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AB-321 Sales and use taxes: exemptions: trucks for use in interstate or out-of-state commerce. (2019-2020)

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Date Published: 09/07/2019 04:00 AM

Assembly Bill No. 321

CHAPTER 226

An act to amend, repeal, and add Section 6388.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 321, Patterson. Sales and use taxes: exemptions: trucks for use in interstate or out-of-state commerce.

Existing state 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. The Sales and Use Tax Law provides various exemptions from those taxes, including an exemption for the sale of, or the storage, use, or other consumption of, a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that is purchased for use without this state and is delivered to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 or 75 days, as applicable, from and after the date of delivery, if the purchaser furnishes certain documents to the manufacturer or remanufacturer. Those documents include the purchaser's affidavit as to the exclusive use of the vehicle in interstate or foreign commerce, and the vehicle having been taken out of the state within the applicable time period.

This bill, until January 1, 2024, would additionally include within this exemption the sale of, or the storage, use, or consumption of, a new, used, or remanufactured truck with an unladen weight of 6,000 pounds or more that is purchased for use without this state. By requiring additional purchaser affidavits, this bill would expand the crime of perjury and impose a state-mandated local program.

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 laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

Existing law requires the state to 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.

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6388.5 of the Revenue and Taxation Code is amended to read:

6388.5. (a) Notwithstanding Section 6388, whenever a new, used, or remanufactured truck or a new or remanufactured trailer or semitrailer, any of which has an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery, or whenever a new, used, or remanufactured truck or a new or remanufactured trailer or semitrailer, any of which has an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery, there are exempted from the taxes imposed by Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use, or other consumption of the vehicle within the state, if the purchaser or the purchaser's agent furnishes the following to the manufacturer, remanufacturer, or dealer:

(1) (A) Written evidence of an out-of-state license and registration for the vehicle.

(B) In cases where the vehicle is subject to the permanent trailer identification plate program under Section 5014.1 of the Vehicle Code and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Single State Registration System filing may be substituted for the written evidence described in subparagraph (A).

(2) The purchaser's affidavit attesting that the purchaser purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

(3) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to the purchaser.

(b) This section shall become inoperative on January 1, 2024, and as of that date is repealed.

SEC. 2. Section 6388.5 is added to the Revenue and Taxation Code, to read:

6388.5. (a) Notwithstanding Section 6388, whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery, or whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery, there are exempted from the taxes imposed by Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use, or other consumption of the vehicle within the state, if the purchaser or the purchaser's agent furnishes the following to the manufacturer, remanufacturer, or dealer:

(1) (A) Written evidence of an out-of-state license and registration for the vehicle.

(B) In cases where the vehicle is subject to the permanent trailer identification plate program under Section 5014.1 of the Vehicle Code and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Single State Registration System filing may be substituted for the written evidence described in subparagraph (A).

(2) The purchaser's affidavit attesting that the purchaser purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

(3) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to the purchaser.

(b) This section shall become operative on January 1, 2024.

SEC. 3. (a) It is the intent of the Legislature to apply the requirements of Section 41 of the Revenue and Taxation Code to this act.

(b) With respect to Section 6388.5 of the Revenue and Taxation Code, as amended by this act, the Legislature finds and declares as follows:

(1) The goal of Section 6388.5 of the Revenue and Taxation Code, as amended by this act, is to bring parity to the law regulating interstate commerce, and to allow commercial trucks to meet the same requirements as commercial trailers that are purchased in the state for use either entirely outside the state or strictly in interstate commerce.

(2) The goal of this policy is to increase sales of commercial trucks that have an unladen weight of 6,000 pounds or more that will be used in interstate commerce.

(c) To measure the goals set forth in subdivision (b), the Legislative Analyst's Office shall measure how many in-state truck deliveries were affected by Section 6388.5 of the Revenue and Taxation Code, as amended by this act, and will report to the Legislature biannually on its findings.

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

SEC. 5. 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. 6. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect. However, 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.