

**DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement**

1. **Patron** Candi Mundon King

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Exemption for certain baby products

2. **Bill Number** HB 1536

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 certain baby products, including (i) children's diapers, (ii) therapeutic or preventative creams and wipes marketed primarily for use on the skin of children, (iii) child restraint devices or booster seats, (iv) cribs intended to provide sleeping accommodations for children, (v) strollers meant for transporting children from infancy to 36 months of age, and (vi) food which purports to be or is represented for special dietary use solely as a food for infants.

Under current law, food purchased for human consumption and essential personal hygiene products are exempt from state sales and use tax but subject to local sales and use tax. Infant formula generally constitutes food purchased for human consumption and diapers are considered essential personal hygiene products.

If enacted during the regular session of the 2024 General Assembly, this bill would become effective July 1, 2024.

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

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

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

The bill would have an overall estimated negative impact of \$6.8 million in Fiscal Year 2025, \$7.8 million in Fiscal Year 2026, \$8.2 million in Fiscal Year 2027, \$8.5 million in Fiscal Year 2028, \$8.9 million in Fiscal Year 2029, and \$9.2 million in Fiscal Year 2030. The portion of

the bill exempting diapers and infant formula would have an impact on local revenues only. The bill's impact on revenues is shown below (in millions).

<u>Fiscal Year</u>	<u>GF- Unrestricted</u>	<u>GF- Restricted</u>	<u>Transportat ion</u>	<u>Local Option</u>	<u>Other</u>	<u>Total</u>
2025*	-\$1.3	-\$0.9	-\$0.6	-\$3.7	-\$0.3	-\$6.8
2026	-\$1.5	-\$1.0	-\$0.7	-\$4.2	-\$0.4	-\$7.8
2027	-\$1.6	-\$1.1	-\$0.7	-\$4.4	-\$0.4	-\$8.2
2028	-\$1.7	-\$1.1	-\$0.7	-\$4.6	-\$0.4	-\$8.5
2029	-\$1.8	-\$1.2	-\$0.8	-\$4.7	-\$0.4	-\$8.9
2030	-\$1.8	-\$1.2	-\$0.8	-\$4.9	-\$0.5	-\$9.2

**The first year represents 11 months of revenue given effective date of 7/1/2024*

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Background

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. In general, any retail merchant is allowed to purchase items that it intends to resell to its customers exempt from the tax because it will collect the tax from its customers at the time of sale.

Food purchased for human consumption and essential personal hygiene products are exempt from the state sales tax rate and subject to a one percent local option sales tax rate.

“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. Infant formula qualified as food for human consumption that is exempt from the state sales and use tax.

“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.

Proposal

This bill would provide an exemption from the Retail Sales and Use Tax for certain baby products, including (i) children's diapers, (ii) therapeutic or preventative creams and wipes marketed primarily for use on the skin of children, (iii) child restraint devices or booster seats, (iv) cribs intended to provide sleeping accommodations for children, (v) strollers meant for transporting children from infancy to 36 months of age, and (vi) food which purports to be or is represented for special dietary use solely as a food for infants.

If enacted during the regular session of the 2024 General Assembly, this bill would become effective July 1, 2024.

Similar Legislation

Senate Bill 511 is identical to this bill.

cc : Secretary of Finance

Date: 1/28/2024 KS
HB1536F161