

Date of Hearing: April 20, 2026

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 1633 (Haney) – As Introduced January 26, 2026

2/3 vote. Tax levy. Fiscal committee.

SUBJECT: Taxation: private detention facilities

SUMMARY: Enacts the Private Detention Facility Tax Law. Specifically, **this bill:**

- 1) Imposes, beginning January 1, 2027, an annual tax upon all "private detention facility operators" equal to 50% of the operator's gross receipts derived from the operation of each "private detention facility" in California.
- 2) Provides that this tax shall apply regardless of whether the contracting agency is federal, state, or local.
- 3) Defines the following terms:
 - a) "Department" is the California Department of Tax and Fee Administration (CDTFA).
 - b) "Gross receipts" are all amounts received by a "private detention facility operator" pursuant to all contracts relating to the operation of "private detention facilities" located in California.
 - c) "Private detention facility" and "private detention facility operator" are defined by cross-reference to Government Code Section 7320.
- 4) Requires CDTFA to administer and collect the tax imposed by this bill pursuant to the Fee Collection Procedures Law (FCPL).
- 5) Allows CDTFA to prescribe, adopt, and enforce regulations relating to the administration and enforcement of this bill, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.
- 6) Provides that the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.
- 7) Creates the Due Process for All Fund in the State Treasury, provides that all revenues collected pursuant to the Private Detention Facility Tax Law shall be deposited into that fund, and provides that moneys in the fund shall, upon appropriation, be used for immigration-related services.
- 8) Takes immediate effect as a tax levy.

EXISTING LAW:

- 1) Defines "private detention facility" and "operator" among other terms, as follows:
 - a) "Private detention facility" means a detention facility that is operated by a private, nongovernmental, for-profit entity pursuant to a contract or agreement with a governmental entity.
 - b) "Private detention facility operator" means any private person, corporation, or business entity that operates a private detention facility. (Government Code Section 7320.)
- 2) Prohibits any local government agency from entering into or renewing a contract with the federal government or a private corporation to house or detain noncitizens in a detention facility for purposes of civil immigration custody. (Civil Code Section 1670.9.)
- 3) Imposes various excise taxes on sales of consumable goods, including motor vehicle fuel, tobacco, and alcohol. (Revenue and Taxation Code (R&TC) Sections 7301 *et seq.*, 30121 *et seq.*, and 32001 *et seq.*)

FISCAL EFFECT: The CDTFA estimates that this bill could result in annual revenue gains of approximately \$177.4 million.

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

Private corporations such as GEO Group and CoreCivic continue to profit from operating immigration detention facilities in California, despite longstanding concerns about unsafe conditions, inadequate medical care, and lack of accountability in civil detention settings. In 2026 alone, at least six individuals have died in ICE custody nationwide, underscoring the serious risks associated with this system. While California cannot dictate federal immigration policy, the state has a responsibility to ensure that corporations profiting from detention are held accountable. AB 1633 seeks to do so by imposing a gross receipts tax on private detention operators and directing the revenue toward immigrant legal services and due process protections.

- 2) This bill is co-sponsored by the California Immigrant Policy Center, which notes, in part:

Private detention facilities in California have a horrific track record of dangerous conditions, including inadequate access to medical care, physical and sexual abuse, unsafe food and water, and unsanitary conditions, threatening the health, safety and constitutional rights of individuals in California. The California Department of Justice conducted an inspection of a new private detention facility in Kern County and in December 2025, the Attorney General reported concerns of "dangerous living conditions" and "lack of adequate medical care." Additionally, the California Department of Justice conducted inspection of the private detention facility, the Adelanto Detention Facility, and in March 2026, the Attorney General reported "shockingly inadequate medical care, a failure to accommodate people with disabilities, disturbingly unsafe and unsanitary conditions, and a lack of basic necessities." The California Attorney General also stated, "Despite multiple complaints from Congress, detainees, community members, and my

office, the federal government continues to allow this abuse, oppressive conditions, and clear violations of human rights to go unchecked.

Each year, private detention facilities detain tens of thousands of people across California in inhumane conditions with little to no accountability causing irreparable harm to communities in California including the tragic deaths of six people in California, including: Ismael Ayala-Urbe at the Adelanto Detention Facility on September 22, 2025; Huabing Xie at the Imperial Region Detention Facility on September 29, 2025; Gabriel Garcia-Aviles at the Adelanto Detention Facility on October 23, 2025; Luis Beltran Yanez-Cruz at the Imperial Regional Detention Facility on January 6, 2026; Alberto Gutierrez-Reyes at the Adelanto Detention Center on February 27, 2026; and Jose Guadalupe Ramos-Solano at the Adelanto Detention Center on March 25, 2026. Californians who have been detained in these for-profit, private detention facilities have also reported barriers to visitation, inadequate living conditions, delays in receiving medical treatment, and being paid as little as \$1 a day for their labor.

