

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 84 – SB 237

March 12, 2019

SUMMARY OF BILL: Exempts from state and local sales tax any services rendered by a car wash facility, coin-operated or otherwise, where the customer remains in substantial control, care, or custody of the vehicle and the preponderance of the vehicle's wash is completed by the customer or automated equipment.

ESTIMATED FISCAL IMPACT:

On March 2, 2019, a fiscal note was issued for this legislation estimating a fiscal impact as follows:

Decrease State Revenue – Net Impact - \$2,018,100

Decrease Local Revenue – Net Impact - \$823,500

Based on additional information, the fiscal impact has been corrected as follows:

(CORRECTED)

Decrease State Revenue – Net Impact – Exceeds \$747,700

Forgone State Revenue – \$3,977,900

Decrease Local Revenue – Net Impact – Exceeds \$305,100

Forgone Local Revenue – \$1,623,300

Corrected Assumptions:

- There are four major car wash service models: self-service, express service, flex service, and full-service.
- Self-service models are currently exempt from the state and local sales taxes.
- Flex service and full-service models are currently subject to the state and local sales taxes.
- Ambiguity exists regarding sales and use tax liability of express service models. The Department of Revenue (DOR) deems that such services are subject to the tax. However, industry sources report that many, if not most, express service operators have not been collecting or remitting sales and use taxes based upon the historic interpretation and application of the tax by the DOR.

- The proposed legislation will not impact self-service or full-service models; self-service models will remain exempt and full-service models will remain subject to the state and local sales and use taxes.
- The proposed legislation will exempt from such taxes express service and flex service models.
- Any impact on sales tax collections related to flex service models will be considered a decrease in state and local revenue, as the DOR currently collects such taxes.
- Any impact on sales tax collections related to express service models will be considered forgone state and local revenue, as the DOR currently considers such services as subject to the tax, but most, if not all, of such revenue remains uncollected.
- Based on Fiscal Review Committee staff's research, the following percentages are estimated to represent each model's share of total car wash facilities in the state: self-service: 31.70 percent; express service: 55.75 percent; flex service: 4.65 percent; and full-service: 7.90 percent.
- Based on information provided by the DOR, total taxable sales of establishments from which state and local sales taxes are currently collected were estimated to be \$31,403,357 in FY17-18. It is assumed this number will remain constant into perpetuity.
- This number is assumed to include sales from full-service facilities, flex service facilities, and potentially some express service facilities if any such facilities currently remit state and local sales taxes. However, based on industry information, any such express service facility sales are estimated to be not significant, as most of such facilities do not currently remit sales taxes.
- Of \$31,403,357, up to 62.95 percent can be attributed to full-service facilities $[7.90\% / (7.90\% + 4.65\%)]$, and at least 37.05 can be attributed to flex service facilities $[4.65\% / (7.90\% + 4.65\%)]$.
- Therefore, the proposed legislation will exempt at least \$11,634,945 in sales from flex service facilities from being subject to state and local sales taxes $(\$31,403,357 \times 37.05\%)$.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; and the percentage of state sales tax revenue allocated to local government pursuant to the state-shared allocation is effectively 3.617 percent.
- The recurring decrease in state sales tax revenue is estimated to exceed \$784,988 $[(\$11,634,945 \times 7.0\%) - (\$11,634,945 \times 7.0\% \times 3.617\%)]$.
- The recurring decrease in local sales tax revenue is estimated to exceed \$320,332 $[(\$11,634,945 \times 2.5\%) + (\$11,634,945 \times 7.0\% \times 3.617\%)]$.
- Fifty percent of tax savings, or \$552,660 $[(\$784,988 + \$320,332) \times 50\%]$, will be spent in the economy on other sales-taxable goods and services.
- The recurring increase in state sales tax collections is estimated to exceed \$37,287 $[(\$552,660 \times 7.0\%) - (\$552,660 \times 7.0\% \times 3.617\%)]$.
- The recurring increase in local sales tax collections is estimated to exceed \$15,216 $[(\$552,660 \times 2.5\%) + (\$552,660 \times 7.0\% \times 3.617\%)]$.
- The net recurring decrease in state revenue as a result of this legislation is estimated to exceed \$747,701 $(\$784,988 - \$37,287)$.
- The net recurring decrease in local revenue as a result of this legislation is estimated to exceed \$305,116 $(\$320,332 - \$15,216)$.

- The average cost of flex service transactions is estimated to be \$15.00. The number of flex service transactions is estimated to exceed 775,663 ($\$11,634,945 / \15.00).
- The average cost of express service transactions is estimated to be \$6.34. The number of express service transactions is estimated to be 9,299,615 [$(775,663 \text{ flex transactions} / 4.65\% \text{ flex percentage of total}) \times 55.75\% \text{ express percentage of total}$].
- Total express service facility sales are estimated to be \$58,959,559 ($9,299,615 \times \6.34).
- The proposed legislation will result in the following forgone amounts of sales tax revenue: \$3,977,889 for the state [$(\$58,959,559 \times 7.0\%) - (\$58,959,559 \times 7.0\% \times 3.617\%)$], and \$1,623,269 for the local government [$(\$58,959,559 \times 2.5\%) + (\$58,959,559 \times 7.0\% \times 3.617\%)$].

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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