

ASSEMBLY BILL

No. 821

Introduced by Assembly Member Gipson

February 26, 2015

An act to add Section 6369.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 821, as introduced, Gipson. Sales and use taxes: exemption: medical marijuana: terminally ill patient.

Existing sales and use tax laws impose taxes 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. Existing law relieves the seller from liability for the sales tax if an exemption certificate is taken in good faith, and imposes liability for sales tax on the purchaser if the tangible personal property purchased is used in a manner or for a purpose not qualifying for the exemption, as provided.

This bill would exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption of, medical marijuana for consumption by a terminally ill patient, and would require the purchaser to provide an exemption certificate as provided.

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 accordance with the Transactions and Use Tax Law, which conforms to the Sales and

Use Tax Law. Amendments to state sales and use taxes are incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 6369.6 is added to the Revenue and
2 Taxation Code, to read:

3 6369.6. (a) There are exempted from the taxes imposed by
4 this part the gross receipts from the sale of, and the storage, use,
5 or other consumption in this state of, medical marijuana for
6 consumption by a terminally ill patient.

7 (b) (1) No exemption shall be allowed under this section unless
8 the purchaser furnishes the retailer with a medical marijuana
9 exemption certificate, completed in accordance with any
10 instructions or regulations as the board may prescribe, and the
11 retailer retains the exemption certificate in its records. The medical
12 marijuana exemption certificate shall contain the cost of the
13 medical marijuana that is exempt pursuant to subdivision (a),
14 identification card serial number, and any other information
15 deemed necessary by the board.

16 (2) The board shall establish and maintain a program for the
17 issuance of a medical marijuana exemption certificate. A medical
18 marijuana exemption certificate shall be issued to a person or his
19 or her primary caregiver upon satisfactory proof of terminal illness,
20 and shall be valid for the same period as the identification card
21 issued to the terminally ill patient pursuant to Article 2.5
22 (commencing with Section 11362.7) of Chapter 6 of Division 10
23 of the Health and Safety Code and may be renewed once, unless

1 otherwise authorized by the board under regulations adopted
2 pursuant to this section.

3 (c) A person who seeks a medical marijuana exemption
4 certificate shall provide all of the following to the board, in a
5 manner as determined by the board:

6 (1) The name of the terminally ill patient.

7 (2) Written documentation by the patient’s attending physician
8 that certifies the patient is terminally ill based on the circumstances
9 and information available to the physician at the time of diagnosis.

10 (3) The name, office address, office telephone number, and
11 California medical license number of the patient’s attending
12 physician.

13 (4) The name and the duties of the primary caregiver.

14 (5) A government-issued photo identification card of the person
15 and of the designated primary caregiver, if any.

16 (6) The identification card issued by the Department of Public
17 Health.

18 (7) Any other information deemed necessary by the board.

19 (d) For purposes of this section:

20 (1) “Attending physician” has the same meaning as that term
21 is defined in Section 11362.7 of the Health and Safety Code.

22 (2) “Marijuana” has the same meaning as that term is defined
23 in Section 11018 of the Health and Safety Code.

24 (3) “Medical marijuana” means marijuana used for medical
25 purposes in accordance with Sections 11362.5 and 11362.7 of the
26 Health and Safety Code.

27 (4) “Primary caregiver” has the same meaning as that term is
28 defined in Section 11362.7 of the Health and Safety Code.

29 (5) “Terminally ill” has the same meaning as that term is defined
30 in subdivision (c) of Section 11159.2 of the Health and Safety
31 Code.

32 (6) “Written documentation” means certification by the attending
33 physician that the patient is terminally ill.

34 (e) Any person that uses a medical marijuana exemption
35 certificate in a manner contrary to the requirements of this section
36 shall be liable for payment of sales tax as if the purchaser were a
37 retailer making a retail sale of the property at the time of that use
38 and the cost of the marijuana to the purchaser shall be deemed the
39 gross receipts from the retail sale.

1 SEC. 2. Notwithstanding Section 2230 of the Revenue and
2 Taxation Code, no appropriation is made by this act and the state
3 shall not reimburse any local agency for any sales and use tax
4 revenues lost by it under this act.

5 SEC. 3. This act provides for a tax levy within the meaning of
6 Article IV of the Constitution and shall go into immediate effect.
7 However, the provisions of this act shall become operative on the
8 first day of the first calendar quarter commencing more than 90
9 days after the effective date of this act.

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