

Senate Bill No. 633

Passed the Senate September 8, 1995

Secretary of the Senate

Passed the Assembly September 6, 1995

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1995, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to add Sections 18626, 19720, and 19721 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 633, Kopp. Income and bank and corporation tax laws: violations.

Existing law provides for the administration of income and bank and corporation tax laws, and imposes various fines and penalties for violations of those laws.

This bill would impose specified penalties and create new crimes for filing fraudulent tax returns, or committing other specified violations of the income and bank and corporation tax laws. By creating new crimes, this bill would create 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.

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

SECTION 1. Section 18626 is added to the Revenue and Taxation Code, to read:

18626. For purposes of Chapter 9 (commencing with Section 19701), which relates to criminal penalties in the case of fraudulent returns, the term "return" includes any return filed under this part using electronic technology pursuant to Section 18621.5.

SEC. 2. Section 19720 is added to the Revenue and Taxation Code, to read:

19720. (a) Any person who does any of the following is liable for a penalty of not more than five thousand dollars (\$5,000):

(1) Utters, passes, negotiates, or procures a state-issued income tax refund warrant generated



through the filing of a return knowing that the recipient is not entitled to the refund.

(2) Aids, abets, advises, encourages, or counsels any individual to utter, pass, negotiate, or procure a state-issued income tax refund warrant generated through the filing of a return knowing that the recipient is not entitled to the refund.

(b) The fact that an individual's name is endorsed to a state-issued refund warrant shall be prima facie evidence for all purposes that the refund warrant was actually signed by him or her.

(c) The penalty shall be recovered in the name of the people in any court of competent jurisdiction. Counsel for the Franchise Tax Board may, upon request of the district attorney or other prosecuting attorney, assist the prosecuting attorney in presenting the law or facts to recover the penalty at the trial of a criminal proceeding for violation of this section.

(d) The person is also guilty of a misdemeanor and upon conviction shall be punishable by a fine not to exceed ten thousand dollars (\$10,000) or by imprisonment not to exceed one year, or both, at the discretion of the court, together with costs of investigation and prosecution.

(e) Any individual guilty under this part shall be subject to Section 502.01 of the Penal Code.

SEC. 3. Section 19721 is added to the Revenue and Taxation Code, to read:

19721. (a) Any person who, with intent to defraud, does any of the following is liable for a penalty of not more than ten thousand dollars (\$10,000):

(1) Willfully utters, passes, negotiates, or procures a state-issued income tax refund warrant generated through the filing of a return knowing that the recipient is not entitled to the refund.

(2) Willfully aids, abets, advises, encourages, or counsels any individual to utter, pass, negotiate, or procure a state-issued income tax refund warrant generated through the filing of a return knowing the recipient is not entitled to the refund.



(b) The person is also guilty of a misdemeanor and upon conviction shall be punishable by a fine not to exceed twenty thousand dollars (\$20,000), or by imprisonment not to exceed one year, or both, at the discretion of the court, together with costs of investigation and prosecution.

(c) The fact that an individual's name is endorsed to a state-issued refund warrant shall be prima facie evidence for all purposes that the refund warrant was actually signed by him or her.

(d) The penalty shall be recovered in the name of the people in any court of competent jurisdiction. Counsel for the Franchise Tax Board may, upon request of the district attorney or other prosecuting attorney, assist the prosecuting attorney in presenting the law or facts to recover the penalty at the trial or a criminal proceeding for violation of this section.

(e) Any individual guilty under this part shall be subject to Section 502.01 of the Penal Code.

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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1995

Governor

