

SUMMARY ANALYSIS OF AMENDED BILL

Author: Margett Analyst: Rachel Coco Bill Number: SB 1422
 Related Bills: See Prior Analysis Telephone: 845-4328 Amended Date: April 18, 2006
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Check Cashers/Change In Term of Imprisonment

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 22, 2006, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would modify the punishment and length of imprisonment for check cashers that willfully fail to report information to the Franchise Tax Board (FTB) regarding certain check cashing transactions.

This bill would also make numerous amendments related to crime, firearms, child welfare, and controlled substance addiction. These amendments do not impact the department and will not be discussed in this analysis.

SUMMARY OF AMENDMENTS

The April 18, 2006, amendments removed existing language that identified the offense as a felony and language that would have made the term of imprisonment one year and one day in the state prison for a check cashier's willful failure to file information returns. The amendments replace that language with language that would make the term one year in the county jail or imprisonment in the state prison for 16 months, or two or three years. As a result of the amendments, the "This Bill" discussion as provided in the analysis of the bill as introduced, February 22, 2006, has been revised. The remainder of the analysis still applies.

Board Position:	Legislative Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Brian Putler	5/15/06

POSITION

Pending.

ANALYSIS

STATE LAW

Existing law defines crimes as misdemeanors, felonies, or alternate felony-misdemeanors. A felony is a crime for which the defendant must be sentenced to a term of more than one year in a state prison. A misdemeanor is a crime for which the defendant can be imprisoned for no more than a year in a county jail. An alternate felony-misdemeanor, commonly called a "wobbler," is a crime that can be charged by the prosecutor as a felony or a misdemeanor. Where the defendant is charged the felony form of a wobbler and is convicted of that crime, the sentencing court can deem the conviction to be a misdemeanor, either at the time of sentencing or upon completion of probation. Where the punishment for a crime is described so as to allow the sentencing court to impose a sentence of a fine or incarceration, the crime is by law an alternate felony-misdemeanor. Unless a different punishment is provided for an alternate felony-misdemeanor, an alternate felony-misdemeanor is punishable by imprisonment for up to one year, a fine of up to \$1,000, or both, or by imprisonment in a state prison for 16 months, 2 years or 3 years, and a fine of up to \$10,000.

State law requires check cashers to file an information return with FTB identifying persons who have cashed checks cumulatively exceeding \$10,000 in the same calendar year.

The information return must be filed within 90 days after the end of the calendar year and must contain, at the minimum, the name, address, taxpayer identification number, amount and date of any transaction, and any other information deemed necessary by FTB. Failure to file the information return would subject the check casher to information reporting penalties. Willful failure to file the information return is a felony and would subject the check casher to criminal penalties, which may include a fine of up to \$25,000 for individuals or \$100,000 for corporations, or imprisonment for up to one year, or both. As enacted, the law is incompatible with existing principles of California criminal law with respect to sentencing.

THIS BILL

This bill would change the penalty for check cashers that willfully fail to provide information returns on specific transactions. Under this bill, the penalty for willful failure to comply would be a fine of not more than \$25,000 or, for corporations, not more than \$100,000, by imprisonment in a county jail for one year, imprisonment in the state prison for 16 months, or two or three years, or by both the fine and imprisonment.

By changing the term of imprisonment, this bill would make the willful failure to provide information returns an alternate felony-misdemeanor crime.

LEGISLATIVE STAFF CONTACT

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