

DEPARTMENT OF TAXATION

2008 Fiscal Impact Statement

1. **Patron** Margaret G. Vanderhye

2. **Bill Number** HB 1229

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax; Additions to
Energy Star Sales Tax Holiday

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would expand the time frame for the "Energy Star Sales Tax Holiday" by adding a four-day period in April in addition to the current four-day period in October, in which certain Energy Star qualified products with a maximum sales price of \$2,500 could be purchased exempt of the Retail Sales and Use Tax. The additional holiday period would begin each year on the Friday before the second Monday in April and end at midnight on the second Monday in April.

This bill would also add WaterSense qualified products to the list of items that qualify for exemption from the Retail Sales and Use Tax during both the October and April Energy Star Sales Tax Holiday periods. A WaterSense qualified product is one that has been recognized as being water-efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency, as indicated by a WaterSense label.

This bill would also remove the current requirement that products must be purchased for noncommercial home or personal use in order to be eligible for exemption during either of the four-day Energy Star holiday periods. Under the provisions of this bill, qualifying Energy Star products purchased for commercial use would be eligible for exemption during the Energy Star period.

Finally, this bill would add high-efficiency air conditioning, natural gas, fuel oil and propane equipment to the list of items qualifying for exemption during the Energy Star holiday period, provided the energy efficiency of these items has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program.

Under current law, certain products designated as Energy Star qualified products with a maximum sales price of \$2,500 per item that are purchased for noncommercial home or personal use can be purchased exempt of the Retail Sales and Use Tax during the Energy Star Sales Tax Holiday period. Each year, the holiday begins on the Friday before the second Monday in October and ends at midnight on the second Monday in October. Energy Star qualified products include any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat or

refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

Administrative Costs Impact

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

The magnitude of the revenue loss associated with the expansion of the current Energy Star Sales Tax Holiday is unknown. Available sales statistics are limited to home appliances, not those purchased by large commercial enterprises. In addition, as the WaterSense program is so new, no data is now available on sales of these products. Adding the additional category of items to the list of items qualifying for exemption from the Retail Sales and Use Tax, and removing the requirement that such items be used for noncommercial personal use would necessitate a reduction of an equal amount of general fund support from other areas in the introduced budget.

9. Specific agency or political subdivisions affected:

TAX

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Current Energy Star Sales Tax Holiday

The 2007 General Assembly enacted House Bill 1678 and Senate Bill 867 (Acts of Assembly 2007, Chapters 176 and 817), which provide an annual exemption from the Retail Sales and Use Tax for the purchase of certain Energy Star qualified products with a maximum sales price of \$2,500 per item. An Energy Star qualified product includes any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program. The current sales tax holiday period begins each year on the Friday before the second Monday in October and ends at midnight on the second Monday in October. The current Energy Star Sales Tax Holiday is set to expire on July 1, 2012.

Energy Efficient Products Income Tax Deduction

The 2006 General Assembly enacted Senate Bill 262 (Acts of Assembly 2006, Chapter 939) which established an energy policy for the Commonwealth. Senate Bill 262 provided a state personal income tax deduction available in the amount of 20% of the sales tax paid on certain energy efficient equipment or appliances, as well as qualifying fuel cells, gas heat pumps, central air conditions, advanced gas, oil or water heaters, oil fired furnaces, and programmable thermostats. The law currently permits a maximum deduction of \$500.

Additional Sales Tax Holidays Currently Offered in Virginia

Sales Tax Holiday for Clothing and School Supplies

The 2006 General Assembly enacted Senate Bill 571 and House Bill 532 (Acts of Assembly 2006, Chapters 597 and 593) providing for an annual three-day sales tax holiday scheduled to begin each year at 12:01 a.m. on the first Friday in August, and to end at midnight on the following Sunday. Pursuant to this legislation, school supply items, including dictionaries, notebooks, pens, pencils, notebook paper, calculators, and similar items can be purchased exempt of the Retail Sales and Use Tax during the three-day holiday, provided that the sales price of each item does not exceed \$20. In addition, articles of clothing with a sales price of \$100 or less can be purchased exempt of the tax during the holiday period.

Hurricane Preparedness Sales Tax Holiday

Senate Bill 1167 (Acts of Assembly 2007, Chapter 608) provides an annual exemption, from the Retail Sales and Use Tax, beginning in 2008, for the purchase of certain hurricane preparedness equipment purchased during a seven-day period, beginning on

May 25 and ending on May 31. Items eligible for exemption during the seven-day period include portable generators, with a selling price of \$1,000 or less per item and additional hurricane preparedness equipment, such as carbon monoxide detectors, batteries, radios, and fuel tanks with a selling price of \$60 or less per item.

Like the existing Energy Star Sales Tax Holiday, both the sales tax holiday for clothing and school supplies and the Hurricane Preparedness Sales Tax Holiday statutes contain provisions authorizing dealers to absorb the sales and use tax on all other items sold during the same time period.

While the holiday for clothing and school supplies has no expiration date, both the current Energy Star Sales Tax Holiday and the Hurricane Preparedness Sales Tax Holiday are set to expire on July 1, 2012.

