

DEPARTMENT OF TAXATION

2005 Fiscal Impact Statement

1. **Patron** Ryan T. McDougale

2. **Bill Number** HB 1878

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax: Annual
Exemption for School Supplies, Clothing,
Footwear, Computer Systems, Computer
Equipment, Software and Calculators

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create a "sales tax holiday" by providing a temporary exemption from the state and local sales and use tax for certain items of tangible personal property. The exemption would occur on an annual basis, starting in 2005, and would be in effect for a seven-day period beginning 14 days before the first Monday in September and ending at midnight on the following Sunday. The exemption would apply on a per item basis to:

- School supplies, clothing, and footwear costing less than \$100,
- Computer systems costing \$1,500 or less,
- Computer hardware, software, and portable or hand held calculators costing less than \$500.

This bill also provides that during the specified seven-day period, a dealer may elect to absorb the retail sales and use tax on the sale of any type of item, rather than collecting it from the purchaser. If the dealer elects to do so, he is obligated for payment of such taxes to the Commissioner.

This bill requires TAX to develop guidelines as to the items of merchandise that qualify for the exemption and make such guidelines available in hard copy and electronically by August 1 of each year.

The effective date of this legislation is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	\$0	GF
	\$0	TTF
	\$0	Local
2005-06	<\$6.4 million>	GF
	<\$.95 million>	TTF
	<\$1.9 million>	Local

2006-07	<\$7.0 million>	GF
	<\$1.0 million>	TTF
	<\$2.0 million>	Local
2007-08	<\$7.3 million>	GF
	<\$1.1 million>	TTF
	<\$2.1 million>	Local
2008-09	<\$7.5 million>	GF
	<\$1.1 million>	TTF
	<\$2.2 million>	Local
2009-10	<\$7.9 million>	GF
	<\$1.2 million>	TTF
	<\$2.3 million>	Local
2010-11	<\$8.3 million>	GF
	<\$1.2 million>	TTF
	<\$2.4 million>	Local

7. Budget amendment necessary: Yes.
ITEM(S): Page 1, Revenue Estimates

8. Fiscal implications:

The Department would incur minimal administrative costs to implement this bill.

This bill is estimated to reduce revenues by \$9.25 million in FY 2006, \$10.0 million in FY 2007, \$10.5 million in FY 2008, \$10.8 million in FY 2009, \$11.4 million in FY 2010, and \$11.9 million in FY 2011.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Generally

This bill would create a “sales tax holiday” by providing an annual exemption from the state sales and use tax for certain items of tangible personal property. Beginning in 2005, the exemption would be effective from the Monday falling fourteen days before the first Monday in September and would last for a seven day period, ending at midnight on the following Sunday. Thus, the “holiday” period would run from the Monday two weeks before Labor Day and last for one week until the following Sunday. During this period

Virginia consumers would be relieved of their obligation to pay retail sales and use tax on school supplies and items of clothing and footwear with a cost of \$100 or less, computer systems costing \$1,500 or less, and computer hardware, software and certain calculators costing \$500 or less. This price threshold is determined after taking into account any discounts, coupons, or credits used to reduce the sales price for the consumer. This exemption does not apply to any purchases made in a theme park. The time period of this exemption, and the nature of the exempt items, suggest that this bill is intended to primarily benefit purchases of back-to-school items.

In addition to an exemption for school related items, this bill allows a dealer to elect not to collect retail sales and use tax directly from the consumer and to absorb the cost of the sales tax himself. During the seven-day exemption period, a dealer may elect to absorb the sales and use tax on any sale, and is not limited to absorbing the tax on the items eligible for the exemption. During this period and during the fourteen days prior to the start of the exemption period a dealer may advertise that he will absorb the sales and use tax without violation the general prohibition against doing so.

Impact on Dealers

Virginia dealers, including Internet and other remote retailers, who make sales of tangible personal property would be required to reprogram their cash registers or point-of-sale systems for a seven-day period to account for the annual exemption period. Smaller retailers with less sophisticated systems may be unable to program their registers to accommodate the exemption period. Additionally, retailers may incur significant expenses for hiring and staff to administer the exemption. All retailers would be required to base the taxability determination on guidelines developed by TAX and made available in hard copy and electronically by August 1 of each year.

Other States

Other states that provide or have recently provided “sales tax holiday” exemptions from the sale tax are Connecticut, Florida, Georgia, Iowa, Massachusetts, Missouri, New York, North Carolina, South Carolina, Texas, Vermont, West Virginia, and the District of Columbia.

Connecticut: Connecticut provides an exemption for clothing and footwear with a maximum cost of \$300 for a seven-day period each August. This exemption began in 2000.

Florida: Florida provided a nine-day exemption period in late July 2004 for clothing with a maximum cost of \$50 and school supplies with a maximum cost of \$10 per item.

Georgia: Georgia provided an exemption for a four-day period from July 29, 2004 to August 1, 2004 for clothing with a maximum cost of \$100, school supplies with a maximum cost of \$20, and computers with a maximum cost of \$1,500.

