FILE NO. 220097 RESOLUTION NO. 32-22

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

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

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

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

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

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

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

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

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

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

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

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

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

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 220097 **Date Passed:** February 01, 2022

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

February 01, 2022 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 220097

I hereby certify that the foregoing Resolution was ADOPTED on 2/1/2022 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Unsigned
London N. Breed
Mayor

02/11/2022
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board

02/11/2022
Date