Proposal

Additional 4-day period

This bill would expand the time frame for the Energy Star Sales Tax Holiday by adding a four-day period in April in addition to the current four-day period in October, in which certain Energy Star qualified products with a maximum sales price of \$2,500 or less per item could be purchased exempt of the Retail Sales and Use Tax. The four-day holiday period would begin each year on the Friday before the second Monday in April and end at midnight on the second Monday in April. Thus, the Energy Star sales tax holidays would occur every six months. The first of the annual holidays would occur beginning April 10, 2009 through April 13, 2009. As with the existing Energy Star Sales Tax Holiday that occurs in October of each year, this holiday would expire on July 1, 2012.

WaterSense

This bill would add Watersense qualified products to the list of items that qualify for exemption from the Retail Sales and Use Tax during the Energy Star Sales Tax Holiday. WaterSense qualified products are those products that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency, as indicated by a WaterSense label.

The WaterSense program is a partnership program sponsored by the United States Environmental Protection Agency, with a mission of protecting the future of the United States' water supply by promoting and enhancing the market for water-efficient products and services. The WaterSense program was launched in 2006, and products bearing the WaterSense label became available in 2007. Currently, the program covers toilets, bathroom sink faucets, showerheads, landscape irrigation services, weather-or sensor-based irrigation control technologies, and drip irrigation systems.

Noncommercial Use Requirement

This bill would remove the requirement that Energy Star products must be purchased for noncommercial home or personal use in order to be eligible for the Energy Star Sales Tax Holiday exemption. Under the provisions of this bill, commercial enterprises could

purchase qualifying Energy Star products during the holiday period exempt of the Retail Sales and Use Tax.

Additional Items

This bill would add high-efficiency air conditioning, natural gas, fuel oil and propane equipment to the list of items qualifying for exemption during the Energy Star holiday period, provided the energy efficiency of these items has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program.

Impact on Dealers

Virginia dealers making sales of qualifying Energy Star products would be required to reprogram their cash registers to include the additional categories of items rendered exempt as a result of this bill and to account for an additional Energy Star Sales Tax Holiday period in April. Smaller retailers with less sophisticated systems may be unable or find it difficult to reprogram their systems to accommodate the additional exempt items and the additional holiday period. Retailers may incur significant administrative costs to administer this exemption.

While the statute currently in effect providing for an Energy Star Sales Tax Holiday requires that Energy Star purchases be intended for noncommercial home or personal use, retail dealers are not required to obtain an exemption certificate or other certification from purchasers of qualified Energy Star products that such products are purchased for noncommercial home or personal use under the current law. Nevertheless, retailers are required to make a good faith effort to ensure that items purchased exempt of the tax are purchased for noncommercial home or personal use. Retailers can consider the number of items purchased and the name on the credit card or checking account by which the purchase is made, to assist in determining that the item or items in question are being purchased for noncommercial home or personal use. Purchases made using a business or company credit or debit card or check are not eligible for the Energy Star Sales Tax Holiday exemption.

The removal of the "noncommercial" requirement would eliminate the retailer's obligation to make a good faith effort to ensure that items purchased would not be used for commercial purposes. As such, while the other changes to the Energy Star Holiday would likely make it more difficult for retailers to administer this exemption, the removal of the noncommercial requirement would likely ease administration of this exemption.

Other States

Besides Virginia, only one other state offered a sales tax holiday specifically for energy efficient products or energy saving products in 2007. Georgia provided a sales tax holiday in which purchases of energy efficient products for noncommercial home or personal use, with a maximum price of \$1,500 per product could be made exempt of the Retail Sales and Use Tax during a four-day period in October. Like Virginia's current Energy Star Holiday, Georgia excluded commercial purchases from application of this exemption. Georgia did not exempt any of the additional items that are proposed in this bill during its 2007 Energy Star holiday period.

Similar Legislation

Energy Star Holiday Legislation

House Bill 56 and **House Bill 219** are substantively identical, and would expand the time frame for the Energy Star Sales Tax Holiday to include a four-day period in April in addition to the current four-day period in October.

House Bill 794 would remove the requirement that Energy Star products must be purchased for noncommercial home or personal use in order to be exempt from the Retail Sales and Use Tax during the Energy Star Sales Tax Holiday.

House Bill 795 would add WaterSense qualified products to the items that qualify for the exemption provided during the Energy Star Sales Tax Holiday.

Clothing and School Supplies Holiday Legislation

House Bill 57 and **House Bill 442** (identical) would add computers and computer-related peripheral equipment to the list of items that are exempt from the Retail Sales and Use Tax during the annual three-day sales tax holiday period for clothing and school supplies that takes place each year in August. Computers and related peripheral equipment with a selling price of \$1,500 or less per item could be purchased exempt of the Retail Sales and Use Tax under this bill.

House Bill 263 is substantively identical to House Bills 57 and 442, but would add computers and related equipment, rather than "computer-related peripheral equipment" with a maximum sales price of \$1,500 per item to the list of property exempt from tax during the sales tax holiday for school supplies and clothing, beginning in 2008.

House Bill 758 would add computers and related equipment to the list of items eligible for exemption during the August sales tax holiday for clothing and school supplies. There would be no cap on the cost of computers or related equipment eligible for this exemption.

cc : Secretary of Finance

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