AN ACT TO ADD CHAPTER 20 (COMMENCING WITH SECTION 26300) TO DIVISION 20 OF THE HEALTH AND SAFETY CODE, AND TO ADD PART 14.7 (COMMENCING WITH SECTION 34001) TO DIVISION 2 OF THE REVENUE AND TAXATION CODE, RELATING TO SEXUAL ASSAULTS.

LEGISLATIVE COUNSEL’S DIGEST


Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose a tax on persons operating a sexually oriented business, as defined, at the rate of $10 per entry visit by a customer to the business by a customer per visit inclusive of admission and reentry. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would create the Sexual Assault
Treatment and Prevention Fund, and would require that all revenues, less refunds and the costs of the administration of the tax, derived from the tax be transferred to the fund. This bill would provide that moneys in the fund, upon appropriation by the Legislature, be used by the California Emergency Management Agency for specified purposes related to the treatment and prevention of sexual assault.

Because this bill would expand application of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this bill.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.


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

SECTION 1. The Legislature finds and declares all of the following:
(a) It is the intent of the Legislature that an award of a grant to an organization pursuant to this act shall not result in a reduction in moneys appropriated by the Legislature to that organization.
(b) Sexually oriented businesses that serve alcohol or that are located near liquor-serving businesses pose larger and qualitatively different ambient public safety hazards. Governments rely on this consistent finding of the empirical secondary effect
literature as a rationale for limiting nudity in liquor-serving businesses.

(c) Accordingly, the consumption of alcohol on the premises of a sexually oriented business contributes to the need for community-based services to respond to victims of all forms of sexual exploitation, including sexual harassment, trafficking, and sexual assault.

(d) Rape crisis centers and other victim service providers play a unique role in responding to assault, sexual abuse, trafficking, and domestic violence. They also work to prevent crimes such as these through the creation of public awareness and prevention that empowers and restores persons who have been sexually violated.

(e) This act is not intended to directly or indirectly impose limitations or restrictions on live nude dancing, nor is it the intent of this act to restrict or deny access by adults to live nude dancing performances that may be protected by the First Amendment to the United States Constitution or by the California Constitution.

SEC. 2. Chapter 20 (commencing with Section 26300) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 20. SEXUAL ASSAULT TREATMENT AND PREVENTION

26300. The California Emergency Management Agency shall use funds transferred from the Sexual Assault Treatment and Prevention Fund only for the following purposes:

(a) To award grants for intervention services related to sexual assault survivors and rape prevention programs provided by rape crisis centers, as stipulated in Section 13837 of the Penal Code, and for the following services:

(1) Civil legal services to sexual assault survivors.
(2) Coordination of sexual assault response teams that provide multidisciplinary response services to sexual assault survivors.
(3) Culturally and linguistically appropriate intervention services to sexual assault survivors from underrepresented or underserved communities.

(b) To award grants to reimburse the payment of sexual assault forensic exams.

(c) To award grants to, and contracts with, a statewide organization organized and operated as described in Section
(c) (3) of the Internal Revenue Code that has the primary purpose of ending sexual violence in this state, for programs for the intervention and prevention of sexual violence, outreach programs, training, and technical assistance to and support of California rape crisis centers, as stipulated in Section 13837 of Penal Code, and other organizations funded by the Sexual Assault Treatment and Prevention Fund to prevent and intervene in sexual violence in underserved communities.

(d) To award grants to nonprofit, community-based organizations to support intervention and treatment services for victims of sexual exploitation of human trafficking, including, but not limited to, those that are engaged in work to end and prevent sexual and domestic violence.

(e) To award grants to nonprofit, community-based organizations to support the intervention and treatment services for victims of sexual assault as part of dating or domestic violence, including, but not limited to, sexual assault services programs, as defined in Section 13837 of the Penal Code, or domestic violence victim service organizations, as defined in Section 1037.1 of the Evidence Code.

(f) No more than 5 percent annually of the funds deposited in the Sexual Assault Treatment and Prevention Fund may be used for the administration by the California Emergency Management Agency of these grant programs.

(g) (1) To fund a report created by the California Emergency Management Agency to the Governor and the Legislature reporting the following:

(A) The deficiencies with respect to research, prevention, response, victim services, adjudication, and incarceration, related to sexual assaults at state and local levels.

(B) The effectiveness of appropriations made to fund this chapter and other legislation related to sexual assault intervention enacted by the Legislature.

(C) Recommendations for appropriate performance measures that enable the Governor and the Legislature to assess and respond to the status of sexual assault prevention in this state.

(2) Notwithstanding Section 10231.5 of the Government Code, a report, pursuant to paragraph (1), shall be submitted on July 1, 2015, and biennially thereafter.
(3) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Part 14.7 (commencing with Section 34001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 14.7. SEXUALLY ORIENTED BUSINESS TAX

34001. For purposes of this part, the following definitions apply:

(a) “Nude” means clothed in a manner that leaves uncovered or visible through less than fully opaque clothing, any portion of the genitals or buttocks or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(b) “Sexually oriented business” means a nightclub, bar, restaurant, or similar commercial enterprise that does both of the following:

1. Provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

2. Authorizes on-premises consumption of alcoholic beverages, regardless of whether the consumption of alcoholic beverages is under a license or permit issued under the Alcoholic Beverage Control Act.

34002. The tax imposed by this part shall be in addition to any other taxes imposed by law.

34003. For the privilege of operating a sexually oriented business, a tax is hereby imposed upon all persons who operate a sexually oriented business at the rate of ten dollars ($10) per entry visit by a customer to the business inclusive of admission and reentry.

34004. A person who operates a sexually oriented business shall record daily in the manner required by the board the number of customers admitted to the business.

34005. A person who operates a sexually oriented business may not require the tax imposed by this part to be reimbursed by an employee or independent contractor of the sexually oriented business, but may require the tax to be reimbursed by the customer.
whose entry the tax is imposed upon, in a manner prescribed by
the board.

34006. (a) The taxes imposed by the part shall be due and
payable to the board on or before the last day of the month
following each calendar quarter.

(b) (1) On or before the last day of the month following each
calendar quarter, a return for the preceding quarterly period shall
be filed with the board using electronic media.

(2) The board may prescribe those forms and reporting
requirements as are necessary to implement the tax, including, but
not limited to, information regarding the number of entries to the
business and the amount of tax due.

34006.5. Every person required to pay the tax imposed under
this part shall register with the board. Every application for
registration shall be made upon a form prescribed by the board
and shall set forth the name under which the applicant transacts
or intends to transact business, the location of the
applicant’s place or places of business, and such other information
as the board may require. An application for an account shall be
authenticated in a form or pursuant to methods as may be
prescribed by the board.

34007. The board shall administer and collect the tax imposed
by this part pursuant to the Fee Collection Procedures Law (Part
30 (commencing with Section 55001)). For purposes of this part,
the references in the Fee Collection Procedures Law to “fee” shall
include the tax imposed by this part and references to “feepayer”
shall include a person required to pay the tax imposed by this part.

34008. The board shall enforce the provisions of this part and
may prescribe, adopt, and enforce rules and regulations relating
to the administration and enforcement of this part. The board may
prescribe the extent to which any ruling or regulation shall be
applied without retroactive effect.

34009. (a) The board shall transmit all payments, less refunds
and the board’s costs of administration, to the Treasurer to be
deposited in the State Treasury to the credit of the Sexual Assault
Treatment and Prevention Fund, which is hereby created.

(b) Moneys in the Sexual Assault Treatment and Prevention
Fund shall, upon appropriation by the Legislature, be used as
SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. The provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.