

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 198

INTRODUCER: Senator Hukill

SUBJECT: Sales Tax Holiday

DATE: October 2, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 198 establishes a 10-day sales tax holiday beginning August 5, 2016, and ending August 14, 2016. During the holiday, specific “back to school” purchases of clothing, school supplies, and personal computers are exempt from the state sales tax and county discretionary sales surtaxes.

The Revenue Estimating Conference determined that the bill will reduce General Revenue receipts by \$56.1 million and local revenues will decrease by \$5.3 million in Fiscal Year 2016-2017.

The bill provides the Department of Revenue (DOR) a nonrecurring General Revenue appropriation of \$233,730 in Fiscal Year 2016-2017 to administer the provisions of this act.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² commercial real estate rentals,³ and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of taxable goods or services, and collected from the purchaser at the time of sale.

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at: http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited October 2, 2015).

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes. The surtax applies to all transactions occurring in the county subject to the ch. 212, F.S., state tax imposed on sales, use, services, rental, admissions, and other transactions,⁴ and on communications services as defined in ch. 202, F.S.

The “Florida Residents’ Tax Relief Act of 1998” established Florida’s first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁵ In 1999, backpacks were explicitly added to the tax holiday;⁶ school supplies were added in 2001.⁷ Since its inception, the duration of similar “back to school” sales tax holidays varied from 3 to 10 days, as have the type and value of exempt items.

III. Effect of Proposed Changes:

The bill provides for a 10-day sales tax holiday, which begins August 5, 2016, and ends August 14, 2016. During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing, defined as an “article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs”;
- Footwear, which does not include skis, swim fins, roller blades, and skates;
- Wallets; and
- Bags, which include handbags, backpacks, fanny packs, and diaper bags, but exclude briefcases, suitcases and other garment bags.

The bill also exempts “school supplies” that cost \$15 or less per item.

The first \$750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use is also exempt. This exemption includes electronic book readers, tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture, and devices or software intended primarily for recreational use are not exempt.

The “back to school” sales tax holiday does not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill authorizes a nonrecurring appropriation of \$233,730 from the General Revenue Fund to the Department of Revenue to implement this section.

⁴ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

⁵ Ch. 341, Laws of Fla. (1998).

⁶ Ch. 229, Laws of Fla. (1999).

⁷ Ch. 148, Laws of Fla. (2001).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, these requirements do not apply to laws that have an insignificant fiscal impact, which for FY 2016-2017, is \$2,012,772.30 or less.^{8,9,10}

The Revenue Estimating Conference determined that this bill will reduce local revenues by \$5.3 million in Fiscal Year 2016-2017.¹¹

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that the bill will reduce General Revenue receipts by \$56.1 million in Fiscal Year 2016-2017. Local revenues will decrease by \$5.3 million in Fiscal Year 2016-2017.¹²

B. Private Sector Impact:

The sales tax holiday may promote retail sales at businesses that qualify under this bill.

⁸ FLA. CONST. art. VII, s. 18(d).

⁹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last accessed October 2, 2015).

¹⁰ Based on the Demographic Estimating Conference's population adopted on July 9, 2015. The conference packet can be found at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last accessed October 2, 2015).

¹¹ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, School Sales Tax Holiday, SB 198, p. 4, September 18, 2015, Revenue Impact Results, available at: <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/Impact0918.pdf> (last accessed October 2, 2015).

¹² *Id.*

C. **Government Sector Impact:**

The bill provides the DOR a nonrecurring General Revenue appropriation of \$233,730 in Fiscal Year 2016-2017 to administer the provisions of the act. The Department estimates its cost of administration will be \$229,982.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill creates an unnumbered section of Florida law.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.