

Department of Finance and Administration

Legislative Impact Statement

Bill: SB146

Bill Subtitle: TO ENCOURAGE CHARITABLE GIVING AND ELIMINATE PERVERSE AND ABSURD TAXES AND DISINCENTIVES ON CHARITABLE GIVING; AND TO EXEMPT CERTAIN WITHDRAWALS OF STOCK FROM THE SALES AND USE TAX.

Basic Change :

Sponsor: Sen. Clark

SB146 provides a sales tax exemption for items withdrawn from the inventory by a business if the property is withdrawn for purposes of consumption or use by a: (1) nonprofit organization classified in 26 U.S.C. § 501(c); (2) public educational institution; (3) nonprofit church; or (4) private individual who has suffered damage or loss as the result of a natural disaster.

Withdrawals of merchandise from inventory by a business for its own use or use by others is subject to state and local sales tax based on the value of the property withdrawn regardless of the purpose for the withdrawal. The merchandise withdrawn from inventory is purchased tax free for purposes of resale with the sales tax to be collected at the time the merchandise is sold with the tax collected from the customer. If the business instead removes the property from inventory, current law requires the business to pay the tax due on the value of the items withdrawn. The bill establishes a value of \$0.00 if the property withdrawn is for the purpose as provided in the bill resulting in no taxes due.

When providing goods and merchandise to a private individual who has suffered damage or loss resulting from a natural disaster, the bill requires a business representative to provide a sworn affidavit to the Department of Finance and Administration describing in detail the goods, wares, merchandise or other property withdrawn from inventory and the disaster area in which the recipient of the withdrawn goods resides.

The Act would be effective on the first day of the calendar quarter following the effective date of the act. (October 1, 2019).

Revenue Impact :

Fiscal Year 2020

Total Approximate State Sales Tax Loss	\$ - 485,667
(Estimated Effective Date 10/1/19 --- 8 months reduced tax collection)	
General Revenue - 4.5%	\$ - 290,700
Property Tax Relief - .5%	\$ - 32,300
Conservation Fund - .125%	\$ - 58,786
Educational Adequacy Fund - .875%	\$ -56,525
Highway Fund - .5%	\$ - 32,300
Educational Excellence Trust Fund -	\$ - .000
Educational Adequacy (GR Transfer) -	\$ - .000
State Central Services -	\$ - 10,199
Constitutional Officers -	\$ - 4,857
Total Approximate Local City and County Sales Tax Loss	\$ - 160,000

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Fiscal Year 2021

Total Approximate State Sales Tax Loss	\$ - 728,500	
General Revenue - 4.5%		\$ - 391,311
Property Tax Relief - .5%		\$ - 48,450
Conservation Fund - .125%		\$ - 88,179
Educational Adequacy Fund - .875%		\$ - 84,788
Highway Fund - .5%		\$ - 48,450
Educational Excellence Trust Fund -		\$ - 41,105
Educational Adequacy (GR Transfer) -		\$ - 3,634
State Central Services -		\$ - 15,299
Constitutional Officers -		\$ - 7,285

Total Approximate Local City and County Sales Tax Loss **\$ - 240,000**

Taxpayer Impact :

Taxpayers would be required to submit a sworn affidavit to DFA describing in detail the merchandise or property withdrawn from inventory when withdrawing merchandise to be given to individuals who suffered loss resulting from a declared disaster.

Resources Required :

None required provided that storage of recipient affidavits is maintained by the business within their accounting records and are available for subsequent compliance audits in the same manner as business records are maintained for other tax exemptions.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the sales tax rules will need to be promulgated.

Other Comments :

Page 2 -- Lines 13 through 18 --Storage of affidavits with the required detail information regarding the products withdrawn from stock including recipient identification information should be maintained by the business within their own accounting records and be available for subsequent compliance audits in the same manner as business records are maintained for other tax exemptions.

Legal Analysis :

None.