



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 91 and 92 (as reported without amendment)

Sponsor: Senator Rebekah Warren (S.B. 91)

Senator David Knezek (S.B. 92)

Committee: Finance

Date Completed: 4-4-17

RATIONALE

Under State law, certain medical products are exempt from taxation. For example, the General Sales Tax Act and the Use Tax Act exempt the sale of a prosthetic device, durable medical equipment, or mobility enhancing equipment from the taxes levied under those Acts. In addition, the Michigan Constitution exempts prescription drugs for human use from sales tax and use tax. On the other hand, certain feminine hygiene products, such as sanitary napkins or tampons, are not exempt from sales or use tax; apparently, those items are considered "optional luxury items". Some believe this is unfair because these products are necessary, rather than optional. It has been suggested that these products be exempt from sales and use tax.

CONTENT

Senate Bills 91 and 92 would amend the General Sales Tax Act and the Use Tax Act, respectively, to exempt from taxation under those Acts the sale or purchase of feminine hygiene products. The bills would define "feminine hygiene products" as tampons, sanitary napkins, and other similar tangible personal property.

In addition, the bills would require the Legislature to annually appropriate sufficient funds from the General Fund to the School Aid Fund to fully compensate for any loss of revenue to that Fund resulting from the enactment of the bills.

(The Acts impose a tax of 6% on the purchase price or sales price of nonexempt personal property and services.)

MCL 205.54a (S.B. 91)

205.94 (S.B. 92)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Michigan's policy of taxing feminine hygiene products is unfair to women because the products are necessary, and they should be treated the same as prescription medications or canes under Michigan tax policy. For most women, during decades of their lives, the use of tampons and sanitary napkins is neither optional nor a luxury. For low-income women, who have trouble affording the products themselves, having to pay the tax is another hardship. In addition, taxing products that only women use contributes to the unequal pricing of merchandise that is marketed to the different sexes. For instance, according to a New York City consumer protection agency's study that tracked the cost of 800 common household

items in 2015, women's products cost 7% more on average than men's products.¹ Other states, such as Maryland, Massachusetts, and Minnesota, as well as Canada, already have enacted exemptions for these products. By exempting the sale of feminine hygiene products from taxation in Michigan, the bills would remove a financial obstacle for women and help close the economic gap between genders.

Response: The bills should include more items, such as diapers and adult incontinence briefs, that are currently taxed despite being necessary.

Opposing Argument

The bills would eliminate a source of revenue to the State without finding an alternative to replace it.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would reduce revenue to the State General Fund, State School Aid Fund, and constitutional revenue sharing to local units of government by approximately \$5.0 million per year. The actual impact on each fund affected would depend on the relative impact of the exemption between sales taxes and use taxes. It is expected that most of the bills' impact would be on sales tax revenue, and if the sales tax experienced 100% of the impact, the bills would reduce General Fund revenue by approximately \$800,000 per year, School Aid Fund revenue by approximately \$3.7 million per year, and constitutional revenue sharing to local units of government by approximately \$500,000 per year. To the extent that revenue was reduced under the use tax, two-thirds of any reduction would lower General Fund revenue and one-third would lower School Aid Fund revenue.

The bills' enacting sections would require the Legislature to appropriate money from the General Fund to the School Aid Fund in order to compensate the School Aid Fund for any revenue loss. While legislation cannot compel future appropriations, if such appropriations were made, the net impact would be to lower General Fund revenue by approximately \$4.5 million per year and constitutional revenue sharing to local units of government by approximately \$500,000 per year.

Fiscal Analyst: David Zin

¹ "Tampon Tax: Does Being Female In The US Carry Unfair Costs?", Detroit.cbslocal.com, March 10, 2016.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.