

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 686

INTRODUCER: Senator Perry

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: December 1, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			AFT	
3.			AP	

I. Summary:

SB 686 establishes a 10-day sales tax holiday beginning July 27, 2018, and ending August 5, 2018. 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 bill provides the Department of Revenue (DOR) a nonrecurring General Revenue appropriation of \$225,000 in Fiscal Year 2018-2019 to administer this act.

The Revenue Estimating Conference has not yet reviewed the fiscal impact of this bill.

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 rental of commercial real estate,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. There are currently more than 250 exemptions, exclusions, deductions, and credits from the sales and use tax.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county which

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-170 (2017).

⁵ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Nov. 27, 2017).

transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into.

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.⁷ In 1999, backpacks were added to the tax holiday;⁸ school supplies were added in 2001.⁹ In 2013, the Legislature exempted personal computers and related accessories purchased for personal use, up to \$750, from sales tax collection during the sales tax holiday.¹⁰ 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 July 27, 2018, and ends August 5, 2018. 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.

Personal computers and related accessories that have a sales price of \$1,000 or less that are purchased for noncommercial home or personal use are 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 \$225,000 from the General Revenue Fund to the DOR to implement this section.

⁶ Section 212.054, F.S.

⁷ Chapter 341, Laws of Fla. (1998).

⁸ Chapter 229, Laws of Fla. (1999).

⁹ Chapter 148, Laws of Fla. (2001).

¹⁰ Chapter 42, s. 42 Laws of Fla. (2013).

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

Article VII, section 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, section 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 2018-2019, is \$2.08 million or less.^{11,12,13}

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference has not yet reviewed the fiscal impact of this bill. There is no recurring fiscal impact because this bill provides a sales tax holiday during Fiscal Year 2018-2019 only.

B. Private Sector Impact:

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

C. Government Sector Impact:

The bill provides the DOR a nonrecurring General Revenue appropriation of \$225,000 in Fiscal Year 2018-2019 to administer this act. The Department estimates the cost of

¹¹ FLA. CONST. art. VII, s. 18(d).

¹² 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 visited Nov. 22, 2017).

¹³ Based on the Demographic Estimating Conference's population adopted on July 10, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 22, 2017).

notifying approximately 600,000 businesses of the sales tax holiday by printing and mailing of a Tax Information Publication will be \$233,150.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department notes that it will be required to use funds from fiscal year 2017-2018 to give notice to businesses affected by the sales tax holiday, which occurs in fiscal year 2018-2019.¹⁵

VIII. Statutes Affected:

This bill creates an undesignated 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.

¹⁴ Florida Dept. of Revenue, *SB 686 Agency Analysis* (Nov. 8, 2017) (on file with the Senate Committee on Commerce and Tourism).

¹⁵ *Id* at 6.