

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/SB 302

INTRODUCER: Commerce and Tourism Committee and Senator Taddeo

SUBJECT: Small Business Saturday Sales Tax Holiday

DATE: March 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Bruno</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 302 establishes a one-day sales tax holiday on Saturday, November 27, 2021, which coincides with Small Business Saturday. During the holiday, state sales tax and local discretionary sales surtaxes do not apply to the sale of items of tangible personal property having a sales price of \$1,000 or less per item when sold by a small business.

A small business may choose not to participate in the sales tax holiday. These small businesses must notify the Department of Revenue of its decision to not participate in the sales tax holiday by November 16, 2021, and post a copy of that notice at its place of business.

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$32.8 million and will reduce local revenues by \$9.9 million in Fiscal Year 2021-2022.

The bill takes effect July 1, 2021.

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 Sales tax receipts accounted for approximately 79 percent of the state's General Revenue in Fiscal Year 2019-2020.⁵

Section 212.055, F.S., authorizes counties to impose local discretionary sales surtaxes in addition to the state sales tax. 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."⁶ 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.⁷

Small Business Saturday

Small Business Saturday was created in 2010 by American Express as a rewards program that encouraged their cardholders to shop at small businesses on the Saturday after Black Friday.⁸ The U.S. Senate passed a resolution recognizing Small Business Saturday in 2011,⁹ and the U.S. Small Business Administration began co-sponsoring the shopping event in 2015.¹⁰ Although American Express has ended its cardholder rewards program, sales on Small Business Saturday have increased. According to the Small Business Administration, 110 million consumers spent almost \$20 billion at small businesses on Small Business Saturday in 2019, compared to the almost \$18 billion spent by 104 million consumers in 2018.¹¹

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.

⁵ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 18, 2021).

⁶ Section 212.054(2)(a), F.S.

⁷ *Supra* note 5, at 231-232.

⁸ U.S. Chamber of Commerce, *Support Your Local Community by Shopping Small* (November 20, 2018), available at <https://www.uschamber.com/series/above-the-fold/support-your-local-community-shopping-small> (last visited Mar. 18, 2021).

⁹ A resolution designating November 26, 2011, as "Small Business Saturday" and supporting efforts to increase awareness of the value of locally owned small businesses, S. Res. 320, 112th Cong. (2011).

¹⁰ U.S. Small Business Administration, *Nearly \$20 billion spent by Americans this Small Business Saturday* (December 3, 2019), available at <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/nearly-20-billion-spent-americans-small-business-saturday> (last visited Mar. 18, 2021).

¹¹ *Id.*

III. Effect of Proposed Changes:

CS/SB 302 establishes a one-day sales tax holiday on Saturday, November 27, 2021, which coincides with Small Business Saturday. During the holiday, sales tax and local discretionary sales surtaxes do not apply to the sale of items of tangible personal property having a sales prices of \$1,000 or less per item when sold by a small business.

The bill defines a “small business” as one that:

- Has registered with the Department of Revenue (DOR);
- Began operating no later than January 8, 2021; and
- Has owed and remitted less than \$200,000 in total sales and use tax to the DOR during either the one-year period ending on September 30, 2021, or the period beginning on the date the business began operating and ending on September 30, 2021, if the business has not been in operation for a full year as of September 30, 2021.

A small business eligible to file a consolidated tax return may only qualify for the sales tax holiday if the total sales and use tax owed and remitted from all of the business’s locations is less than \$200,000.

If a business chooses not to participate in the sales tax holiday, the business must notify the DOR of its decision by November 16, 2021. The business must post a copy of the notice in a conspicuous place.

The DOR may adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., for the purpose of implementing the bill.

The bill takes effect July 1, 2021.

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 Art. VII, s. 18 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,^{12, 13} which is \$2.2 million or less for Fiscal Year 2021-2022.¹⁴

The Revenue Estimating Conference estimates that the bill will reduce local revenues by \$11 million. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$32.8 million and will reduce local revenues by \$9.9 million in Fiscal Year 2021-2022.

B. Private Sector Impact:

Persons purchasing items from stores participating in the sales tax holiday will realize savings.

C. Government Sector Impact:

None.

¹² FLA. CONST. art. VII, s. 18(d).

¹³ 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. 18, 2021).

¹⁴ Based on the Demographic Estimating Conference's population adopted on November 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 18, 2021).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill defines “small business” as a dealer who owed and remitted to the DOR less than \$200,000 in total sales and use tax during a specified period. Information contained in reports received by the DOR, such as taxes remitted, is considered confidential and exempt from public records under s. 213.053, F.S. Thus, the DOR has indicated it will not be able to publish a Tax Information Publication (TIP) identifying businesses participating in the sales tax holiday.

VIII. Statutes Affected:

The bill creates an undesignated section of chapter 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 by Commerce and Tourism on March 15, 2021:

The committee substitute:

- Provides that a business that chooses not to participate in the sales tax holiday must notify the DOR of its decision by November 16, 2021, and post a copy of that notice at its place of business; and
- Removes the appropriation in the bill.

- B. **Amendments:**

None.