

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 62

(Senator Benson)

Budget and Taxation

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**Sales and Use Tax - Tax-Free Period - Emergency Preparedness Equipment**

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This bill establishes a seven-day sales tax-free period for the purchase of emergency preparedness equipment costing \$1,000 or less beginning in calendar 2017. The tax-free period is from the second Sunday in August through the following Saturday. The Comptroller must, by January 1, 2017, publish a list of emergency preparedness equipment that is exempt during the tax-free period on the Comptroller's website. The Comptroller is authorized to amend the list of exempt items each year. Emergency preparedness equipment includes emergency preparedness items defined by the Comptroller by regulation.

The bill takes effect July 1, 2016.

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**Fiscal Summary**

**State Effect:** Potentially significant general fund revenue decrease beginning in FY 2018. The amount of the decrease depends on the types of equipment identified by the Comptroller as qualifying for the exemption, the amount of emergency preparedness equipment purchased, and the cost of each exempt item. Under one set of assumptions, general fund revenues may decrease by approximately \$9.7 million annually beginning in FY 2018. General fund expenditures increase by \$81,300 for computer programming changes.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law:** The State sales and use tax rate is 6%, except for the sale of alcoholic beverages, which are taxed at a rate of 9%.

**Background:** The sales and use tax is the State's second largest source of general fund revenue, accounting for approximately \$4.5 billion in fiscal 2016 and \$4.7 billion in fiscal 2017, according to the December 2015 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

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### Exhibit 1 Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0%
District of Columbia	5.75%; 10% for liquor sold for off-the-premises consumption and restaurant meals, liquor for consumption on the premises, and rental vehicles
Maryland	6% 9% for alcoholic beverages
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia*	5.3%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; plus 0.5% or 1% in certain municipalities

\*An additional state tax of 0.7% is imposed in localities in Northern Virginia and the Hampton Roads region.

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Several major power outage events have occurred in the State in recent years. For example, several violent thunderstorms hit the Pepco service territory on July 25, August 5, and August 12, 2010, causing power outages to 297,000, 75,000, and 98,000 customers, respectively. The Public Service Commission (PSC) received many complaints about the outages. On January 26, 2011, a winter storm caused 126,000 peak customer outages in the Baltimore Gas and Electric (BGE) service territory and 190,000 peak customer outages in the Pepco service territory.

On June 29, 2012, a “derecho” storm severely impacted electrical service to a large portion of the State, especially in the BGE and Pepco service territories. High sustained wind speeds with gusts in excess of 65 miles per hour (mph) resulted in downed trees, broken

telephone poles, and damaged electric distribution infrastructure. Based on the definition of “major outage event,” most electric companies in the State were required to file a written report on the outage and subsequent repair services. The reports indicate that BGE and Pepco each experienced over 750,000 total customer outages, with maximum concurrent interruptions of over 400,000 customers each – significantly higher than for any other recent major outage event. **Exhibit 2** contains information related to customer outages and service restoration for each electric company that filed a report. Full copies of each of the reports can be found on PSC’s website under Case No. 9298.

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**Exhibit 2**  
**Summary Statistics – Utility Major Outage Event Reports**  
**June 29, 2012 Derecho Storm**

	<u>Total Maryland Customers</u>	<u>Total Customer Outages</u>	<u>Maximum Concurrent Interruptions</u>	<u>Customer Interruption Hours</u>	<u>Average Duration per Customer (Hours)</u>	<u>Duration of Major Outage Event</u>
BGE	1,240,173	762,781	429,841	28,643,177	37.6	8 Days, 15 Hours
Delmarva	194,945	50,476	28,059	436,823	8.7	3 Days, 19 Hours
Pepco	534,601	786,766	410,679	20,465,930	26.0	8 Days, 6 Hours
SMECO	151,800	83,250	56,424	1,203,860	14.5	3 Days, 19 Hours

SMECO: Southern Maryland Electric Cooperative  
Source: Major Outage Reports Filed in PSC Case No. 9298

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Finally, Hurricane Sandy made landfall near Atlantic City, New Jersey, on October 28, 2012. Much of Maryland experienced sustained wind speeds in excess of 35 mph, with gusts ranging from 55 to 65 mph. Many areas in the State experienced between four and six inches of rain, and some areas on the Eastern Shore experienced double that, while some areas in Western Maryland received approximately two feet of snow. Despite these totals, customer outages were fewer and of shorter duration, on average, than those related to the June derecho storm. Customer outages in each service territory were approximately:

- 350,000 in BGE;
- 110,600 in Potomac Edison;
- 83,600 in Delmarva;
- 81,400 in Pepco; and
- 35,800 in SMECO.

Additional outage information for each electric company can be found in the major storm reports posted on PSC's website under Case No. 9308.

Alabama, Louisiana, Texas, and Virginia will have sales tax holidays for emergency preparedness, hurricane preparedness, or severe weather preparedness items or equipment in 2016.

#### *Task Force to Study Tax Benefits for Emergency Preparedness Equipment*

Chapter 481 of 2013 established the Task Force to Study Tax Benefits for Emergency Preparedness Equipment to study and make recommendations regarding an income tax credit for purchasing electric generators and a sales tax-free period for emergency preparedness equipment. The task force met during the 2013 interim and recommended that the General Assembly consider enacting a sales tax holiday for emergency preparedness products and supplies with a selling price of \$60 or less for a period of one week prior to the official start of hurricane season (June 1). The task force also recommended that the tax holiday should expire five years from the passage of the legislation.

**State Fiscal Effect:** General fund revenues will decrease by a potentially significant amount beginning in fiscal 2018 as a result of the annual sales tax-free period. The amount of the decrease depends on the types of emergency preparedness equipment identified by the Comptroller as qualifying for the exemption, the amount of emergency preparedness equipment purchased, and the cost of each exempt item. The list of exempt items is not required to be defined until January 1, 2017. Depending on the types of exempt equipment and the cost of this equipment, the effect on general fund revenues from the sales tax-free period specified by the bill may be significant.

As a point of reference, and for *illustrative purposes only*, general fund revenues may decrease by approximately \$9.7 million annually, based on the following facts and assumptions:

- the American Community Survey estimates that there were 2,165,430 households in Maryland in 2014;
- half of Maryland households purchase taxable items during the sales tax-free period; and
- the average household purchases \$150 worth of emergency preparedness items during the tax-free period.

The above example does not include any purchases that may be made by businesses. The estimate will vary depending on the actual cost of purchases made during the tax-free period.

The Comptroller's Office indicates that it will incur one-time computer programming costs of \$81,300 in fiscal 2017 to notify the approximately 130,000 active sales and use tax account holders of the sales tax-free period.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced as SB 481 and HB 151 of 2013. Each bill was amended to create the Task Force on the Implementation of Tax Benefits for Emergency Preparedness Equipment. SB 481 was passed and became Chapter 481. HB 151 was vetoed by the Governor as duplicative.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - January 25, 2016  
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