

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 Commerce and Tourism

BILL: SB 500

INTRODUCER: Senator Perry

SUBJECT: Back-to-school Sales Tax Holiday

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 500 establishes a 10-day “back-to-school” sales tax holiday from Friday, July 29, 2022, to Sunday, August 7, 2022, for certain clothing, school supplies, personal computers, and personal computer-related accessories.

The Revenue Estimating Conference has not yet estimated the revenue impact of the bill.

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

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁵ 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.

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 Section 212.055, F.S.

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

“Back-to-School” Sales Tax Holidays

Florida has enacted a “back-to-school” sales tax holiday 19 times since 1998. The Florida Residents’ Tax Relief Act of 1998 established Florida’s first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁸ Backpacks were added to the tax holiday in 1999 and school supplies were added in 2001. In 2013, the Legislature expanded the exemption to include personal computers and related accessories selling for \$750 or less, purchased for noncommercial home or personal use. The duration of “back-to-school” sales tax holidays has varied from 3 to 10 days. The type and value of exempt items have also varied.⁹

Florida’s 75 school districts began the 2021-2022 school year between August 10 and August 23, 2020.¹⁰

Emergency Rulemaking

State agencies with rulemaking authority in a specific area generally may adopt emergency rules in that area if there is an immediate danger to the public health, safety or welfare.¹¹ Emergency rules typically are effective only for 90 days and may not be renewed except in certain circumstances.¹²

III. Effect of Proposed Changes:

The bill establishes a 10-day period, from July 29, 2022, to August 7, 2022, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

- Clothing with a sales price of \$60 or less per item. “Clothing” is defined as any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs. Clothing includes all footwear, excluding skis, swim fins, in-line skates, and rollerblades;
- Wallets and bags with a sales price of \$60 or less per item, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags;

⁶ Section 212.054(2)(a), F.S.

⁷ Office of Economic and Demographic Research, *Florida Tax Handbook*, 227-228 (2021), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf> (last visited Nov. 29, 2021).

⁸ Chapter 98-341, Laws of Fla.

⁹ *Supra* note 7, at 155-162.

¹⁰ Florida Department of Education, *PK-12 Public School Data Publications and Reports*, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/index.shtml> (last visited Nov. 29, 2021).

¹¹ Section 120.54(4), F.S.

¹² Section 120.54(4)(c), F.S. Emergency rules typically may be renewed only if the agency has initiated rulemaking to adopt permanent rules on the same subject and either a challenge to those proposed rules is pending or the proposed rule is still pending legislative ratification.

- School supplies with a sales price of \$15 or less per item. “School supplies” is defined as pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, staplers and staples used to secure paper products, protractors, compasses, and calculators;
- Personal computers with a sales price of \$1,000 or less per item. “Personal computers” includes electronic book readers, laptops, desktops, handhelds, tablets, and tower computers and excludes cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data; and
- Personal computer-related accessories with a sales price of \$1,000 or less per item. “Personal computer-related accessories” includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and non-recreational software regardless of whether the accessories are used in association with a personal computer base unit. The term excludes furniture or systems, devices, software, monitors with a television tuner, or peripherals designed or intended primarily for recreational use.

The bill allows a business to opt out of participating in the sales tax holiday if less than 5 percent of the business’ gross sales of tangible personal property in the prior calendar consisted of items that would be exempt under the bill. A business meeting this threshold must notify the Department of Revenue (department) in writing by July 28, 2022, of its election to collect sales tax during the holiday. The business must post a copy of that notice in a conspicuous location at its place of business.

The exemptions provided 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 department may adopt emergency rules pursuant to 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,^{13, 14} which is \$2.2 million or less for Fiscal Year 2022-2023.¹⁵

The Revenue Estimating Conference has not yet estimated the revenue impact of the bill.

B. Public Records/Open Meetings Issues:

None.

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 has not yet estimated the revenue impact of the bill.

B. Private Sector Impact:

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

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹³ FLA. CONST. art. VII, s. 18(d).

¹⁴ 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. 29, 2021).

¹⁵ Based on the Demographic Estimating Conference's population adopted on March 3, 2021. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf> (last visited Nov. 29, 2021).

VIII. Statutes Affected:

This bill creates an undesignated section of chapter 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
