

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 Appropriations

BILL: CS/CS/SB 524

INTRODUCER: Appropriations Committee; Finance and Tax Committee; and Senator Gruters

SUBJECT: Sales Tax Holiday for Disaster Preparedness Supplies

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Favorable
2.	Gross	Diez-Arguelles	FT	Fav/CS
3.	Gross	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 524 establishes an 18-day “disaster preparedness” sales tax holiday, from Friday, May 29 to Monday, June 15, 2020, during which time certain items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes.

The bill allows the Department of Revenue 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 Department of Revenue in Fiscal Year 2019-2020.

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$20.7 million and local government revenue by \$6.1 million Fiscal Year 2020-2021.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ 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. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴

In addition to the state tax, section 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, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁵ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁶

"Disaster Preparedness" Sales Tax Holidays

Florida has enacted a "disaster preparedness" sales tax holiday six times since 2006, exempting specified items in preparation for the Atlantic hurricane season that officially begins June 1 of each year. The types and values of exempted items have varied, and the length of the exemption periods has varied from 3 to 12 days.⁷

The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit to last for a minimum of 7 days.⁸

The Florida Building Code

In 2000, the Legislature authorized the implementation of the Florida Building Code, and the first edition replaced all local codes on March 1, 2002. There have been six editions to date.⁹

Section 1609.1.2 of the Florida Building Code, 6th Edition (2017) Building, (FBC) requires glazed openings in buildings located within a wind-borne region to be impact resistant or

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S., s. 212.06(3)(a), F.S.

⁵ Section 212.054(2)(a), F.S.

⁶ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Nov. 8, 2019) at 225-226.

⁷ *Id.* at 160.

⁸ Florida Division of Emergency Management, *Plan & Prepare: Disaster Supply Kit*, available at <https://www.floridadisaster.org/planprepare/disaster-supply-kit/> (last visited Jan. 6, 2020).

⁹ 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017> (last visited Feb. 13, 2020).

protected by an impact-resistant covering. The FBC requires that an impact-resistant glazed opening or garage door meet an approved impact-resistant standard, such as:

- ANSI/DASMA 115 (for garage doors and rolling doors).
- TAS 201, 202 and 203.
- AAMA 506.
- ASTM E1996.
- ASTM E1886.

These standards are methods for testing the structural stability and design of the window or door to ensure protection during periods of high wind.

III. Effect of Proposed Changes:

The bill establishes an 18-day period, from Friday, May 29 to Monday, June 15, 2020, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

- Portable self-powered light sources selling for \$20 or less;
- Portable self-powered radios, two-way radios, or weather-band radios selling for \$50 or less;
- Tarpaulins or other flexible waterproof sheeting selling for \$50 or less;
- Any items normally sold as, or generally advertised as, ground anchor systems or tie-down kits selling for \$50 or less;
- Gas or diesel fuel tanks selling for \$25 or less;
- Packages of AA-cell, AAA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- Nonelectric food storage coolers selling for \$30 or less;
- Portable generators used to provide light or communications or preserve food 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 and impact-resistant garage doors, when sold in units of 10 or fewer.

The exemptions for impact-resistant windows, doors, and garage doors apply to purchases made by an owner of residential real property where the impact-resistant windows or doors will be installed. The bill defines “impact-resistant” to mean that the window, door, or garage door complies with the standards for protection of openings and for wind-borne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building. The purchaser must furnish to the selling dealer an affidavit stating that the items are to be used on residential property owned by the purchaser. The affidavit must include the name of the owner and the address of the residential property where the items will be installed. If a person furnishes a false affidavit to evade payment of the sales tax, the purchaser is subject to repayment of the tax, a mandatory penalty of 200 percent of the tax, and be subject to a fine and punishment as provided by law for a conviction of a felony of the third degree.¹⁰

¹⁰ Section 212.085, F.S. The fine and punishment for a conviction of a felony of the third degree is found in ss. 755.082, F.S., 775.083, F.S., and 775.084, F.S.

The exemptions provided for in the bill do not apply to the following:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill appropriates, for the 2019-2020 Fiscal Year, \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue for the purpose of implementing the sales tax holiday. Funds remaining unexpended as of June 30, 2020, shall revert and be re-appropriated for the same purpose in the 2020-2021 Fiscal Year.

The Department of Revenue may adopt emergency rules pursuant s. 120.54(4), F.S., for the purpose of implementing the bill.

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, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the 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,^{11, 12} which is \$2.2 million or less for Fiscal Year 2020-2021.¹³

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$3.4 million in Fiscal Year 2020-2021. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

¹¹ FLA. CONST. art. VII, s. 18(d).

¹² 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 Nov. 8, 2019).

¹³ Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on Dec. 3, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 12, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$20.7 million and local government revenue by \$6.1 million in Fiscal Year 2020-2021.¹⁴

B. Private Sector Impact:

Persons purchasing exempted items during the sales tax holidays will realize savings.

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 2019-2020 to administer the “disaster preparedness” sales tax holiday.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates two undesignated sections of chapter law.

¹⁴ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Disaster Preparedness Holiday, SB 524*, Feb. 3, 2020, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page47-52.pdf (last visited Feb. 10, 2020).

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 Appropriations on February 27, 2020:

The committee substitute:

- Adds a requirement that the purchaser of the impact-resistant windows, doors, or garage doors submit an affidavit to the selling dealer stating that the item(s) will be installed at residential property owned by the purchaser.
- Establishes penalties for furnishing a false affidavit.

CS by Finance and Tax on February 13, 2020:

The CS:

- Expressly states that garage doors qualify for the exemption if sold in units of 10 or fewer.
- Defines “impact-resistant” to mean that the window, door, or garage door complies with the standards for protection of openings and for windborne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building.

- B. **Amendments:**

None.