

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 Education Pre-K - 12 Committee

BILL: SB 508

INTRODUCER: Senator Bogdanoff

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 5, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.	_____	_____	BC	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes a sales tax holiday for specific clothing, school supplies and computers and accessories, and provides exclusions.

Purchases made at certain locations do not qualify for the sales tax exemption.

The sales tax holiday is not limited to this year, and therefore, would be recurring and permanent, rather than a one-time holiday.

This bill substantially amends section 212.08 of the Florida Statutes.

II. Present Situation:

Sales Tax

State sales tax is applied to most purchases of tangible personal property at a rate of 6 percent in Florida.¹ Tax attaches to retail sales.²

Sales tax exemptions are provided in s. 212.08, F.S., and apply to a range of specific items, including most food that is not considered prepared food, certain medical supplies, farm equipment, specific industrial machinery and equipment, and kindergarten through grade 12 school books and school lunches.

¹ s. 212.05(1), F.S.

² s. 212.07(1), F.S.

Sales Tax Holidays

The Legislature has approved sales tax holidays for a number of years, notably from 2005 through 2007, and then again in 2010, and has not adopted them for others (2008 and 2009). The holiday is generally made available for the benefit of families making back-to-school purchases, and the holiday is typically offered just prior to the start of a new school year.

III. Effect of Proposed Changes:

This bill creates a sales tax holiday that would apply to purchase of the following items:

- Clothing, wallets and bags, including handbags, backpacks, fanny packs and diaper bags that cost \$50 or less. Clothing is defined as wearing apparel, including shoes, but excluding jewelry, skis, swim fins, roller blades and skates, and handkerchiefs;
- School supplies that cost \$10 or less, including writing implements, erasers, paper, lunch boxes, scissors, tape, glue, rulers, computer disks, protractors, compasses, and calculators;
- A single purchase of a computer, software and school computer supplies that retails for \$750 or less. This includes storage media, printers, and printer accessories but excludes computer furniture, and systems, devices, and software not designed for educational purposes, such as video games.

Purchases made within a public lodging establishment, a theme park or entertainment complex, or within an airport, are not eligible for the exemption.

The time frame for the sales tax holiday runs from Friday through Sunday, from August 12th through August 14th, 2011.

This bill authorizes, but does not require, the Department of Revenue (DOR) to adopt rules to implement these provisions; however, it appears that providing a sales tax exemption will require the DOR to adopt rules or at least guidelines, for the purpose of notifying retailers of exactly the type of items included in the sales tax holiday.

This sales tax holiday is provided on a recurring, rather than a one-time, temporary basis.

Although intent may be otherwise, according to the Department of Revenue:

- As clothing is not restricted to that intended to be worn on the human body, pet and doll clothing could potentially be included;
- The potential exists for retailers to break a purchase of computer equipment down into multiple invoices to meet the \$750 threshold; and
- The exemption applying to computers could capture smartphones and many other electronic devices with computer chips.

The DOR additionally expresses a concern with the inability to go through the formal rulemaking process to have a rule in place given the stated dates, and to have adequate time to draft, print, and distribute notification to dealers. The DOR may have to resort to emergency rulemaking, and therefore, requests a later timeframe.

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:

None.

B. Private Sector Impact:

Private retailers who sell these types of items will likely experience increased sales related to the sales tax holiday. Consumers will benefit from having the ability to purchase included items tax-free during the term of the sales tax holiday.

C. Government Sector Impact:

The state will lose revenue based upon the sales tax holiday. According to the Office of Economic and Demographic Research, at the latest revenue estimating conference, after adoption of the middle estimates across the board for all three categories, the total impact on state revenue in millions would be:

Item	2011-12	2012-13	2013-14	2014-15
Clothing and Shoes, School Supplies and Computers	29.6	30.3	30.8	31.7

These estimates are likely conservative, and may be higher if the definition of computers is expanded to include, i.e., smartphones. Regarding computers, the middle estimate assumes that eligible items consist of property commonly known as computers and accessories.³

Although it makes it permissive for the Department of Revenue (DOR) to adopt rules, the DOR would incur an associated fiscal impact regarding implementation of this bill. The

³ Analysis, Revenue Estimating Conference, April 8, 2011.

DOR indicates that the agency will incur a cost of \$218,905 to print and mail a Taxpayer Information Publication (TIP).

The DOR additionally anticipates a substantial negative impact in regulatory costs as follows:

...the Department will likely be required to revise forms and to promulgate a new permanent rule. Taxpayers who sell items covered by the exemption will bear annual costs to reprogram their point of sale terminals and accounting systems to accommodate the tax-period exemption. This will include programming to cover the tax-exemption period and a reversion back to the collection of tax after the period expires. It is estimated that there are 554,000 taxpayers that would participate....accounting and programming changes....would likely increase the regulatory costs on those taxpayers....It is estimated that...regulatory costs may exceed \$1 million in the aggregate within 5 years of implementation....⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that the sales tax holiday would be in effect from Friday, August 12, 2011 at 12:01 a.m. through Sunday, August 14, 2011, at 11:59 p.m., but then it also says that it begins on Friday and ends three days later, when it technically ends two days later.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

⁴ Bill Analysis, Department of Revenue, March 4, 2011.