

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Tara A. Durant

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Exemption for food purchased for human consumption and essential personal hygiene products

2. **Bill Number** HB 1008

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the state and local Retail Sales and Use Tax ("RSUT") for food purchased for human consumption and essential personal hygiene products.

Under current law, both food purchased for human consumption and essential personal hygiene products are taxed at the reduced rate of 2.5 percent. The rate of tax levied on these items is comprised of the one percent local option tax and a 1.5 percent state sales tax.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

This is Executive Legislation.

6. **Budget amendment necessary:** Yes.

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

8. **Fiscal implications:**

Administrative Cost

The Department of Taxation considers implementation of this bill to be routine and does not require additional funding. This bill would have no impact on local administrative costs.

Revenue Impact

The table below shows the estimated impact that this bill would have on revenues before factoring in amounts included in the introduced budget:

| Fund | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| GF-Restricted, K-12 | -\$236.1 | -\$265.1 | -\$271.7 | -\$273.3 | -\$274.7 | -\$275.8 |
| CTF | -\$119.3 | -\$133.9 | -\$137.2 | -\$138.1 | -\$138.7 | -\$139.3 |
| Local | -\$238.5 | -\$267.8 | -\$274.5 | -\$276.1 | -\$277.5 | -\$278.6 |
| Total | -\$593.9 | -\$666.7 | -\$683.4 | -\$687.5 | -\$690.9 | -\$693.7 |

The introduced budget assumes the elimination of the state portion of the tax on food for human consumption, effective January 1, 2023. In addition, the introduced budget makes a negative \$900,000 General Fund revenue adjustment to account for a partial exemption for essential personal hygiene products. The table below shows the net impact for Fiscal Years 2023 and 2024 after taking into account these budget adjustments.

| Fund | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| GF Restricted, K-12 | -\$129.0 | -\$1.9 | -\$2.8 | -\$2.8 | -\$2.9 | -\$2.9 |
| CTF | -\$65.6 | -\$1.4 | -\$1.4 | -\$1.4 | -\$1.4 | -\$1.4 |
| Local | -\$238.5 | -\$267.8 | -\$274.5 | -\$276.1 | -\$277.5 | -\$278.6 |
| Total | -\$433.1 | -\$271.1 | -\$278.7 | -\$280.3 | -\$281.8 | -\$282.9 |

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Food purchased for human consumption and essential personal hygiene products are subject to a reduced 1.5 percent state sales tax rate and 1 percent local option sales tax rate for a total rate of 2.5 percent. These items are not subject to the regional sales tax levied in transportation districts or the additional local sales tax levied in some localities to pay for school construction.

“Food purchased for human consumption” has the same meaning as “food” defined in the Food Stamp Act of 1977, as amended, and federal regulations adopted pursuant to that Act, except it does not include seeds and plants which produce food for human consumption. “Food purchased for human consumption” does not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment.

“Essential personal hygiene products” means (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow.

As of January 2021, Virginia is one of thirteen states that imposes sales tax on groceries, as sales tax is not levied on groceries in 37 states or the District of Columbia. In addition, 13 states and the District of Columbia specifically exempt at least some type of personal hygiene products from sales tax.

Proposal

This bill would provide an exemption from the state and local sales and use tax for food purchased for human consumption and essential personal hygiene products.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

Similar Legislation

Senate Bill 609 and **Senate Bill 571** are identical to this bill.

House Bill 696 and **Senate Bill 451** would provide an RSUT exemption for essential personal hygiene products.

House Bill 848 would provide an RSUT exemption for incontinence products.

House Bill 90 and **Senate Bill 380** would provide an RSUT exemption for food purchased for human consumption and essential personal hygiene products and would dedicate state sales tax revenue to provide a supplemental school payment to localities.

cc : Secretary of Finance

Date: 1/23/2022 VB
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