

**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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

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BILL: CS/SB 608

INTRODUCER: Finance and Tax Committee and Senator Stargel

SUBJECT: Emergency Preparedness and Response

DATE: January 20, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 608 establishes a 15-day (May 31, 2016 - June 14, 2016) sales tax exemption for purchases of items related to emergency preparedness and response. During the exemption period certain light sources, radios, tarps, "tie-down" kits, fuel tanks, batteries, cellular telephone chargers, food storage coolers, portable generators, storm shutter devices, carbon monoxide detectors, reusable ice, personal locator beacons, and emergency position-indicating radio beacons will be exempt from state sales and use tax and county discretionary sales surtaxes.

The bill also directs the Division of Emergency Management to establish a statewide system to facilitate the transportation and distribution of essential goods during an emergency.

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$6.5 million and local government revenues by \$1.4 million in Fiscal Year 2016-2017. Due to the timing of the sales tax holiday, state revenues are estimated to be reduced by \$0.2 million dollars in Fiscal Year 2015-2016.

The bill provides the Department of Revenue with a nonrecurring appropriation of \$212,754 from the General Revenue Fund for Fiscal Year 2015-2016 to administer the sales tax exemption provision of this act. The Division of Emergency Management will use existing in-house resources to create the statewide system to facilitate the transport of emergency essentials.

This act shall take effect upon becoming law.

## II. Present Situation:

### Sales Tax

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,<sup>1</sup> transient rentals,<sup>2</sup> commercial real estate rentals,<sup>3</sup> 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. 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.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes.<sup>4</sup> A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [chapter 212, F.S.], and on communications services as defined in ch. 202, F.S."<sup>5</sup>

The Division of Emergency Management (division) recommends that families prepare "disaster kits" for times of emergency. The division recommends items such as water, dried foods, sleeping bags, flashlights and batteries, medicines, battery powered radios, and tools.<sup>6</sup>

The Federal Emergency Management Agency (FEMA) educates Americans on how to prepare for emergencies through a public service advertising campaign named, Ready.<sup>7</sup> In addition to the items listed in the paragraph above, FEMA recommends cell phone chargers, inverters, or solar chargers as items to include in an emergency preparedness supply kit.

### Statewide System to Transport Essentials in an Emergency

Currently, Florida does not provide a state certification for individuals or employers who assist in delivering essential goods during times of emergency.

Each local jurisdiction may impose identification requirements and credentials beyond that which the division suggests.<sup>8</sup> Over the past few years, the division's Office of Private Sector Coordination "formulated a working group to discuss...private sector re-entry."<sup>9</sup> Statements at meetings and survey responses indicated that most local jurisdictions would allow access to

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<sup>1</sup> Section 212.04, F.S.

<sup>2</sup> Section 212.03, F.S.

<sup>3</sup> Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at [http://dor.myflorida.com/dor/taxes/sales\\_tax.html](http://dor.myflorida.com/dor/taxes/sales_tax.html) (last visited Oct. 2, 2015).

<sup>4</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

<sup>5</sup> Section 212.054, F.S.

<sup>6</sup> Florida Division of Emergency Management, *Now is the Time to Prepare For All of Florida's Weather!*, available at <http://www.floridadisaster.org/documents/EmergencyKit-FDEM.pdf> (last visited Nov 9, 2015).

<sup>7</sup> Federal Emergency Management Agency, Ready.gov, available at <http://www.ready.gov/about-us> (last visited Nov 9, 2015).

<sup>8</sup> Department of Emergency Management, *Senate Bill 608 Fiscal Analysis* (Nov. 2, 2016)(on file with the Senate Committee on Finance and Tax).

<sup>9</sup> Florida Division of Emergency Management, *Statewide Re-entry Information*, available at [http://www.floridadisaster.org/PublicPrivateSector/reentry\\_information.html](http://www.floridadisaster.org/PublicPrivateSector/reentry_information.html) (last visited Nov 18, 2015).

disaster stricken areas if private sector employees and businesses possess three of the following items:<sup>10</sup>

- A corporate identification card.
- A letter of authorization.
- A bill of lading/work order.
- A valid driver's license.

The items listed above are only a recommended list and each county may require additional documentation from persons who travel into disaster areas.

