

**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 620

INTRODUCER: Senator Passidomo

SUBJECT: Disaster Preparedness Tax Exemption

DATE: November 9, 2017

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

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

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**I. Summary:**

SB 620 establishes a 10-day (June 1-10, 2018) sales tax exemption on certain items relating to disaster preparedness and protection.

During the exemption period, the following items, under specified maximum values, will be exempt from state sales and use tax and county discretionary sales surtaxes: 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.

The Revenue Estimating Conference (REC) has not yet determined the fiscal impact of the bill.

The bill is effective upon becoming law.

**II. Present Situation:**

**Florida Sales and Use 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> rental of commercial real estate,<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. There are currently more than 250 exemptions, exclusions,

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

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

<sup>3</sup> Section 212.031, F.S.

deductions, and credits from the sales and use tax.<sup>4</sup> Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>5</sup>

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes. 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 [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S.”<sup>6</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into.

### ***Disaster Preparedness***

The Legislature has approved similar sales tax exemptions in preparation for the Atlantic hurricane season, which typically begins on June 1<sup>st</sup> each year.<sup>7</sup>

The Florida Division of Emergency Management recommends having a plan and preparing property to prevent damage. Additionally, the Division of Emergency Management recommends having a disaster supply kit with items such as a battery-operated radio, flashlight, batteries, and first-aid kit.<sup>8</sup>

The Federal Emergency Management Agency (FEMA) educates Americans on how to prepare for emergencies through Ready, a public service advertising campaign.<sup>9</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.<sup>10</sup>

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

**Section 1** of the bill establishes a 10-day period for the exemption of sales and local sales and use tax on certain items relating to disaster preparedness and protection. The exemption period begins at 12:01 a.m. on June 1, 2018, through 11:59 p.m. on June 10, 2018, and applies to the following items:

- 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;

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<sup>4</sup> See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-170 (2017).

<sup>5</sup> Florida Dept. 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 Nov. 9, 2017).

<sup>6</sup> Section 212.054, F.S.

<sup>7</sup> National Oceanic and Atmospheric Administration, *Frequently Asked Questions*, <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited Nov. 9, 2017).

<sup>8</sup> Florida Division of Emergency Management, *Emergency Kit, Make a Plan, Be Informed*, <http://www.floridadisaster.org/documents/EmergencyKit-FDEM.pdf> (last visited Nov. 9, 2017).

<sup>9</sup> Federal Emergency Management Agency, *Ready.gov*, <http://www.ready.gov> (last visited Nov. 9, 2017).

<sup>10</sup> Federal Emergency Management Agency, *Build A Kit*, <https://www.ready.gov/build-a-kit> (last visited Nov. 9, 2017).

- 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 non-electric food storage cooler selling for \$30 or less;
- A portable generator that is 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;<sup>11</sup>
- 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 previously listed items selling for \$75 or less;
- A personal locator beacon selling for \$600 or less;
- An emergency position-indicating radio beacon selling for \$1,500 or less;
- An external portable computer drive for data backup and recovery selling for \$200 or less; or
- An inverter, inverter/charger, or uninterruptible power supply system selling for \$200 or less.

The bill excludes sales within public lodging establishments,<sup>12</sup> theme parks or entertainment complexes,<sup>13</sup> or airports<sup>14</sup> from the exemption.

The bill authorizes the Department of Revenue (DOR) to adopt emergency rules in order to implement the sales tax exemption.

Section 1 of the bill expires September 30, 2018.

**Section 2** of the bill provides an appropriation for an unspecified amount of nonrecurring funds from General Revenue to the DOR for Fiscal Year 2017-18 to administer the sales tax exemption.

**Section 3** provides that the bill is effective upon becoming law.

#### **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

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<sup>11</sup> The bill defines the term “storm shutter device” to mean a material or product manufactured, rated, and marketed specifically for preventing window damage from storms.

<sup>12</sup> Section 509.013(4), F.S.

<sup>13</sup> Section 509.013(9), F.S.

<sup>14</sup> Section 330.27(2), F.S.

mandates requirements do not apply to laws having an insignificant impact,<sup>15</sup> which for Fiscal Year 2017-2018, is \$2.08 million or less.<sup>16</sup>

The REC has not yet estimated the fiscal impact of the bill. If the REC determines the bill does not have an insignificant impact, 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:**

None.

**B. Private Sector Impact:**

Indeterminate, but positive. Consumers will see a reduction in the cost of the specified products related to disaster preparation and protection.

**C. Government Sector Impact:**

The bill provides an unspecified appropriation to the DOR to administer the sales tax exemption. The DOR estimates the cost associated with notifying businesses of the sales tax exemption, by printing and mailing a Tax Information Publication (TIP), will be approximately \$70,072.<sup>17</sup>

**VI. Technical Deficiencies:**

The amount of the appropriation to the DOR needs to be specified.

**VII. Related Issues:**

None.

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<sup>15</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 Nov. 9, 2017).

<sup>16</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 Nov. 9, 2017).

<sup>17</sup> Florida Department of Revenue, *2018 Agency Legislative Bill Analysis: SB 620* (Nov. 3, 2017) (on file with the Senate Commerce and Tourism Committee).

**VIII. Statutes Affected:**

The bill creates an undesignated section of Florida law.

**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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