

**DEPARTMENT OF TAXATION  
2017 Fiscal Impact Statement**

1. **Patron** Jennifer B. Boysko
3. **Committee** House Finance
4. **Title** Retail Sales and Use Tax; Feminine Products

2. **Bill Number** HB 1593  
**House of Origin:**  
  X   **Introduced**  
      **Substitute**  
      **Engrossed**
- Second House:**  
      **In Committee**  
      **Substitute**  
      **Enrolled**

**5. Summary/Purpose:**

This bill would provide an exemption from the Retail Sales and Use Tax for toilet paper, adult diapers, sanitary napkins, sanitary towels, sanitary pads, tampons, and menstrual cups. Under current law, these items are subject to the Retail Sales and Use Tax.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.  
Page 1, Revenue Estimates
7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)
8. **Fiscal implications:**

Administrative Costs Impact

The Department considers implementation of this bill as “routine” and does not require additional funding.

Revenue Impact

The exemption proposed in this bill is estimated to reduce state and local revenues by \$21.7 million in Fiscal Year 2018, \$24.1 million in Fiscal Year 2019, \$24.6 million in Fiscal Year 2020, \$25.2 million in Fiscal Year 2021, \$25.7 million in Fiscal Year 2022 and \$26.2 million in Fiscal Year 2023. The proposed exemption would result in losses to the General Fund, Transportation, and localities, which are reflected through Fiscal Year 2021 in the following chart:

**HB 1593 Exempts Personal Hygiene Products from the Sales and Use Tax**

Effective July 1, 2017

(all figures in dollars)

<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
State Sales and Use Tax (5.3%)	(\$ 20,247,000)	(\$ 22,551,000)	(\$ 23,025,000)	(\$ 23,531,000)
GF-Unrestricted	(\$ 8,685,000)	(\$ 9,674,000)	(\$ 9,877,000)	(\$ 10,094,000)
GF-Restricted	(\$ 4,276,000)	(\$ 4,762,000)	(\$ 4,862,000)	(\$ 4,969,000)
Transportation*	(\$ 3,068,000)	(\$ 3,417,000)	(\$ 3,489,000)	(\$ 3,565,000)
Local Option	(\$ 3,835,000)	(\$ 4,271,000)	(\$ 4,361,000)	(\$ 4,457,000)
HMOF (GF transfer)	(\$ 383,000)	(\$ 427,000)	(\$ 436,000)	(\$ 446,000)
Regional Trans. Funds (0.7%)	(\$ 1,419,000)	(\$ 1,581,000)	(\$ 1,613,000)	(\$ 1,649,000)
Hampton Roads (TPO)	(\$ 491,000)	(\$ 547,000)	(\$ 558,000)	(\$ 570,000)
Northern Virginia (NVTA)	(\$ 928,000)	(\$ 1,034,000)	(\$ 1,055,000)	(\$ 1,079,000)
<b>Total Sales and Use Tax</b>	<b>(\$ 21,666,000)</b>	<b>(\$ 24,132,000)</b>	<b>(\$ 24,638,000)</b>	<b>(\$ 25,180,000)</b>

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\*Includes 0.5% TTF, 0.175% HMOF, 0.050% IPROCF, and 0.075% Mass Transit Fund.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary: No.**

**11. Other comments:**

Generally

The Retail Sales and Use Tax is imposed upon the charge for the sale or use of tangible personal property, unless an exemption applies. Virginia law defines “tangible personal property” as personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses.

Current law exempts from the Retail Sales and Use Tax both prescription and nonprescription drugs. Nonprescription drugs include any substances or mixture of substances containing medicines or drugs, for which no prescription is required and which are generally sold for internal or topical use in the cure, mitigation, treatment or prevention of disease in human beings. The exemption also applies to proprietary medicines, defined as any nonprescription drug sold to the general public under the brand name or trade name of the manufacturer, which drug does not contain any controlled substance or marijuana. Although the nonprescription drugs exemption applies to a number of items that commonly may not be considered drugs, such as medicated bandages and gauze, toilet articles, including sanitary napkins, tampons, and similar items, are excluded from the nonprescription drug classification.

## Other States

Of the 45 states that impose a sales and use tax, eight states exempt feminine hygiene products from the tax: Maryland, Massachusetts, Minnesota, New Jersey, Pennsylvania and Connecticut (beginning June 1, 2018), Illinois (beginning Jan. 1, 2017) and New York (beginning Sept. 1, 2016). Three of the states (Connecticut, Illinois, and New York) enacted the exemption in 2016. Washington, D.C., also passed legislation to exempt feminine hygiene products and diapers from the sales tax. The exemption will not take effect until the projected revenue loss is accounted for in its annual budget. The California State Assembly recently passed legislation to exempt feminine hygiene products, but the bill was vetoed by the Governor.

A class-action lawsuit was filed in 2016 alleging that the Florida sales tax on feminine hygiene products discriminates against women. Florida currently exempts "medical necessities," which does not include feminine hygiene products, from the sales tax. Legislation was recently introduced in the Florida to exempt such products from the sales tax.

## Proposal

This bill would provide an exemption from the Retail Sales and Use Tax for toilet paper, adult diapers, sanitary napkins, sanitary towels, sanitary pads, tampons, and menstrual cups.

The effective date of this bill is not specified.

## Similar Legislation

**House Bill 2189** would add feminine hygiene products to the list of items that qualify for exemption during the sales tax holiday for school supplies and clothing. The bill would also extend the sunset date for the sales tax holiday for school supplies and clothing from July 1, 2017 to July 1, 2019.

cc : Secretary of Finance

Date: 1/15/2017 AM  
DLAS File Name: HB 1593F161