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

#### **Disaster Preparedness Tax Exemption**

The bill provides an exemption from state and local sales and use tax during the period from 12:01 a.m. on May 31, 2016, through 11:59 p.m. on June 14, 2016, for the following goods related to emergency preparedness:

- A portable self-powered light source selling for \$20 or less.
- A portable self-powered radio, two-way radio, or weather band radio selling for \$75 or less.
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.
- An item typically sold or advertised as a ground anchor system or tie-down kit selling for \$50 or less.
- A gas or diesel fuel tank selling for \$25 or less.
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt or 9-volt batteries, excluding automobile and boat batteries selling for \$30 or less.
- A cellular telephone battery selling for \$60 or less.
- A cellular telephone charger selling for \$40 or less.
- A nonelectric food storage cooler selling for \$30 or less.
- A portable generator used to provide light, support communications, or preserve food during a power outage selling for \$1,000 or less.
- A storm shutter device selling for \$200 or less.
- A carbon monoxide detector selling for \$75 or less.
- Reusable ice selling for \$10 or less.
- A single product consisting of two or more of the items above.
- A personal locator beacon selling for \$600 or less.
- An emergency position-indicating radio beacon selling for \$1,500 or less.

The bill also authorizes the Department of Revenue to adopt emergency rules to implement the sales and use tax exemption.

The bill appropriates \$212,754 of nonrecurring funds from the General Revenue Fund to the Department of Revenue for Fiscal Year 2015-2016 for purposes of administering the tax exemption specified above.

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

## Statewide System to Transport Essentials in an Emergency

The bill directs the Division of Emergency Management to establish a statewide system to facilitate the transportation and distribution of essentials throughout the state during times of emergency. The term “essentials” means any goods that are consumed or used as a direct result of an emergency or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

The division must develop a system to certify persons who:

- Transport essentials in commerce, or
- Assist in ensuring the availability of essentials.

The system must allow for certification of persons both before and after a declaration of emergency and may include an annually renewable precertification. If requested by the employer, a certification of the employer constitutes a certification of the employer’s employees. The division may certify only a person who routinely transports or distributes essentials. The division is directed to create an easily recognizable indicium of certification to assist local officials’ efforts in determining who has access to an area.

Certified individuals will move throughout the state and throughout local communities at times of emergency. During times of curfew, certified persons are permitted to enter or remain in the curfew area for the limited purpose of distributing or assisting in the distribution of essentials. The bill also states that law enforcement officers are not prohibited from specifying the permissible route of ingress or egress of certified individuals.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its 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, these requirements do not apply to laws that have an insignificant fiscal impact on local governments, which for Fiscal Year 2016-2017, is \$2 million or less.<sup>11,12,13</sup>

<sup>11</sup> FLA. CONST. art. VII, s. 18(d).

<sup>12</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*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Oct. 6, 2015).

<sup>13</sup> Based on the Demographic Estimating Conference’s population adopted on July 9, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Oct. 6, 2015).

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

None.

**C. Trust Funds Restrictions:**

None.

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

The Revenue Estimating Conference estimates that CS/SB 608 will reduce state General Revenue receipts by \$6.5 million and local government revenue by \$1.4 million in Fiscal Year 2016-2017. Due to the timing of the sales tax holiday, state revenues are estimated to be reduced by \$0.2 million dollars in Fiscal Year 2015-2016.

**B. Private Sector Impact:**

Indeterminate, but anticipated positive, fiscal impact on businesses that sell designated items during the 15 day sales tax exemption period.

**C. Government Sector Impact:**

CS/SB 608 provides the Department of Revenue a nonrecurring General Revenue appropriation of \$212,754 in Fiscal Year 2015-2016 to administer the sales and use tax exemption provision of the act.

The Division of Emergency Management will use existing in-house resources to create the statewide system to facilitate the transport of emergency essentials and should not require additional personnel or technology.<sup>14</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 252.359 of the Florida Statutes.

This bill creates two undesignated sections of Florida law.

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<sup>14</sup> Department of Emergency Management, *Senate Bill 608 Fiscal Analysis* (Nov. 2, 2016) (on file with the Senate Committee on Finance and Tax).

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on January 11, 2016:**

The CS changes the starting time of the tax exemptions from 12 a.m. to 12:01 a.m., provides DOR with emergency rule making authority to implement the sales and use tax exemptions, authorizes an appropriation of \$212,754 in Fiscal Year 2015-2016, removes persons “who assist in restoring utility services” from the certification process, and clarifies that certifying an employer also certifies its employees only upon request of the employer.

**B. Amendments:**

None.