Iowa: Iowa provides a two-day exemption each August for clothing and footwear with a maximum cost of \$100.

Massachusetts: Massachusetts provided its first sales tax holiday on August 14, 2004. The exemption was for one day only and included all retail items costing less than \$2,500, with a special exemption limit on clothing of up to \$175 per item.

Missouri: Missouri also provided its first exemption period in 2004. For a three-day period in August, clothing with a maximum cost of \$100, school supplies with a maximum cost of \$50, and computer equipment up to \$2,000 was exempted.

New York: New York has enacted a permanent exemption for clothing and footwear priced at \$110 or less per item that is scheduled to begin June 1, 2005. However, from January 31, 2005 through February 6, 2005, the state will exempt items of clothing from state sales tax only.

North Carolina: North Carolina provided a three-day exemption in 2004 for clothing and school supplies with a maximum cost of \$100, sports and recreational equipment of \$50 or less per item, and computers with a maximum cost of \$3,500.

South Carolina: Starting in 2000, South Carolina has provided an annual three-day exemption for “back-to-school” items that include clothing, computers, footwear, and school supplies. This exemption is broader than other states’ exemptions, as there are no price limitations on qualifying items.

Texas: Beginning in 1999, Texas provides an annual exemption in the first weekend of August for clothing and footwear priced at \$100 or less per item.

Vermont: Vermont provides two three-day exemption periods for computers and computer equipment costing less than \$4,000.

West Virginia: West Virginia provides an annual three-day sales tax exemption in the first weekend of August for clothing, footwear and school supplies costing less than \$100 per item and computer equipment costing less than \$750 per item.

District of Columbia: The District adopted ten-day sales tax holidays in 2001 and 2002. In 2004, the District adopted a law to hold twice-yearly ten-day sales tax holidays, one at back-to-school time and the other in last week of November. The exemption is for clothing, footwear and accessories that cost less than \$100 per item, and school supplies are exempted during the back-to school exemption period.

Streamlined Sales Tax Project

The Streamlined Sales Tax Project (“SSTP”) was organized in March 2000 to improve sales and use tax administration for all sellers and for all types of commerce by simplifying and modernizing sales and use tax collection and administrative procedures amongst the states. Forty-two states, including Virginia, have actively participated in the development of the Streamlined Sales and Use Tax Agreement (“SSUTA”) designed as a model for states to use to conform their own sales tax laws to. Under the SSUTA, there is a uniform definition for school supplies and uniform procedures in place for states that choose to

enact a sales tax holiday. If Virginia were to adopt this bill, it would be necessary to change the law in the future if Virginia were to conform to the SSUTA.

Similar Legislation

House Bill 1534 and **Senate Bill 946** would create a “sales tax holiday” by providing an annual four-day exemption period from the state and local sales and use tax for school supplies costing \$20 or less per item, clothing and footwear costing \$100 or less per item, and computers and computer equipment costing \$1,500 or less per item. This exemption would take place each year on the Friday before the first Monday in September and end at midnight on such Monday. During this period, dealers may elect without penalty to absorb the cost of the sales and use tax on sales of any type of item, not just those items eligible for the sales tax exemption.

House Bill 1593 would provide an annual seven-day exemption from the state and local sales and use tax for school supplies and items of clothing and footwear having a cost of \$100 or less per item. The exemption would take place each year for the seven-day period beginning on the Monday 14 days before the first Monday in September and ending at midnight on the following Sunday. During this period, dealers may elect without penalty to absorb the cost of the sales tax on sales of any items, not just those eligible for the exemption.

House Bill 2269 and **House Bill 2559** would create a “sales tax holiday” by providing an annual seven-day exemption from the sales and use tax for school supplies and items of clothing and footwear with a cost of \$100 or less, computers with a cost of \$1,500 or less, and computer equipment, software, and certain calculators with a cost of \$500 or less. The holiday period would begin on the Monday 14 days before the first Monday in September and end at midnight on the following Sunday.

Senate Bill 694 would allow a local jurisdiction bordering a state that has enacted a sales tax holiday and that has a “high unemployment rate”, or a city or county contiguous to such a jurisdiction, to adopt an ordinance providing for a seven-day local sales tax exemption for school supplies and clothing and footwear costing less than \$100. During this period, the state sales tax will not apply to purchases of the exempt property in the participating jurisdictions. This exemption would only be authorized as long as the laws of any other state (including the District of Columbia) continue to allow a sales tax holiday. During the seven-day exemption period, dealers located in the participating counties or cities may elect without penalty to absorb the cost of the sales tax on all types of purchases, not just those eligible for the exemption.

Senate Bill 1028 would create a “sales tax holiday” by providing an annual three-day exemption from the state and local sales and use tax for school supplies, and items of clothing and footwear having a cost of \$100 or less per item. The exemption would take place each year for the three-day period beginning on the third Friday in August and ending at midnight on the following Sunday.

Date: 1/21/2005 SM

HB1878F161doc