

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 263 Veterans' Annual Sales Tax Holiday

SPONSOR(S): Ponder and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner	Miller
2) Ways & Means Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Current law authorizes the levy and collection of sales and use tax and discretionary sales surtaxes, as well as exemptions and credits to such taxes, applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions.

In prior years, the Legislature has enacted temporary periods (commonly called "sales tax holidays") during which certain items were exempted from the state sales tax and county discretionary sales surtaxes. The length of the exemption periods, the type of exempt items, and the value of the exemption have varied over the years.

The bill establishes a three-day sales tax holiday beginning on November 10 and ending on November 12 each year for veterans purchasing the following clothing items with a sales price of \$60 or less:

- Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs;
- All footwear, excluding skis, swim fins, roller blades, and skates.

The bill defines a veteran as any person who served in the active military, naval, or air service and who was honorably discharged or who later received an upgraded honorable discharge. To be eligible for the sales tax holiday, a veteran must show proof of military status at the time he or she purchases the eligible items by presenting a DD Form 2, DD Form 2765, DD Form 214, veteran identification card, or a valid driver license with the "veteran" designation on it.

The bill allows a retailer to opt out of the sales tax holiday if less than five percent of the retailer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the bill. If the retailer chooses not to participate in the tax holiday, by August 1, annually, the retailer must notify the Department of Revenue (DOR) in writing and post a copy of the notice in a conspicuous location at the place of business. Retailers making tax exempt sales must report the amount of gross sales on the retailer's sales and use tax return to the DOR.

On January 20, 2017, the Revenue Estimating Conference estimated the bill to have a -\$2.0 million recurring impact on General Revenue and a -\$0.6 million recurring impact on local government revenue for FY 17/18. Additionally, the DOR projects an operational impact of \$133,128 for producing a Tax Information Publication to notify sales tax dealers of the creation of the permanent sales tax holiday, and an impact of \$121,398 annually thereafter to send a reminder notification.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Sales Tax

Current law levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., contains statutory 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 200 different exemptions. Generally, sales tax is added to the price of the taxable goods or service and collected from the purchaser at the time of sale.

In addition to the state tax, s. 212.055, F.S., authorizes eight distinct sales surtaxes that can be levied at the county level, at the discretion of certain local governing authorities and, with one exception, only if approved by referendum of the voters in a county. The allowed tax rates vary, as do the groups of counties that may levy the surtaxes. All of the discretionary sales surtaxes apply to the same transactions occurring in the county subject to the state sales and use tax imposed by ch. 212, F.S., and on communications services as defined in ch. 202, F.S. The discretionary sales surtaxes are levied in addition to the state sales and use tax.

Sales Tax Holidays

Since 1998, the Legislature has enacted 19 temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Florida Veterans of the U.S. Armed Services

Florida is home to almost 1.6 million veterans. Florida also has 20 major military installations, with eight having a Military Exchange on base.⁴ Military Exchanges sell consumer goods and services tax free. However, not every veteran can shop at Exchanges. Generally, only retirees and 100 percent disabled veterans have Exchange privileges. Recently, the Department of Defense announced a policy change in January, 2017 that will extend limited online military exchange shopping privileges to all honorably discharged veterans starting on November 11, 2017.⁵

Additionally, many restaurants and retail stores offer a variety of discounts to veterans each year on Veterans Day.

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://floridarevenue.com/dor/taxes/sales_tax.html (last visited January 30, 2017).

⁴ Military Exchange store locator, available at: <https://www.shopmyexchange.com/exchange-stores> (last visited January 30, 2017).

⁵ U.S. Department of Defense press release, *Department of Defense Extends Online Military Exchange Shopping Privileges to Veterans*, available at <https://www.defense.gov/News/News-Releases/News-Release-View/Article/1049503/department-of-defense-extends-online-military-exchange-shopping-privileges-to-v> (last visited January 30, 2017).

Effect of Proposed Changes

The bill establishes a three-day sales tax holiday beginning on November 10 and ending on November 12 each year for veterans purchasing the following clothing items with a sales price of \$60 or less:

- Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs;
- All footwear, excluding skis, swim fins, roller blades, and skates.

The bill defines a veteran as any person who served in the active military, naval, or air service and who was honorably discharged or who later received an upgraded honorable discharge. To be eligible for the sales tax holiday, a veteran must show proof of military status at the time he or she purchases the eligible items by presenting the following:

- DD Form 2, Uniformed Services Identification Card issued by the U.S. Department of Defense;
- DD Form 2765, Uniformed Services Identification and Privilege Card issued by the U.S. Department of Defense;
- DD Form 214, issued by the U.S. Department of Defense identifying the servicemember's discharge as "honorable";
- Veteran identification card, issued to a veteran with a 100 percent disability by the Florida Department of Veterans' Affairs; or
- A valid driver license with the "veteran" designation on it issued by the Department of Highway Safety and Motor Vehicles.

The bill allows a retailer to opt out of the sales tax holiday if less than five percent of the retailer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the bill. If the retailer chooses not to participate in the tax holiday, by August 1, annually, the retailer must notify the DOR in writing and post a copy of the notice in a conspicuous location at the place of business. Retailers making tax exempt sales must report the amount of gross sales on the retailer's sales and use tax return to the DOR.

Lastly, the DOR is authorized to adopt rules to implement the provisions in the bill.

B. SECTION DIRECTORY:

Section 1. Creates an annual three-day sales tax holiday for veterans; defines "veteran," specifies items that are eligible for the sales tax holiday; specifies documentation to demonstrate military status; authorizes certain dealers to not participate; authorizes the DOR to adopt rules.

Section 2. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On January 20, 2017, the Revenue Estimating Conference estimated the bill to have a -\$2.0 million recurring impact on General Revenue beginning in FY 17/18, staying at -\$2.0 million through FY 21/22.

2. Expenditures:

The DOR projects a nonrecurring operational impact in the amount of \$133,128 in FY 17/18 for creating a Tax Information Publication to notify taxpayers of the creation of the permanent sales tax holiday that will be sent to approximately 344,000 businesses in September 2017.

Beginning in FY 18/19, the DOR projects a recurring operational impact in the amount of \$121,398 to send reminder notifications to sales tax dealers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On January 20, 2017, the Revenue Estimating Conference estimated the bill to have a -\$0.6 million recurring impact on local government revenue beginning in FY 17/18, and staying at -\$0.6 million through FY 21/22.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could have a positive fiscal impact on eligible veterans who choose to shop for clothing during the three-day sales tax holiday.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

On January 27, 2017, the Revenue Estimating Conference estimated a one day sales tax holiday for veterans limited to Veterans Day would have recurring impacts of -\$1.4 million on General Revenue and -\$0.3 million on local government revenues beginning in FY 17/18, and staying at -\$1.4 million and -\$0.3 million through FY 21/22.

B. RULE-MAKING AUTHORITY:

The DOR is granted rulemaking authority to implement the provisions in the bill. The bill does not grant emergency rulemaking authority specifically to implement the provisions of the bill in the timeframes provided. DOR typically is provided emergency rulemaking authority to implement the school sales tax holiday. See SB 198 (2016).

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill allows a retailer to opt out of the sales tax holiday if less than five percent of the retailer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the bill. It may be difficult for dealers to determine if they are eligible because they cannot easily estimate what percentage of past sales might have been for veterans.

Additionally, emergency rulemaking authority is not provided in the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.