

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/CS/SB 58

INTRODUCER: Finance and Tax Committee; Commerce and Tourism Committee; and Senator Stewart

SUBJECT: Sales Tax Holiday for Items Related to Electric Transportation

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Byrd</u>	<u>Khan</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 58 exempts from the sales and use tax the retail sale of electric bicycles, electric scooters, and protective clothing and equipment during the 45-day period from August 1, 2024, through September 14, 2024, and the 45-day period from November 1, 2024, through December 15, 2024.

The sales price is limited to:

- \$1,750 or less for electric bicycles;
- \$500 or less for electric scooters;
- \$150 or less for helmets;
- \$50 or less for knee or elbow pads.

The exemption does not apply to sales within a theme park or entertainment complex, within a public lodging establishment, or within an airport. The lease or rental of an electric bicycle, electric scooter, or protective clothing and equipment does not qualify as an exempt retail sale under the exemption.

The Revenue Estimating Conference has not reviewed CS/CS/SB 58; however, the conference reviewed similar language and determined that the bill will reduce General Revenue Fund receipts by \$6 million and local government receipts by \$1.6 million in Fiscal Year 2024-2025.

The bill takes effect upon becoming a 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,¹ admissions,² transient rentals,³ and a limited number of services, and a 4.5 percent sales and use tax on the rental of commercial real estate.⁴ Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sale 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.⁵

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁶ 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."⁷ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. In counties that levy the discretionary sales surtax, the rate varies in a range of 0.5 to 1.5 percent.⁸

Electric-powered bicycles and scooters, helmets, and knee and elbow pads are subject to Florida sales tax. However, the sale of bicycle helmets marketed for use by youth are exempt from the sales and use tax.⁹ Additionally, helmets with a sales price of \$50 or less were temporarily exempt from the sales and use tax during the Freedom Summer sales tax holiday from May 29, 2023, through September 4, 2023.¹⁰

Electric Bicycles and Scooters

Florida law defines the term "electric bicycle" as a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.031, F.S.

⁵ Section 212.07(2), F.S.

⁶ Section 212.055, F.S.

⁷ Section 212.054(2)(a), F.S.

⁸ Florida Dept. of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2024*, https://floridarevenue.com/Forms_library/current/dr15dss_24.pdf (last visited Jan. 26, 2024).

⁹ Section 212.08(7)(III), F.S.

¹⁰ Chapter 2023-157, L.O.F.

- “Class 3 bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.¹¹

Over the years, electric bicycles and electric scooters have become a popular transportation option, especially for those who live in cities.¹² They also offer an alternative mode of transportation for people who would otherwise be prevented from using more traditional modes of transportation.¹³

III. Effect of Proposed Changes:

The bill exempts from the sales and use tax the retail sale of electric bicycles, electric scooters, and protective clothing and equipment during the 45-day period from August 1, 2024, through September 14, 2024, and the 45-day period from November 1, 2024, through December 15, 2024.

The bill defines an electric scooter as “a vehicle having two or fewer wheels, with or without a seat or saddle for the use of the rider, which is equipped to be propelled by an electric motor and which weighs less than 75 pounds, is less than 2 feet wide, and is designed for a maximum speed of less than 35 miles per hour.” The sales prices for electric bicycles and electric scooters are limited to:

- \$1,750 or less for electric bicycles;
- \$500 or less for electric scooters;

The bill also defines protective clothing and equipment as “apparel designed and intended for use during the operation of an electric bicycle or electric scooter which incorporates padding to protect from or mitigate injury.” For the following protective clothing and equipment, the sales price is limited to:

- \$150 or less for helmets;
- \$50 or less for knee or elbow pads.

The bill specifies that the sales tax exemption does not apply to sales within a theme park or entertainment complex,¹⁴ within a public lodging establishment,¹⁵ or within an airport.¹⁶ The lease or rental of an electric bicycle, electric scooter, or protective clothing and equipment does not qualify as an exempt retail sale under the exemption.

The Department of Revenue is authorized to adopt emergency rules.

¹¹ Section 316.003(23), F.S.

¹² U.S. Department of Transportation, Federal Highway Administration, *Public Roads- 2021*, <https://highways.dot.gov/public-roads/spring-2021/02#:~:text=Other%20definitions%20of%20micromobility%20focus,%5B1%20meter%5D%20wide>). (last visited Jan. 23, 2024).

¹³ *Id.*

¹⁴ See section 509.013(9), F.S.

¹⁵ See section 509.013(4), F.S.

¹⁶ See section 330.27(2), F.S.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a 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. The mandate requirement does not apply to laws having an insignificant impact,¹⁷ which for Fiscal Year 2024-2025 is forecast at approximately \$2.3 million.¹⁸

The Revenue Estimating Conference has not reviewed CS/CS/SB 58. The Revenue Estimating Conference reviewed similar language and determined that the bill will reduce the ability of local governments to raise revenue through local option surtaxes by \$0.8 million in Fiscal Year 2024-2025. Therefore, the mandates provisions may not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not reviewed CS/CS/SB 58; however, the conference reviewed similar language and determined that the bill will reduce General

¹⁷ FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See FLA. SENATE COMM. ON CMTY. AFFAIRS, Interim Report 2012-115: Insignificant Impact (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 26, 2024).

¹⁸ Based on the Demographic Estimating Conference's estimated population adopted on July 11, 2023, available at <http://edr.state.fl.us/Content/conferences/population/archives/230711demographic.pdf> (last visited Jan. 26, 2024).

Revenue Fund receipts by \$6 million and local government receipts by \$1.6 million in Fiscal Year 2024-2025.

B. Private Sector Impact:

The private sector will experience reduced costs associated with the purchase of electric bicycles, electric scooters, and related protective clothing and equipment due to the sales and use tax exemption provided in this legislation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Finance and Tax on February 8, 2024:

The committee substitute removes a shirt, pants, a jacket, or gloves with a sales price of \$75 or less from the list of items that qualify for the sales tax holiday. It specifies that the motor of an electric scooter must be electric. It also specifies that the seat or saddle of an electric scooter is for the use of the rider, making the definition of an electric scooter consistent with an electric bicycle.

CS by Commerce and Tourism on January 23, 2024:

The committee substitute exempts from the sales and use tax the retail sale of electric bicycles, electric scooters, and protective clothing and equipment, up to certain dollar amounts, during the 45-day period from August 1, 2024 through September 14, 2024, and the 45-day period from November 1, 2024 through December, 15, 2024.

The committee substitute specifies that the sales tax exemption does not apply to sales within a theme park or entertainment complex, within a public lodging establishment, or within an airport. The lease or rental of an electric bicycle, electric scooter, or protective clothing and equipment does not qualify as an exempt retail sale under the exemption.

B. Amendments:

None.

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