

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 Finance and Tax

BILL: CS/CS/SB 384

INTRODUCER: Finance and Tax Committee; Commerce and Tourism Committee; and Senator Garcia

SUBJECT: Small Business Saturday Sales Tax Holiday

DATE: March 24, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 384 establishes a one-day sales tax holiday on Saturday, November 28, 2015. During the holiday, and at the option of the dealer, sales of taxable tangible personal property (TPP) not to exceed \$500 per purchaser per small business are exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines a small business as a dealer¹ that has registered with the Department of Revenue (DOR), began operation in this state on or before March 3, 2015, and owed and remitted less than \$200,000 in tax in the period beginning October 1, 2014, and ending September 30, 2015, or less than \$200,000 if it began operation after October 1, 2014.

The Revenue Estimating Conference has not yet reviewed this bill.

The bill provides DOR a nonrecurring General Revenue appropriation of \$200,000 in Fiscal Year 2015-2016 to administer the provisions of the act.

The bill takes effect July 1, 2015.

¹ Section 212.06, F.S., defines the term dealer to mean “every person, as used in this chapter, who imports, or causes to be imported, tangible personal property from any state or foreign country for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.”

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions², transient rentals³, rental of commercial real estate⁴, 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, exclusions, deductions, and credits from the sales and use tax.⁵ 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. The surtax applies to 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.⁶ The discretionary sales surtax is based on the tax rate imposed by the county in the county where the taxable goods or services are sold, or delivered into.

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.⁷
- 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.⁸
- Hurricane Preparedness Sales Tax Holiday, during which specific hurricane-related supplies were exempt from sales and use tax.⁹

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."¹⁰ During the tax holiday, and at the option of the small business, the total sales price of taxable TPP not to exceed \$500 per purchaser per small business is exempt from the state sales tax and county discretionary sales surtaxes.

² Section 212.04, F.S.

³ Section 212.03, F.S.

⁴ Florida Dep't of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Feb. 19, 2015).

⁵ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-167 (2015).

⁶ 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.

⁷ Florida Department of Revenue, "2014 Sales Tax Holiday for New Energy Star and WaterSense Products" (Sept. 19, 2014), available at http://dor.myflorida.com/dor/tips/pdf/tip14a01-06_TIP.pdf (last visited Feb. 17, 2015).

⁸ Florida Department of Revenue, "2014 Back-to-School Sales Tax Holiday" (July 1, 2014), available at <http://dor.myflorida.com/dor/tips/pdf/tip14a01-04.pdf> (last visited Feb. 17, 2015).

⁹ Florida Department of Revenue, "2014 Hurricane Preparedness Sales Tax Holiday" (May 23, 2014), available at <http://dor.myflorida.com/dor/tips/tip14a01-03.pdf> (last visited Feb. 17, 2015).

¹⁰ 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." American Express, "Small Business Saturday" available at <https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shops-small-homepage-about> (last visited Feb. 17, 2015).

The bill defines “small business” as one that:

- Has registered with the DOR;
- Began operation in Florida on or before March 3, 2015; and
- Owed and remitted less than \$200,000 in tax under ch. 212, F.S., to the department during either:
 - The period beginning on October 1, 2014, and ending on September 30, 2015, or
 - The period 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 and eligible to file a consolidated return have owed and remitted less than \$200,000 for all of the business’ locations in order to be considered a small business.

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 mandates requirements do not apply to laws having an insignificant impact.

The bill provides a sales tax exemption that will reduce the municipalities’ and counties’ local option sales tax collections, thereby reducing their revenue-raising authority. If the fiscal impact of this provision is found to be significant, the bill may require a two-thirds vote of the membership.

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 this bill.

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 provides DOR a nonrecurring General Revenue appropriation of \$200,000 in Fiscal Year 2015-2016 to administer the provisions of the act. The department estimates its costs of administration will be \$211,775.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

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/CS by Finance and Tax on March 23, 2015:

The committee substitute for committee substitute:

- Provides that the exemption from collecting sales tax is optional to the small business and is limited to a total sales price not to exceed \$500 of taxable TPP per purchaser per small business.

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 less than \$200,000 in sales tax 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; and
- Caps the value of items subject to the tax holiday at \$1,000.

B. **Amendments:**

None.