

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

Senate Bill 316

(Senator Elfreth, *et al.*)

Budget and Taxation

Ways and Means

Sales and Use Tax - Diapers and Baby Products - Exemption

This bill exempts from the State sales and use tax the sale of the following items: diapers, diaper rash cream, baby wipes, baby bottles, baby bottle nipples, and infant car seats. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund revenues decrease by approximately \$10.4 million in FY 2023 and by \$11.4 million in FY 2027. The State budget assumes the revenue reduction in FY 2023. Future year revenues reflect inflation and population growth. General fund expenditures increase by \$81,300 in FY 2023.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	(\$10.4)	(\$10.6)	(\$10.9)	(\$11.1)	(\$11.4)
GF Expenditure	\$0.1	\$0	\$0	\$0	\$0
Net Effect	(\$10.5)	(\$10.6)	(\$10.9)	(\$11.1)	(\$11.4)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The sale of diapers is subject to the State sales and use tax. The sale of baby oil, baby powder, sanitary napkins, or tampons is exempt from the State sales and use tax. In addition, the sales and use tax does not apply to the sale of disposable medical supplies. Disposable medical supplies are articles consumed in a single use to cure,

mitigate, treat, prevent, or diagnose illnesses. Exempt items include incontinent pants, diapers, and other incontinent supplies for adults; adhesive tape; bandages; gauze and gauze pads; antiseptics; disposable gloves; lubricating jelly; colostomy supplies; absorbent pads; dressing supplies; spray bandages; disposable syringes; condoms; and glucose monitoring strips.

Infant car seats are subject to the State sales and use tax.

State Sales and Use Tax

The sales and use tax is the State's second largest source of general fund revenue, accounting for approximately \$5.5 billion in fiscal 2022 and \$5.7 billion in fiscal 2023, according to the December 2021 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

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

Delaware	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles; 8.0% for specified soft drinks
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 2.5% for eligible food items; 2.5% for specified essential personal hygiene items; both rates include 1.0% for local jurisdictions
West Virginia	6.0% plus 1.0% in 70 municipalities

*An additional state tax of: (1) 0.7% is imposed in localities in Central Virginia, Northern Virginia, and the Hampton Roads region; (2) 1.0% in Charlotte, Gloucester, Halifax, Henry, Northampton, and Patrick counties; and (3) 1.7% is imposed in localities in the Historic Triangle.

The City Council and Mayor of the District of Columbia approved legislation exempting feminine hygiene products and diapers from the district's sales and use tax in 2016.

Beginning January 1, 2020, Virginia reduced the sales tax on specified feminine hygiene products and diapers to 2.5%.

2017 Joint Chairman's Report

The 2017 *Joint Chairman's Report* expressed the committees concern regarding the high cost of purchasing diapers by low-income households and requested that the Department of Human Services (DHS), in conjunction with the Maryland Department of Health and the Maryland State Department of Education, submit a report discussing the feasibility of creating a supplemental benefit to assist these families. DHS submitted its report in December 2017 – [Joint Chairman's Report – Feasibility of Creating a Benefit for the Purchase of Diapers](#).

State Revenues: The sales and use tax exemptions proposed by the bill will reduce general fund revenues by approximately \$10.4 million in fiscal 2023 and by \$11.4 million in fiscal 2027.

Sales and Use Tax Exemption for Diapers

General fund revenues decrease by a significant amount beginning in fiscal 2023. There are two factors that will determine the actual revenue decrease resulting from this proposed sales and use tax exemption. The first factor is the price of diapers. A recent DHS study found the average retail price for packages of diapers ranged from \$44.75 for a package of 276 size 1 diapers to \$36.32 for a package of 192 size 4 diapers. The second factor is the number of diapers used per child per day. It is assumed that infants and babies will require more diapers than toddlers and older children. The DHS study assumed that infants one month of age and younger will use approximately 10 diapers per day, infants between one month of age and one year old will use 8 diapers per day, and children ages one and two will use 6 diapers per day.

Based on findings from the DHS study, general fund revenues decrease by approximately \$7.5 million in fiscal 2023 and by \$8.1 million in fiscal 2027. This estimate is based on the following:

- The U.S. Census Bureau projected approximately 287,600 children age three and younger in Maryland as of July 1, 2019.
- The average cost of a diaper ranges from \$0.18 to \$0.20.
- Families use an average of between 6 and 10 diapers per child per day, depending on age.

Sales and Use Tax Exemption for Specified Baby Products

General fund revenues decrease by approximately \$2.9 million in fiscal 2023 and by \$3.2 million in fiscal 2027. The estimate is based on national consumer spending data from the Consumer Expenditure Survey and Grandview Research, as well as similar exemptions in other states, and then adjusted for the number of households in Maryland.

State Expenditures: The Comptroller's Office will incur a one-time expenditure increase of \$81,300 in fiscal 2023 to notify the approximately 130,000 sales and use tax account holders of the sales tax change.

Additional Information

Prior Introductions: Similar bills proposing a sales and use tax exemption for diapers have been introduced in prior sessions. SB 40 of 2020 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 345 of 2018 received a hearing in the House Ways and Means Committee, but no further action was taken. HB 1245 of 2017 received a hearing in the House Ways and Means Committee, but no further action was taken. Similar bills introduced during the 2016 session include SB 904, HB 784, HB 807, and HB 1510. SB 904 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 784 and HB 807 received hearings in the House Ways and Means Committee, but no further action was taken on either bill. HB 1510 was assigned to the House Rules and Executive Nominations Committee but was withdrawn.

Designated Cross File: HB 282 (Delegate D. Jones, *et al.*) - Ways and Means.

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

Fiscal Note History: First Reader - January 31, 2022
km/hlb Third Reader - March 30, 2022
Revised - Amendment(s) - March 30, 2022
Enrolled - May 10, 2022
Revised - Amendment(s) - May 10, 2022

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510