

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: CS/SB 384

INTRODUCER: Commerce and Tourism Committee and Senator Garcia

SUBJECT: Small Business Saturday Sales Tax Holiday

DATE: February 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 384 establishes a one-day sales tax holiday on Saturday, November 28, 2015. During the holiday, a purchase of \$1,000 or less made at a small business is exempt from the state sales tax and county discretionary sales surtaxes.

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, 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 200 exemptions.¹ Sales tax is added to the price of the taxable goods or service and collected from the purchaser at the time of sale.

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county 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.² The discretionary sales surtax is based

¹ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook* (2014).

² 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.

on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of six percent.

In 2014, the Florida Legislature approved three sales tax holidays:

- Energy Star and WaterSense Holiday, during which the first \$1,500 of a qualifying Energy Star and WaterSense appliance purchase was exempted from sales and use tax.³
- Back to School Sales Tax Holiday, during which the first \$750 of personal computers and related-accessories, \$100 or less on clothing, and \$15 or less on school supplies was exempted from sales and use tax.⁴
- Hurricane Preparedness Sales Tax Holiday, during which specific hurricane-related supplies were exempt from sales and use tax.⁵

In 2010, American Express instituted a Small Business Saturday incentive for their cardholders who shopped at small, independent business on the Saturday after “Black Friday.”⁶ It is estimated that consumers spent \$5.5 billion at small, independent businesses on Small Business Saturday in 2012.⁷

III. Effect of Proposed Changes:

The bill establishes a one-day sales tax holiday, on Saturday, November 28, 2015, to coincide with “Small Business Saturday.” During the tax holiday, the purchase of retail items sold for \$1,000 or less at a small business is exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines “small business” as one that:

- Registered with the Florida Department of Revenue (the “department”);
- Began operating in Florida on or before March 3, 2015; and
- Owed and remitted less than \$200,000 to the department during either
 - The prior year beginning on October 1, 2014, and ending on September 30, 2015, or
 - The period of time beginning on the date the business began operating in Florida and ending on September 30, 2015, if the business began operating in Florida after October 1, 2014.

Additionally, the bill requires that businesses with multiple locations owe and remit less than \$200,000 in total taxes for all of the business’ locations.

³ Florida Department of Revenue, “2014 Sales Tax Holiday for New Energy Star and WaterSense Products” (9/19/14), available at http://dor.myflorida.com/dor/tips/pdf/tip14a01-06_TIP.pdf (last visited 2/17/2015).

⁴ Florida Department of Revenue, “2014 Back-to-School Sales Tax Holiday” (7/1/14), available at <http://dor.myflorida.com/dor/tips/pdf/tip14a01-04.pdf> (last visited 2/17/2015).

⁵ Florida Department of Revenue, “2014 Hurricane Preparedness Sales Tax Holiday” (5/23/14), available at <http://dor.myflorida.com/dor/tips/tip14a01-03.pdf> (last visited 2/17/2015).

⁶ American Express, “Small Business Saturday” <https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shops-small-homepage-about> (last visited 2/17/2015).

⁷ Cynthia Magnuson-Allen, “U.S. Consumers Spent \$5.5 Billion ‘Shopping Small’ on Saturday” 11/27/2012. Available at <http://www.nfib.com/article/m-nfib-and-american-expres-61497/>. Last accessed 2/17/2015.

It is estimated that a business that owes and remits the full payment of \$200,000 each year in tax revenues makes \$3.3 million dollars in total annual sales.⁸ Approximately 80.4 percent of Florida businesses that remit taxes to the department remit between \$1.00 and \$200,000 in revenue, and 17-21 percent of Florida businesses remits \$0.00.⁹

The bill will likely decrease sales tax revenue.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The fiscal impact of the current version of this bill is indeterminate.

B. Private Sector Impact:

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

C. Government Sector Impact:

The bill appropriates \$200,000 in non-recurring funds to the department for Fiscal Year 2015-2016, for administrative costs. The department estimates its costs of administration will be \$211,775.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The definition of “small business” may benefit larger businesses that owe and remit proportionately less tax compared to their overall sales as a result of their non-taxable sales of, e.g., unprepared food or medicines. Additionally, a disparity may result between the businesses eligible for the tax holiday due to the placement of the same \$200,000 tax remittance cap on both

⁸ Economic and Demographic Research Conference, February 6, 2015, Impact Conference.

⁹ Economic and Demographic Research Conference, February 6, 2015, Impact Conference.

businesses that have been in operation for a year or more, and on businesses that have been in operation less than a year.

The term “Small Business Saturday” is trademarked by American Express.¹⁰

Consumers may shift, rather than supplement, their purchases to this sales tax holiday.

VIII. Statutes Affected:

This bill creates an unnumbered section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes: (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 16, 2015:

The committee substitute:

- Redefines eligible small businesses as those that register with the Department of Revenue; begin operation in Florida on or before March 3, 2014; and owe and remit to the Department of Revenue under ch. 212, F.S., less than \$200,000 in tax.
- Clarifies that a small business with multiple locations must owe and remit a total of less than \$200,000 for all business locations to be eligible to participate in the tax holiday;
- Specifies that the \$200,000 in taxes must have been owed and remitted by the business during either the prior year beginning on October 1, 2014 and ending on September 30, 2015, or beginning on the date a business starts operation in Florida (if this date falls after October 1, 2014) and ending on September 30, 2015;
- Caps the value of items subject to the tax holiday at \$1,000.

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 See U.S. Patent and Trademark Office, <http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4810:qxjz99.5.2> (last visited 2/13/2015).