

STORAGE NAME: h0537.ft

DATE: April 15, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS**

BILL #: HB 537

RELATING TO: Sales and Use Tax/Vending Machines

SPONSOR(S): Rep. Hart

COMPANION BILL(S): Identical SB 818

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCE AND TAXATION
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Purchases of food and beverage items sold through vending machines are presently subject to sales tax at different rates. The effective tax rate for food items is approximately 6%. The effective tax rate for beverage items is approximately 6.2%. The bill lowers and unifies the sales tax rate for food and beverage items. The new effective tax rate for both food and beverages is approximately 5.8%.

The bill also repeals the requirement that each vending machine operator who purchases food or beverages for resale in vending machines must annually provide a certificate to the seller. The penalty for not providing the certificate is also repealed.

The bill shall take effect July 1, 1999.

The estimated fiscal impact upon General Revenue is (\$2.1) million for FY 99-2000 and (\$2.4) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.3) million for FY 1999-2000 and (\$0.4) for FY2000-2001. The total estimated fiscal impact for this bill is (\$2.4) million for FY 1999-2000 and (\$2.8) million for FY 2000-2001.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 212, F.S. provides that a sales and use tax be imposed on the retail sale or lease of tangible personal property. The general sales tax rate is 6%. Local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 1.0 percent each. For most transactions, sales tax is calculated on the sales price of each item of tangible personal property when sold at retail. However, sales tax on sales from vending machines is calculated in a different manner.

Sales tax on items sold through vending machines is calculated on the gross receipts from the sales. Specifically, the sales tax is calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. Since the divisors are different for each product, food items and beverage items are taxed at different rates. The divisor is equal to the sum of 1.0665 for beverage items, 1.0645 for food items, or 1.0659 for other items of tangible personal property. The statute also provides divisors for counties with sales surtax rates of 0.5 percent and 1 percent.

Each vending machine operator who purchases food or beverages for resale in vending machines must annually provide to the seller from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate shall initially be provided upon the first transaction between the parties and by November 1 of each year thereafter. A penalty of \$250 is imposed on any vending machine operator who fails to comply with this requirement or who provides the dealer with false information.

B. EFFECT OF PROPOSED CHANGES:

Section 212.0515 (2), F.S., is amended to lower to 1.0615 the divisors used to calculate sales tax for beverage items to the same divisor as for food items. Consequently, food and beverage items sold through vending machines will be tax at a uniform rate. To conform, the divisors are lowered and unified for counties that have sales surtaxes. The requirement is repealed that each vending machine operator who purchases food or beverages for resale in vending machines must annually provide a certificate to the seller. The penalty for not providing the certificate is also repealed.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 212.0515, F.S.

E. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

	FY 1999-00	FY 2000-01
General Revenue	(\$2.1M)	(\$2.4M)
Trust Fund	(*)	(*)
Local Government	(\$0.3M)	(\$0.4M)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See III.A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See III.A.2.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Vending machine operators will pay sales tax on food and beverage items at a lower and unified rate. Unifying the sales tax rate for food and beverage items will reduce paperwork and bookkeeping expenses for vending machine operators.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

None.

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Staff Director:

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