

File No. 220097

Committee Item No. _____

Board Item No. 40

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: February 1, 2022

Cmte Board

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OTHER

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Prepared by: Jocelyn Wong

Date: January 28, 2022

Prepared by: _____

Date: _____

1 [Urging California to Reform the State’s Cannabis Cultivation Tax]

2

3 **Resolution urging the State of California to reform its Cannabis Cultivation Tax.**

4

5 WHEREAS, California voters passed Proposition 64 in 2016, establishing two
6 commercial cannabis taxes that, effective January 1, 2018, imposed an excise tax upon the
7 retail sale of cannabis or cannabis products at a rate of fifteen percent (15%), and a cultivation
8 tax on all harvested cannabis that enters the commercial market at a rate of nine dollars and
9 twenty-five cents (\$9.25) for dry-weight flower per ounce, and two dollars and seventy-five
10 cents (\$2.75) per dry-weight leaves/trim per ounce; and

11 WHEREAS, Proposition 64 required that the Bureau of Cannabis Control convene a
12 committee to advise licensing authorities on the development of standards and regulations,
13 including best practices and guidelines that protect public health and safety while ensuring
14 commercial cannabis regulations do not impose barriers that perpetuate, rather than reduce
15 and eliminate, the illicit market for cannabis; this committee came to be known as the
16 Cannabis Advisory Committee (CAC); and

17 WHEREAS, In November 2019, the California Department of Tax and Fee
18 Administration announced that effective January 1, 2020, per statutory mandate, the
19 cultivation tax would increase to account for inflation leading the CAC to express concern in
20 its 2019 Annual Report that the increase in taxation, “...come[s] at a time when the complex
21 regulatory framework, coupled with high taxation, pose[s] significant challenges to the
22 licensed cannabis market,” noting a report published by Arcview Market Research, that these
23 two factors could disadvantage the licensed market by as much as 77 percent on pricing
24 compared to well- established illicit market operations.; and

25

1 WHEREAS, In 2018, and again in 2019, the California Legislature considered, but did
2 not approve, bills to temporarily eliminate the cultivation tax; and

3 WHEREAS, In 2020, the Legislature again considered a bill to eliminate the cultivation
4 tax, but, due to emergency orders and economic uncertainty caused by the COVID-19
5 pandemic, held the bill in Committee, and instead approved Assembly Bill 1872 (Committee
6 on Budget, Chapter 93, Statutes of 2020) which suspended for one year the California
7 Department of Tax and Fee Administration’s authority to adjust the cannabis cultivation tax for
8 inflation; and

9 WHEREAS, On November 17, 2021, the California Department of Tax and Fee
10 Administration announced that effective January 1, 2022, the cultivation tax would increase
11 from nine dollars and sixty-five cents (\$9.65) to ten dollars and eight cents (\$10.08) for flower
12 per dry-weight ounce; from two dollars and eighty-seven cents (\$2.87) to three dollars (\$3.00)
13 for leaves/trim per dry-weight ounce; and, from one dollar and thirty-five cents (\$1.35) to one
14 dollar and forty-one cents (\$1.41) for fresh cannabis plant per ounce; and

15 WHEREAS, A November 2021 sales report from BDS Analytics shows that legal sales
16 in California fell by more than eleven percent (11.4%) to \$293.1 million when compared to last
17 year and are down nearly eight percent (7.7%) from August 2021, additionally showing that
18 cannabis flower sales fell twenty-three percent (23%), while concentrates, the second-largest
19 product category, declined eight percent (8%); and

20 WHEREAS, The licensed cannabis market in California is currently experiencing a
21 price collapse and the average wholesale price for dried cannabis flower has fallen to
22 approximately five hundred dollars (\$500) a pound, and the average wholesale price for dry
23 leaves and trim has fallen to thirty dollars (\$30) a pound making the current tax rate for dry
24 flower equivalent to fifty-one percent (51%) of gross receipts and the current tax rate for dry
25 leaves and trim equivalent to one hundred fifty-three percent (153%) of gross receipts; and

1 WHEREAS, The San Francisco Board of Supervisors unanimously approved the
2 suspension of San Francisco’s local Cannabis Business Tax for the 2021 and 2022 tax years,
3 forgoing millions of dollars in local tax revenue, in part due to the tax burden that the State’s
4 Cannabis Cultivation Tax is having on San Francisco cannabis businesses and concern that
5 an additional local tax would further undermine legal operators and perpetuate the illicit
6 market; now, therefore, be it

7 RESOLVED, That the San Francisco Board of Supervisors strongly urges Governor
8 Newsom and the California Legislature to suspend the state cultivation tax and to establish a
9 regulated environment for commercial cannabis activities that does not impose such barriers
10 as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis in California;
11 and, be it

12 FURTHER RESOLVED, The San Francisco Board of Supervisors requests the Clerk of
13 the Board to submit a copy of this Resolution to the local state legislative representatives and
14 Governor Newsom.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Mandelman, Haney

Subject:

Urging California to Reform the State's Cannabis Cultivation Tax

The text is listed:

Resolution urging the State of California to Reform its Cannabis Cultivation Tax

Signature of Sponsoring Supervisor:

For Clerk's Use Only