

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 Finance and Tax

BILL: SB 198

INTRODUCER: Senator Hukill

SUBJECT: Sales Tax Holiday

DATE: October 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Pre-meeting
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 purchases of clothing, school supplies, and personal computers are exempt from the state sales and use tax and county discretionary sales surtaxes.

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$56.1 million and local government revenues by \$12.6 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.

This bill may contain a mandate requiring a two-thirds vote of the membership of the House and the Senate. See section IV. A. of this analysis.

II. Present Situation:

Florida levies a six 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 the tax is 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 Oct. 2, 2015).

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes.⁴ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by this chapter, and on communications services as defined in ch. 202.”⁵

Florida has enacted a “back-to-school” sales tax holiday 14 times since 1998. The length of the exemption period has varied from three to 10 days. The types of items exempt have also varied over time. Most recently, clothing and footwear were exempt if the sales price was \$100 or less, and books valued at \$50 or less were exempt in five prior holidays. School supplies were included in 2001, and the value of the items exempt has increased from \$10 to \$15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempt. In 2015, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempt.

III. Effect of Proposed Changes:

The bill provides for a 10-day sales tax holiday, beginning on August 5, 2016, and ending on August 14, 2016. During the holiday, the following items that cost \$100 or less are exempt from the state sales and use 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; and
- Wallets or bags, including, 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 of personal computers or related accessories purchased for noncommercial home or personal use is also exempt. This exemption includes electronic book readers, tablets, laptops, input devices, desktops, handhelds, tower computers and non-recreational software. Personal computer-related accessories that are exempt include keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, and routers. Cell phones, video game consoles, digital media devices, 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.

⁴ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

⁵ Section 212.054, 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.

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 Fiscal Year 2016-2017, is \$2,012,772.30 or less.^{6,7,8}

The Revenue Estimating Conference estimates that this bill reduces the authority that counties have to raise revenues by \$5.3 million in Fiscal Year 2016-2017.⁹

Therefore, this bill may be a mandate requiring a two-thirds vote of the membership of the House and the Senate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶ FLA. CONST. art. VII, s. 18(d).

⁷ 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*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Oct. 6, 2015).

⁸ Based on the Demographic Estimating Conference's population adopted on July 9, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Oct. 6, 2015).

⁹ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, School Sales Tax Holiday, SB 198, p. 4, (Sept. 18, 2015), Revenue Impact Results, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact0918.pdf (last visited Oct. 6, 2015).

⁹ *Id.*

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

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$56.1 million in Fiscal Year 2016-2017. Local government revenues will decrease by \$12.6 million in Fiscal Year 2016-2017.¹⁰

B. Private Sector Impact:**C. Government Sector Impact:**

The bill provides the Department of Revenue 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *School Sales Tax Holiday*, SB 198, p. 4, (Sept. 18, 2015), Revenue Impact Results, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/Impact0918.pdf> (last visited Oct. 6, 2015).