accompany  
 14 investment in the next generation of zero-emission and  
 15 near-zero-emission equipment and supporting infrastructure at  
 16 marine terminals in California’s public ports.  
 17 (3) The primary purpose of this act is to encourage the  
 18 development and growth of investment in, and subsequent  
 19 increased use of, California’s public port facilities and the  
 20 introduction of zero-emission and near-zero-emission equipment  
 21 and supporting infrastructure at California’s public port facilities.  
 22 (4) This legislation is necessary to further incentivize the earliest  
 23 possible investment in and adoption of zero-emission and  
 24 near-zero-emission technology at California’s public seaports.  
 25 Companies should be encouraged to take on the additional costs  
 26 of purchasing and maintaining zero-emission equipment and  
 27 supporting infrastructure in partnership with the state to achieve  
 28 the state’s emission reduction goals by reducing those state taxes

1 which would increase the ultimate cost of these new equipment  
2 and infrastructure investments.

3 (b) It is the intent of the Legislature to incentivize the earliest  
4 possible adoption of zero-emissions technology at California's  
5 public seaports and to eliminate taxes imposed on the purchase of  
6 that equipment that further increase the costs of purchasing and  
7 maintaining zero-emission equipment and supporting infrastructure,  
8 which are already of significantly greater expense than  
9 conventional equipment and infrastructure.

10 SEC. 2. Section 6377.5 is added to the Revenue and Taxation  
11 Code, to read:

12 6377.5. (a) On or after January 1, 2017, and before January  
13 1, 2030, there are exempted from the taxes imposed by this part  
14 the gross receipts from the sale of, and the storage, use, or other  
15 consumption in this state of, any of the following:

16 (1) Qualified tangible personal property purchased for use by  
17 a qualified person to be used primarily in, at, or on a marine  
18 terminal of a California public port for carriage, handling, or  
19 movement of freight, cargo, and goods.

20 (2) Qualified tangible personal property purchased for use by  
21 a qualified person to be used primarily to maintain, repair, measure,  
22 or test any qualified tangible personal property described in  
23 paragraph (1).

24 (b) For purposes of this section:

25 (1) "Primarily" means 50 percent or more of the time.

26 (2) "Qualified person" means a person that is a stevedore, marine  
27 terminal operator, operator of a port or freight yard, or any other  
28 person that is engaged in cargo and freight loading, delivery,  
29 movement, storage, and conveyance at or within a California public  
30 seaport.

31 (3) "Qualified tangible personal property" includes, but is not  
32 limited to, all of the following:

33 (A) All zero-emission or near-zero-emission equipment used  
34 or required to operate, control, regulate, or maintain the movement  
35 of goods or freight, including, but not limited to, computers,  
36 data-processing equipment, and computer software, together with  
37 all repair and replacement parts with a useful life of one or more  
38 years therefor, whether purchased separately or in conjunction  
39 with the equipment and regardless of whether the machine or

1 component parts are assembled by the qualified person or another  
2 party.

3 (B) All marine terminal equipment used in pollution control  
4 that meets standards established by this state or any local or  
5 regional governmental agency within this state and all marine  
6 terminal equipment that exceeds existing standards established by  
7 the state.

8 (C) Special purpose buildings and foundations used as an  
9 integral part of the process of utilization of zero-emission  
10 equipment or near-zero-emission equipment constitute qualified  
11 tangible personal property to the extent that the sale of, or storage,  
12 use, or other consumption is subject to the imposition of sales or  
13 use tax.

14 (4) “Zero-emission or near-zero-emission equipment” means  
15 equipment, vehicles, and related technologies used at a California  
16 public seaport that reduce or eliminate greenhouse gas emissions  
17 and improve air quality when compared with conventional or fully  
18 commercialized alternatives, as identified by the State Air  
19 Resources Board in consultation with the State Energy Resources  
20 Conservation and Development Commission. “Zero-emission and  
21 near-Zero-emission equipment” may include, but is not limited to,  
22 enabling technologies that provide a pathway to emissions  
23 reductions, advanced or alternative fuel engines, and hybrid or  
24 alternative fuel technologies for seaport equipment.

25 (c) An exemption shall not be allowed under this section unless  
26 the purchaser furnishes the retailer with an exemption certificate,  
27 completed in accordance with any instructions or regulations as  
28 the board may prescribe, and the retailer retains the exemption  
29 certificate in its records and furnishes it to the board upon request.

30 (d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales  
31 and Use Tax Law (Part 1.5 (commencing with Section 7200)) and  
32 the Transactions and Use Tax Law (Part 1.6 (commencing with  
33 Section 7251)), the exemption established by this section shall not  
34 apply with respect to any tax levied by a county, city, or district  
35 pursuant to, or in accordance with, either of those laws.

36 (2) Notwithstanding subdivision (a), the exemption established  
37 by this section shall not apply with respect to any tax levied  
38 pursuant to Section 6051.2, or 6201.2, pursuant to Sections 35 and  
39 36 of Article XIII of the California Constitution, or any tax levied  
40 pursuant to Sections 6051 or 6201 that is deposited in the State

1 Treasury to the credit of the Local Revenue Fund 2011 pursuant  
2 to Sections 6051.15 or 6201.15.

3 (e) Notwithstanding subdivision (a), the exemption provided  
4 by this section shall not apply to any sale or storage, use, or other  
5 consumption of property that, within one year from the date of  
6 purchase, is removed from California, converted from an exempt  
7 use under subdivision (a) to some other use not qualifying for  
8 exemption, or otherwise used in a manner not qualifying for  
9 exemption.

10 (f) This section shall apply to leases of qualified tangible  
11 personal property classified as “continuing sales” and “continuing  
12 purchases” in accordance with Sections 6006.1 and 6010.1. The  
13 exemption established by this section shall apply to the rentals  
14 payable pursuant to the lease, provided the lessee is a qualified  
15 person and the tangible personal property is qualified tangible  
16 personal property used in an activity described in subdivision (a).

17 (g) (1) Upon the effective date of this section, the Department  
18 of Finance shall estimate the total dollar amount of exemptions  
19 that will be taken for each calendar year, or any portion thereof,  
20 for which this section provides an exemption.

21 (2) No later than each March 1 next following a calendar year  
22 for which this section provides an exemption, the board shall  
23 provide to the Joint Legislative Budget Committee a report of the  
24 total dollar amount of exemptions taken under this section for the  
25 immediately preceding calendar year. The report shall compare  
26 the total dollar amount of exemptions taken under this section for  
27 that calendar year with the department’s estimate for that same  
28 calendar year. If that total dollar amount taken is less than the  
29 estimate for that calendar year, the report shall identify options for  
30 increasing exemptions taken so as to meet estimated amounts.

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