

**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 Finance and Tax

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BILL: CS/SB 1412

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Sales Tax Holiday for Disaster Preparedness Supplies

DATE: April 8, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Colton</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
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 1412 establishes a 14-day period, from Saturday, June 1 through Friday, June 14, 2019, during which certain items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes. The bill lists 11 items that are exempt from sales tax during the sales tax holiday.

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

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR in Fiscal Year 2018-2019 to administer the sales tax holiday.

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$18.4 million and local government revenue by \$5.8 million for Fiscal Year 2019-2020.

The bill takes effect upon becoming law.

## II. Present Situation:

### Florida Sales and Use Tax

Florida levies a 6 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 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 270 exemptions, exclusions, 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> Sales tax receipts accounted for 77 percent of the state's General Revenue in Fiscal Year 2018-2019.<sup>6</sup>

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine 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 communications services as defined in ch. 202, F.S."<sup>7</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. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.<sup>8</sup>

Previous legislatures have approved sales tax exemptions for specified items in preparation for the Atlantic hurricane season, which officially begins in June 1<sup>st</sup> of each year.<sup>9</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>10</sup> The Division also recommends reinforcing five critical areas to prevent wind and debris damage. The five areas are roof, straps, windows, doors, and garage doors.<sup>11</sup>

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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.

<sup>4</sup> See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 163-168 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited March 25, 2019).

<sup>5</sup> Sections 212.06(3) and 212.07(2), F.S.

<sup>6</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, Sources of General Revenue, 16 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited March 25, 2019).

<sup>7</sup> Section 212.054, F.S.

<sup>8</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida's Counties, 225-226 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited March 25, 2019).

<sup>9</sup> National Oceanic and Atmospheric Administration. *Frequently Asked Questions*, available at <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited March 20, 2019).

<sup>10</sup> Florida Division of Emergency Management, *Plan & Prepare, Disaster Supply Kit*, available at <https://www.floridadisaster.org/planprepare/disaster-supply-kit/> (last visited March 20, 2019).

<sup>11</sup> Florida Division of Emergency Management, *Plan & Prepare, Planning for Your Home*, available at <https://www.floridadisaster.org/planprepare/secure-your-home/> (last visited March 20, 2019).

### III. Effect of Proposed Changes:

The bill establishes a 14-day period, from Saturday, June 1 through Friday, June 14, 2019, during which items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes. The following items are exempt:

- 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 \$50 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 non-electric food storage cooler selling for \$30 or less;
- A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less;
- Reusable ice selling for \$10 or less;
- Impact-resistant windows, when sold in units of 20 or fewer; and
- Impact-resistant doors, when sold in units of 10 or fewer.

The exemptions for the impact-resistant windows and doors apply to purchases made by an owner of residential real property where such products will be installed.

Sales within public lodging establishments,<sup>12</sup> theme parks or entertainment complexes,<sup>13</sup> or airports<sup>14</sup> are not exempt from taxes under the bill.

The bill authorizes the department to adopt emergency rules in order to implement the sales tax exemption.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR in Fiscal Year 2018-2019 to administer the sales tax holiday.

The bill takes effect upon becoming law.

### 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 revenues.

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<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.

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, which for Fiscal Year 2019-2020, is \$2.1 million or less.<sup>15,16,17</sup>

The Revenue Estimating Conference has determined the bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$3.4 million. Therefore, the bill has a significant impact on local governments and the mandates provision may apply.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$18.4 million and the local government revenue by \$5.8 million for Fiscal Year 2019-2020.

**B. Private Sector Impact:**

Persons purchasing exempted items during the holiday will realize savings. Also, the holiday may promote retail sales at businesses selling items exempted under the bill.

<sup>15</sup> FLA. CONST. art. VII, s. 18(d).

<sup>16</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$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 Mar. 25, 2019).

<sup>17</sup> Based on the Demographic Estimating Conference's population adopted on Feb. 6, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 25, 2019).

C. **Government Sector Impact:**

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2018-2019 to administer the sales tax holiday.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill creates an undesignated section of law.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

**CS by Commerce and Tourism on March 18, 2019:**

The committee substitute appropriates \$70,072 to the Department of Revenue to administer the sales tax holiday.

B. **Amendments:**

None.