# DEPARTMENT OF TAXATION
# 2019 Fiscal Impact Statement

**1. Patron** Kathy J. Byron

**2. Bill Number** HB 2540
**House of Origin:**
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

**3. Committee** House Finance

**4. Title** Retail Sales and Use Tax; Personal Hygiene Products

**Second House:**
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

**5. Summary/Purpose:**

This bill would reduce the Retail Sales and Use Tax rate on "essential personal hygiene products" to the state rate applied to food purchased for human consumption. "Essential personal hygiene items" would be defined as nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets; and menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow.

Currently the state rate on food purchased for human consumption is one and one-half percent. The one percent local sales and use tax rate is also applicable to these purchases. This results in a combined tax rate of two and one-half percent.

If enacted during the regular session of the 2019 General Assembly, this bill would be effective July 1, 2019.

**6. Budget amendment necessary:** Yes.
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**7. Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

**8. Fiscal implications:**

Administrative Costs Impact

Due to uncertainty about the systems and processing changes that may be required for the 2018 and 2019 income tax filing seasons, the Department is unable to assign administrative costs to this bill at this time. During 2017, Congress enacted the Tax Cuts and Jobs Act, which made substantial changes to federal tax law. At this time, it is uncertain what Virginia tax policy changes will be adopted in reaction to the federal law.

If substantial changes are enacted or required in response to state/federal law, it is possible that the Department may not have the ability to implement the changes set forth in this bill by the proposed effective date. Accordingly, the Department will reevaluate its

costs once action is taken and may request additional funding or an amendment to delay the effective date of this legislation.

Revenue Impact

The rate reduction proposed in this bill is estimated to reduce Retail Sales and Use Tax revenues by $4.09 million in Fiscal Year 2020, $4.61 million in Fiscal Year 2021, $4.76 million in Fiscal Year 2022, $4.9 million in Fiscal Year 2023, $5.06 million in Fiscal Year 2024 and $5.22 million in Fiscal Year 2025. The estimated revenue losses resulting from the rate reduction are reflected through Fiscal Year 2025 in the following chart:

**HB 2540: Impact of taxing Personal Hygiene Products like Food for Home Consumption**
Effective July 1, 2019
(all figures in dollars)

| Fund | FY 2020* | FY 2021 | FY 2022 | FY 2023 | FY 2024 | FY 2025 |
|---|---|---|---|---|---|---|
| State Sales and Use Tax | $ (3,619,000) | $ (4,070,000) | $ (4,198,000) | $ (4,331,000) | $ (4,467,000) | $ (4,606,000) |
| GF - Unrestricted [1] | $ (2,613,000) | $ (2,940,000) | $ (3,032,000) | $ (3,128,000) | $ (3,226,000) | $ (3,326,000) |
| GF - Restricted [2] | $ - | $ - | $ - | $ - | $ - | $ - |
| Education School Age 1/8% | $ (162,000) | $ (182,000) | $ (188,000) | $ (194,000) | $ (200,000) | $ (206,000) |
| Education SOQ- 1/4% | $ (324,000) | $ (365,000) | $ (376,000) | $ (388,000) | $ (400,000) | $ (413,000) |
| Transportation [3] | $ (390,000) | $ (437,000) | $ (452,000) | $ (466,000) | $ (481,000) | $ (496,000) |
| Local Option | $ - | $ - | $ - | $ - | $ - | $ - |
| HMOF (GF transfer) | $ (130,000) | $ (146,000) | $ (150,000) | $ (155,000) | $ (160,000) | $ (165,000) |
| Regional Trans. Funds (0.7%) | $ (480,000) | $ (540,000) | $ (557,000) | $ (575,000) | $ (592,000) | $ (611,000) |
| Hampton Roads (TPO) | $ (166,000) | $ (187,000) | $ (193,000) | $ (199,000) | $ (205,000) | $ (211,000) |
| Northern Virginia (NVTA) | $ (314,000) | $ (353,000) | $ (364,000) | $ (376,000) | $ (387,000) | $ (400,000) |
| Total Sales and Use Tax [4] | $ (4,099,000) | $ (4,610,000) | $ (4,755,000) | $ (4,906,000) | $ (5,059,000) | $ (5,217,000) |

Notes:
1) Includes: 2.025% General Fund Unrestricted, -0.01% Dealer Discount.
2) Includes: 1% Education 1% based on school age population, -0.01% Dealer Discount.
3) Includes 0.5% TTF, 0.175% HMOF, 0.050% IPROCF, and 0.075% Mass Transit Fund.
4) After dealer discount.
*FY 2020 assumes an 11-month impact given July 1 effective date

**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.

Original Food Tax Reduction Program

The 1999 General Assembly established the Food Tax Reduction Program to reduce the state sales and use tax rate on food for human consumption by one-half percent per year over a four-year period, beginning January 1, 2000 and extending through April 1, 2003. Effective April 1, 2003, when fully implemented, the state sales and use tax rate on food for human consumption would have been one and one-half percent.

The January 1, 2000 one-half percent reduction was implemented. However, in order for the remaining reductions to be implemented, the law required the following:

- The next level of the Car Tax Relief had to be implemented for the fiscal year; and
- General Fund revenue growth of at least one percent from the preceding fiscal year.

When these conditions were not met, the initial one-half percent reduction was the only reduction to take effect.

As a result of legislation enacted by the 2004 General Assembly, the state sales and use tax on food for human consumption was reduced one-half percent per year for a period of three years beginning July 1, 2005 and ending July 1, 2007.

The current rate of state tax on food for human consumption is one and one-half percent. The reduced rate does not affect the one percent local sales and use tax rate. As under current law, the one percent local option sales tax, the one percent portion of the state sales tax is redistributed to localities on the basis of school age population.

The definition of “food purchased for home consumption” includes most staple grocery food items and cold prepared foods packaged for home consumption. Specifically excluded from the definition of food for home consumption are alcoholic beverages, tobacco, and prepared hot foods sold for immediate consumption on and off the premises.

Proposal

This bill would reduce the Retail Sales and Use Tax rate on “essential personal hygiene products” to the state rate applied to food purchased for human consumption. “Essential personal hygiene items” would be defined as nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets; and menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow.

Currently the state rate on food purchased for human consumption is one and one-half percent. The one percent local sales and use tax rate is also applicable to these purchases. This results in a combined tax rate of two and one-half percent.

If enacted during the regular session of the 2019 General Assembly, this bill would be effective July 1, 2019.

Similar Legislation

**House Bill 2194** and **Senate Bill 1715** would exempt menstrual supplies, pads, tampons, and menstrual cups from Retail Sales and Use Tax.

cc : Secretary of Finance

Date: 1/20/2019 SK
DLAS File Name: HB2540F161