3) This bill is supported by the Riverside Sheriffs' Association, which notes, in part:

The Riverside Sheriffs' Association has a lengthy history, going back at least 30 years, of supporting legislation intended to curtail the operations of private prisons and detention facilities and we are pleased to support AB 1633. For-profit prison corporations are a public safety nightmare. Numerous studies and audits have frequently found that these private facilities:

- Have higher rates of violence, escapes, riots and other safety incidents;
- Provide inadequate medical and mental health care; and,
- Employ fewer and less-trained staff.

If one simply googles "private prison problems" - endless horrors are revealed. Because they are privately operated, public oversight is significantly limited in comparison to public institutions, further complicating accountability. Private prison corporations owe a fiduciary obligation to maximize profits for their shareholders. They have a well-documented history of cutting corners and overcharging to meet their financial goals - without meaningful public oversight.

Public prisons are directly accountable to government agencies and voters. In contrast, private prisons and detention facilities operate under corporate confidentiality protections, resulting in:

- Public records access [being] extremely limited;
- Inspections by public officials are also extremely limited; and,
- Decision-making and operational control is much less transparent.

The result is reduced oversight of operational practices which is an especially serious concern given the deprivation of liberty involved. Private, for-profit prison/detention corporations tarnish the good work of dedicated correctional officers and their associations which seek to improve professional standards in custodial facilities.

4) Committee Staff Comments:

- a) *Prior attempts to ban private prisons*: Since Donald Trump first took office in 2017, the Legislature has responded to both Trump administrations' aggressive immigration tactics by enacting bills that prohibit state and local governments from contracting for immigration detention centers, require the Attorney General to develop and disseminate guidance for state and local agencies in their interactions with immigration enforcement agents, and require schools and daycares to restrict federal agents' access to their campuses, among numerous other efforts.

While some of California's legislation in response to the Trump Administration's immigration enforcement has withstood legal scrutiny, the state has not always been successful. In 2019, the Legislature enacted AB 32 (Bonta), Chapter 739, Statutes of 2019, which prohibited privately owned detention facilities from operating in California. Although the language captured *any* private detention facility, including private prisons, it functionally undermined the ability of the federal government to detain and house immigrants in California due to its outsized reliance on private detention facilities. The Trump Administration challenged the new statute and after a series of hearings and appeals, the state requested an en banc review of the case before the Ninth Circuit. In that review, the court held that the statute likely violated the Supremacy Clause of the United States Constitution. *Geo Group, Inc. v. Newsom*, 50 F.4th 745 (2022).

The Ninth Circuit acknowledged a distinction between federal contractors and federal instrumentalities, and that AB 32 potentially imposed a restriction on federal contractors. Whether AB 32 dictated the actions of the federal government then came down to whether the challenged statute interfered with or controlled the operations of the federal government by deciding who got federal work. The Ninth Circuit ultimately determined that "AB 32 would give California the power to control ICE's immigration detention operations in the state by preventing ICE from hiring the personnel of its choice. [...] To comply with California law, ICE would have to cease its ongoing immigration detention operations in California and adopt an entirely new approach in the state." *Id.* at 757-58. Under the court's logic, by banning private detention centers in California, the state was functionally controlling who the federal government could contract with to carry out immigration detention operations.

The Ninth Circuit further held that AB 32 also violated the Supremacy Clause's doctrine of intergovernmental immunity by discriminating against the federal government via its contractors. In making this determination, the court reasoned that although AB 32's prohibitions applied to all private detention facilities, including those traditionally under the jurisdiction of the state to manage, in effect the statute heavily impacted federal immigration facilities that were not under the state's traditional control. The court reasoned that "Congress sought to delegate to the DHS Secretary the responsibility to 'arrange for appropriate places of detention[,] [and] AB 32 frustrates that congressional intent [...] [...] Such interference with the discretion that federal law delegates to federal officials goes to the heart of obstacle preemption." *Id.* at 762.

In sum, the Ninth Circuit held that AB 32 both improperly dictated who the federal government could contract with in order to carry out its obligations and frustrated the ability of their proxies to function in California so as to create an obstacle for the federal

government to engage in immigration detention. Therefore, California's attempt to ban private detention facilities in the state amounted to unconstitutional control of the federal government and discrimination against those who contract with the federal government by the state in violation of the Supremacy Clause.

- b) *Doctrine of intergovernmental immunity*: The Supremacy Clause of the Constitution has also been interpreted to impose limits on the extent to which the state and federal governments can encroach on each other's sovereignty. Since 1819, the Supreme Court has held that states cannot directly tax the federal government or its instrumentalities. *McCulloch v. Maryland*, 17 U.S. 316 (1819). The Supreme Court has further interpreted the Supremacy Clause to, in part, prohibit the states from "interfering with or controlling the operations of the Federal Government" but a law that indirectly imposes a cost on the federal government may be constitutional "so long as the law imposes those costs in a neutral, nondiscriminatory way." *United States v. Washington*, 596 U.S. 832, 838-39 (2022). While otherwise generally applicable sales and property taxes paid by federal government contractors have survived judicial review, the targeted excise tax proposed by this bill may be challenged as discriminatory and, thus, unconstitutional.

Proponents argue that this bill is distinguishable from AB 32 because it does not *prohibit* private detention facilities in California, but instead taxes the revenues generated by their operation to partially offset the resulting negative impacts on California immigrant communities.

