

AMENDED IN SENATE JUNE 2, 2011

AMENDED IN SENATE MAY 5, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 626

Introduced by Senator Calderon

February 18, 2011

An act to add Division 8.9 (commencing with Section 22992) to the Business and Professions Code, and to add Section 7059 to the Revenue and Taxation Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

SB 626, as amended, Calderon. State Board of Equalization: cannabis and cannabis products: study.

Existing law provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California, and prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are licensed. Existing law also imposes a tax on the gross receipts from the sale in this state of, or 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.

This bill would require the State Board of Equalization to establish a *voluntary* task force to conduct a study, and submit the results of that study to the Legislature by a specified date, to determine, among other things, the most efficient means to obtain compliance under the Sales and Use Tax Law by sellers of cannabis and cannabis products sellers engaged in business in this state, as provided. *The bill would provide*

that all costs of the study be contingent upon the availability of outside, nonstate resources.

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. Division 8.9 (commencing with Section 22992)
2 is added to the Business and Professions Code, to read:

3
4 DIVISION 8.9. CANNABIS CERTIFICATION AND
5 REGULATION ACT OF 2011
6

7 22992. This division shall be known, and may be cited, as the
8 Cannabis Certification and Regulation Act of 2011.

9 22992.2. The Legislature finds and declares all of the following:

10 (a) The current controversies surrounding California's medical
11 marijuana dispensaries authorized to sell medical marijuana under
12 the Compassionate Use Act, enacted by the voters in 1996, have
13 created problems for the patients, dispensaries, law enforcement,
14 and local governments. Many issues about the legal sale and
15 distribution of medical marijuana remain unaddressed.

16 (b) There is clear evidence that some dispensaries are
17 intentionally evading taxes and may be laundering illegally
18 acquired money and illegally distributing marijuana for other than
19 medical purposes.

20 (c) The State Board of Equalization, under its sales tax authority,
21 has formally registered nearly 300 medical marijuana dispensaries
22 and issued seller's permits. It has also identified over 500
23 unregistered dispensaries.

24 (d) Local governments are rightly unwilling to authorize
25 distribution centers when current state laws are not clear on how
26 to prevent unlawful activities.

27 (e) Law enforcement authorities have legitimate concerns about
28 misuse of these dispensaries as sources of illegal distribution and
29 consumption.

30 (f) A clearly defined legal framework is required to protect the
31 integrity and distribution of cannabis for medical use.

32 (g) In 2003 the Legislature enacted the California Cigarette and
33 Tobacco Products Licensing Act of 2003 (Division 8.6

(commencing with Section 22970) of the Business and Professions Code) to provide for the licensure by the State Board of Equalization of manufacturers, distributors, and retailers of cigarette and other tobacco products in California. For the first time in California, the distribution and sale of cigarette and tobacco products were prohibited pursuant to Division 8.6 (commencing with Section 22970) of the Business and Professions Code unless those involved in every aspect of the trade were licensed.

(h) That act authorized the state, through the State Board of Equalization, to suspend or revoke the license of any licensee in violation of the strict regulations governing the legal distribution of tobacco products. The act established criminal penalties for selling counterfeit cigarette and tobacco products, and imposed fines or imprisonment for possessing, selling, or buying fraudulent cigarette tax stamps.

(i) The primary purpose of the act was to prevent the unlawful distribution of cigarettes and the loss of state tax revenue, which had been declining by hundreds of millions of dollars due, in part, to unlawful distributions and untaxed sales by well-organized criminals.

(j) The act has been a success. According to a June 2006 report by the State Auditor, cigarette tax compliance has improved, and there was a positive effect on tax revenues from cigarettes and tobacco products.

(k) It is the intention of the Legislature in enacting similar legislation to license and control the distribution of medical marijuana to do all of the following:

(1) Enable state and local governments to control sales and distribution of marijuana in the same way the tobacco licensing act has stemmed the flow of illegal tobacco products into the market place.

(2) Increase revenue for the state and local governments.

(3) Provide assurances to the dispensaries that are now paying sales tax that the state has an effective mechanism to collect tax from their illegal competitors and shut them down if necessary.

(4) Enable the state to control the current legal distribution of medical marijuana from the cultivator to the consumer and help law enforcement authorities stop illegal sales in medical marijuana dispensaries and elsewhere to minors and other individuals.

1 (5) Allow the state to prescribe secure packaging requirements
2 to carry out the intent of the division.

3 SEC. 2. Section 7059 is added to the Revenue and Taxation
4 Code, to read:

5 7059. (a) The board shall establish a *voluntary* task force to
6 conduct a study to determine the most efficient means to obtain
7 compliance under this part by sellers of cannabis and cannabis
8 products that are engaged in business in this state in order to
9 enhance collection of applicable state and local sales and use tax
10 on retail sales of cannabis or cannabis products and in order to
11 ensure the proper regulation of the cultivation, transportation, and
12 distribution of cannabis and cannabis products. *All costs of the*
13 *study shall be contingent upon the availability of outside, nonstate*
14 *resources.* In conducting the study, the task force shall consider
15 all of the following:

16 (1) The current strategies of the board that encourage compliance
17 with the Sales and Use Tax Law from cannabis or cannabis
18 products sellers engaged in business in this state.

19 (2) The advantages or disadvantages of implementing a stamp
20 system for cannabis or cannabis products similar to that used for
21 cigarettes under the ~~California~~ Cigarette and Tobacco Products
22 Tax Law (Part 13 (commencing with Section 30001)).

23 (3) Strategies that would assist the board in identifying sellers
24 of cannabis or cannabis products, including the use of state or local
25 law enforcement agencies.

26 (4) Strategies that would provide incentives for cannabis or
27 cannabis product sellers to register and pay the tax imposed by
28 this part without the possibility of self-incrimination.

29 (5) The potential administrative costs to the board for
30 implementing and administering any system that the board
31 identifies that would enhance collection of applicable state and
32 local sales and use tax on the sale and use of cannabis or cannabis
33 products in this state.

34 (6) Strategies that would ~~assure~~ *ensure* quality control of
35 cannabis and cannabis products, including laboratory testing for
36 potency, pathogens, and pesticides.

37 (7) The advantages or disadvantages of establishing a state level
38 program for the licensing, regulation, and enforcement of best
39 practices for the cultivation, processing, and distribution of
40 cannabis and cannabis products for medical use.

(b) The task force shall be composed of ~~nine~~ 11 persons, as follows:

(1) A representative from the California Police Chiefs Association.

(2) A representative from the California Narcotic Officers' Association.

(3) A representative from the California District Attorneys Association.

(4) A representative from the California Medical Association.

(5) A representative appointed by the Attorney General.

(6) A representative from the California Cannabis Association.

(7) A representative from Americans for Safe Access.

(8) *A representative from United Food and Commercial Workers (UFCW).*

(9) *A representative from the California Cannabis Business League.*

~~(8)~~

(10) Two representatives appointed by the ~~Chair~~ chairperson of the board.

(c) The board shall submit a report to the Legislature with the results of the study no later than six months after the effective date of the act adding this section. In the event the report includes a strategy that is feasible and would benefit the state and local sales and use tax revenue stream and minimize noncompliance by cannabis or cannabis products sellers engaged in business in this state, the report shall also recommend a strategy for implementation.

(d) (1) The requirement for submitting a report imposed under subdivision (c) is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

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