

**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.)

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

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BILL: SB 236

INTRODUCER: Senator Book

SUBJECT: Tax Credit for Baby Changing Tables in Restaurants

DATE: January 8, 2018

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Little	McKay	CM	<b>Favorable</b>
2. _____	_____	AFT	_____
3. _____	_____	AP	_____

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**I. Summary:**

SB 236 amends s. 212.08, F.S., to allow a restaurant to receive a tax credit for the purchase of a baby changing table that is installed on its premises. The bill specifies that the tax credit is equal to the lesser of the actual cost of the baby changing table or \$300. A restaurant cannot receive the tax credit for more than two baby changing tables.

The Revenue Estimating Conference (REC) estimates the bill will reduce General Revenue Fund receipts by approximately \$800,000 in Fiscal Year 2018-2019 and by approximately \$800,000 on a recurring basis.

The bill takes effect on July 1, 2018.

**II. Present Situation:**

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rentals of commercial real estate, and a limited number of services.<sup>1</sup>

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.

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<sup>1</sup> See ch. 212, F.S.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes.<sup>2</sup> A surtax applies to all transactions occurring in the county that 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.<sup>3</sup>

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.

### **Baby Changing Tables**

Under current law, there is no sales tax credit for the purchase of a baby changing tables in restaurants and such purchases are subject to state and local sales and use tax under ch. 212, F.S.

### ***Recent Regulation***

In 2016, the federal Bathrooms Accessible In Every Situation Act (BABIES Act) was signed into law.<sup>4</sup> The BABIES Act requires all publicly accessible, federal buildings to provide changing tables in both male and female restrooms. The state of California recently passed similar legislation requiring state and local public facilities to provide accessible changing stations.<sup>5</sup>

Florida law does not mandate publicly owned state and local buildings, or private businesses, to provide baby changing stations in restrooms. However, Miami-Dade County recently passed an ordinance that requires certain business establishments to provide men and women with accessible baby changing stations.<sup>6</sup>

## **III. Effect of Proposed Changes:**

The bill authorizes a tax credit for a restaurant that purchases a baby changing table and installs the baby changing table on its premises. The amount of the tax credit is equal to the cost of the baby changing table or \$300, whichever is less.

The bill specifies that the amount of the baby changing table does not include the cost of installation and that a restaurant cannot receive the tax credit for more than two baby changing tables.

The bill allows a restaurant to take the credit on a subsequent tax return within one year, if the credit is greater than the tax remittance obligation on a single tax return.

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<sup>2</sup> The tax rates, duration of the surtaxes, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

<sup>3</sup> Section 212.054, F.S.

<sup>4</sup> Pub. L. 114-235.

<sup>5</sup> Assem. Bill No 1127 (CA 2017 Reg. Sess.) (October 13, 2017).

<sup>6</sup> Miami-Dade County Ordinance Sec. 8A-114. For additional information, see Miami-Dade County, *Baby Diaper-Changing Accommodations*, <http://www.miamidade.gov/business/laws-baby-diaper.asp> (last visited Jan. 5, 2018).

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

Subsection (b) of s. 18, Art. VII, Florida Constitution, provides, that except upon approval of each house of the Legislature by two-thirds vote of the 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, the mandate requirements do not apply to laws having an insignificant impact,<sup>7</sup> which for Fiscal Year 2017-2018, is \$2.08 million or less.<sup>8</sup>

The REC estimates the bill will likely have an insignificant impact on local governments.<sup>9</sup>

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The bill allows a restaurant that purchases and installs baby changing tables to claim a tax credit of up to \$300 for a maximum of two baby changing tables.

**C. Government Sector Impact:**

The Revenue Estimating Conference estimates this bill will reduce General Revenue Fund receipts by \$800,000 in Fiscal Year 2018-2019 and by \$800,000 on a recurring basis. The bill reduces local revenue by \$100,000 in Fiscal Year 2018-2019 and by \$100,000 on a recurring basis.<sup>10</sup>

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<sup>7</sup> 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 Jan. 5, 2018).

<sup>8</sup> 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 Jan. 5, 2018).

<sup>9</sup> Office of Economic and Demographic Research, *Revenue Impact Conference Results*, available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/\\_pdf/Impact1013.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/Impact1013.pdf) (last visited Jan. 5, 2018).

<sup>10</sup> *Id.*

The bill likely has an insignificant fiscal impact on the Department of Revenue.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill defines “restaurant” as an establishment where food is prepared and sold for immediate consumption on the premises. The definition is broad and may encompass other unintended businesses that sell food for immediate consumption, such as grocery stores or gas stations.

**VIII. Statutes Affected:**

This bill substantially amends Section 212.08 of the Florida Statutes.

**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.

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

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<sup>11</sup> Department of Revenue, *2018 Agency Legislative Bill Analysis SB 236* (September 29, 2017) (on file with the Senate Commerce and Tourism Committee).