- c) *Excise taxes*: The first excise tax levied in the U.S. was on the manufacture of whiskey in 1791. The tax was unpopular, famously sparking insurrectionary activities among Western Pennsylvania farmers, and only survived until 1802. In the early years of the Republic, excise taxes served as a revenue tool related to wars and economic downturns. As late as 1934, during the Great Depression, excise tax revenues made up almost one-half of the federal government's total tax revenue and generated three times more than the individual income tax. Historically, excise taxes have been levied to raise general fund revenues because the categories of products subject to tax were easy to count, which made administration of the tax simple and cheap. Sales taxes, for example, are based on a retailer's gross receipts attributable to sales of tangible personal property (TPP).¹

More recently, however, excise taxes have been used to try to deter (or even to completely eliminate) certain types of consumption. These taxes are often referred to as a "Pigouvian tax" when the tax is imposed on activities that produce negative externalities. For example, this strategy is employed with taxes on tobacco-containing products. Although it would be difficult and potentially illegal to tax a product into nonexistence, there is no doubt that taxes influence behavior. The laws of supply and demand dictate that as prices go up, consumption goes down, even if this is a simplification. In fact, revenues from cigarette taxes in California have fallen in recent years and public health researchers attribute at least some of this decline to the high excise taxes imposed on each pack of cigarettes, as well as users switching to other forms of tobacco and nicotine products such as vaping subject to comparatively lower taxes.

¹ Ulrik Boesen, *Excise Tax Application and Trends*, Tax Foundation (March 16, 2021), <https://taxfoundation.org/research/all/federal/excise-taxes-excise-tax-trends/>.

In modern times, excise taxes have also been employed as user fees. This is best understood with the example of the motor fuel tax, where gasoline purchases serve as a proxy for a driver's contributions to traffic congestion, road wear-and-tear, and emissions, in effect setting a price on the use of public roads. Today, there are federal excise taxes on motor fuel, tobacco, and alcohol, among other goods, services, and activities, in addition to state excise taxes on electronic cigarettes, cannabis, firearms and ammunition sales, and more.

d) *Implementation considerations:*

- i) *The right tool?* While the CDTFA estimates a potentially significant revenue gain resulting from the imposition of this tax, these estimates reflect both a high rate of 50% and the specific metric used to calculate the tax owed. Here, gross receipts would refer to the total income derived from the operation of a private detention facility before any deductions or expenses.

For reference, the most common tax using a percentage of gross receipts, the Sales Tax, is based on a percentage of the gross receipts of a retailer's sales of all TPP sold at retail in California. The statewide sales tax rate is 7.25% and the highest rate combining all state and local increments is 11.25%. Corporations operating in California are already subject to the Corporation Tax Law, which is administered by the Franchise Tax Board (FTB) and is imposed at a rate of 8.84% of net income (i.e., income after deductions and other adjustments).

- ii) *Administrative details:* As currently drafted, this bill provides that the tax shall be administered pursuant to the FCPL but lacks key details necessary to implement the tax effectively. Additionally, the CDTFA would incur significant costs to create a new tax return, program computer systems, revise publications, develop special notices and tax guides, create regulations, prepare guidelines for staff, and answer numerous questions from retailers and the public.

e) *Related legislation:*

- i) AB 1675 (Lee) would enact the No Tax Breaks for ICE Contractors Act of 2026, which would make any corporation that provides goods or services pursuant to contracts with DHS, either directly or through subcontracts, ineligible for any tax expenditure, as specified, under the Corporation Tax (CT) Law for taxable years beginning on or after January 1, 2027, and before January 1, 2032. AB 1675 is currently pending hearing by this Committee.
- ii) AB 2465 (Ortega) would enact the No Taxpayer Dollars for Family Separation Act, which would make ineligible for any tax credit under the Personal Income Tax (PIT) Law or CT Law any business entity that is directly invested in, owns, manages, or profits from a private detention facility or contracts with a private detention facility or agency engaging in immigration enforcement for the purpose of aiding in or furthering immigration enforcement. AB 2465 was referred to the Assembly Committee on Judiciary, which passed the bill on April 14, 2026, by a vote of 9 to 3. AB 2645 will be heard by this Committee today.

REGISTERED SUPPORT / OPPOSITION:

Support

AAPIs for Civic Empowerment
California Community Foundation
California Immigrant Policy Center
California Partnership to End Domestic Violence
California Teachers Association
California Work & Family Coalition
Chicano Federation of San Diego County
Chinese for Affirmative Action
Democrats of Rossmore
Friends Committee on Legislation of California
Healthy Contra Costa
Imperial Valley Equity & Justice Coalition
Indivisible Mid-peninsula
Justice2Jobs Coalition
LA Defensa
Latino Health Access
Orange County Equality Coalition
Oxnard Union High School District
Pacifica Social Justice
Pangea Legal Services
Parent Voices California
Riverside Sheriffs' Association
San Francisco Board of Supervisors
Santa Monica Democratic Club
Services, Immigrant Rights and Education Network (SIREN)
State Superintendent of Public Instruction Tony Thurmond
Tsuru for Solidarity

Opposition

None on file

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