

- SUBJECT:** Establishing sales tax holidays for certain energy-efficient products
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 5 ayes — Keffer, Ritter, Otto, Paxton, Pena  
0 nays  
4 absent — Bonnen, Y. Davis, Flores, Pitts
- WITNESSES:** For — Stan Johnson, Air Conditioning Contractors of America - Texas; Luke Metzger, Environment Texas; Bee Moorhead, Texas Impact (*Registered, but did not testify*: Carol Biedrzycki, Texas Ratepayers Organization to Save Energy; Randall H. Erben, The Home Depot Inc.; Jay Howard, Wal-Mart Stores, Inc.; Colin Leyden, Texas League of Conservation Voters; Cyrus Reed, Lone Star Chapter of the Sierra Club; Brad Shield, Texas Retailers Association; Kaiba White, Public Citizen)  
Against — None  
On — John Kroll, Coalition for Appropriate Sales Tax Law Enactment
- BACKGROUND:** Under Tax Code, secs. 151.051 and 151.101, the state imposes a 6.25 percent sales and use tax on the price of taxable items sold in Texas or bought elsewhere for consumption in Texas. Aggregate local rates are capped at 2 percent, meaning that combined state and local rates may not exceed 8.25 percent in any locality.  
  
Tax Code, sec. 151.326 establishes a sales tax holiday that occurs between 12:01 a.m. on the first Friday in August and midnight on the following Sunday. During this weekend, articles of clothing and footwear up to \$100 are exempt from sales and use taxes.
- DIGEST:** CSHB 1000 would exempt from sales and use tax certain energy-efficient products during two periods each year:
- Memorial Day weekend; and
  - a period around July 4th.

The period around July 4th would be determined as follows:

- when July 4th occurred on a Saturday, the period would begin at 12:01 a.m. on the previous Friday and end at 11:59 p.m. on the following Sunday;
- when July 4th occurred on a Sunday, the period would begin at 12:01 a.m. on the previous Saturday and end at 11:59 p.m. on the following Monday;
- when July 4th occurred on a Monday or Tuesday, the period would begin at 12:01 a.m. on the previous Saturday and end at 11:59 p.m. on July 4th;
- when July 4th occurred on a Wednesday, Thursday, or Friday, the period would begin at 12:01 a.m. on July 4th and end at 11:59 p.m. on the following Sunday;

A product would be exempt only if it were purchased for noncommercial home or personal use.

In order to be eligible for the exemption under CSHB 1000, a product would have to be designated as an “Energy Star” product under the Energy Star program operated by the United States Environmental Protection Agency and the Department of Energy. In addition, the product would have to be one of the following:

- a ductless air conditioner;
- a split system ducted residential air conditioning system with a seasonal energy efficiency ratio at least two points higher than that required by federal law;
- a clothes washer;
- a ceiling fan;
- a dehumidifier;
- a dishwasher;
- a compact fluorescent lightbulb;
- a programmable thermostat; or
- a refrigerator.

The sales price of the refrigerator could not exceed:

- \$2,000 in 2007;
- \$2,100 in 2008;

- \$2,200 in 2009;
- \$2,300 in 2010;
- \$2,400 in 2011;
- \$2,500 in 2012;
- \$2,600 in 2013;
- \$2,700 in 2014;
- \$2,800 in 2015;
- \$2,900 in 2016; and
- \$3,000 in and after 2017.

A retailer would have to obtain an exemption certificate stating that a product purchased under this exemption was to be used for noncommercial home or personal use if more than two items of a product were purchased at the same time.

The bill would take effect July 1, 2007, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect October 1, 2007. The bill would apply only to taxes imposed after the effective date.

**SUPPORTERS  
SAY:**

By creating a tax holiday for eight energy-efficient products, CSHB 1000 would encourage consumers to replace inefficient appliances and implement energy-efficient technologies in their homes. In this manner, the bill would help reduce energy consumption and the associated air pollution.

Energy-efficient appliances such as those included in CSHB 1000 require less electricity, lowering consumer utility bills and pollution from electric plants. An Energy Star-certified clothes washer uses 50 percent less energy than a standard washer. Other products, such as ceiling fans and dehumidifiers, serve as alternatives that can reduce demand for air conditioning in a residence. Fluorescent light bulbs use much less electricity and last far longer than incandescent bulbs. The home appliances exempted from sales tax during these tax holidays would benefit consumers through lower electric bills and would reduce demand for electricity across the state.

Tax policy is an important tool for influencing consumer behavior, and energy efficiency is a goal worthy of support by the state. There are many negative externalities associated with high energy use, and the state should work to mitigate those side effects. High energy demand can lead to

inflated costs for consumers and shortages during periods of peak use. It also could require costly construction of additional generation capacity. Lower energy demand would lead to less pollution, aiding compliance with federal clean air standards and providing public health and environmental benefits.

A sales tax holiday also would provide an opportunity to educate the public about the benefits of energy conservation. Retailers would take advantage of the event to advertise the products eligible under the exemption, educating the public about the advantages of replacing out-of-date, inefficient appliances. A sales tax holiday can generate excitement among consumers, which is evident to anyone who has witnessed the crowds who take part in the existing tax holiday before the start of school. A tax holiday would produce more publicity and excitement than a rebate program, encouraging the broadest participation among consumers.

While LBB predicts that CSHB 1000 would result in a loss of state sales tax revenue, this analysis fails to take into account the increased sales occurring during the holiday that would be taxed. With additional traffic at retailers during the tax holiday weekend, it is likely that retailers such as Home Depot and Wal-Mart would enjoy increased sales of other goods from consumers who came out to purchase the tax exempt products. This effect would provide a positive economic impact and mitigate the predicted loss in sales tax revenue.

**OPPONENTS  
SAY:**

While CSHB 1000 has a laudable intent, the bill unfairly would sweep up local jurisdictions that also levy sales taxes. The bill would deny local governments this revenue without allowing those jurisdictions to decide whether or not to participate in this program.

Instituting a tax holiday for energy-efficient products would run counter to the goal of tax simplification, a guiding principle of Texas' participation in the Streamlined Sales Tax Project. The project is aimed at harmonizing states' sales tax laws so that Congress will allow states to tax electronic interstate commerce. The consortium of states participating in the Streamlined Sales Tax Project is developing standards for a nationwide Energy Star holiday, and it would be prudent for Texas to wait on the promulgation of these uniform standards.

Implementation of sales tax holidays such as the one authorized under CSHB 1000 poses distinct challenges to retailers charged with collecting

Texas' sales tax. Businesses would have to reprogram their cash registers and train staff to implement the exclusion on these weekends. These requirements would pose a burden in terms of time and cost to retailers in the state.

**OTHER  
OPPONENTS  
SAY:**

Rather than establishing a sales tax holiday for energy-efficient appliances, a better approach would be to allow consumers to apply for a refund of the state sales tax assessed on the products listed in the bill. Such an approach would require the consumer to apply for the rebate, directing the savings to those who possess the initiative to pursue their refunds. For this reason, the cost of the program to the state would be reduced. In addition, such a proposal would address concerns of local governments who rely on sales tax revenue and of those seeking to avoid further complicating the state tax statutes with another carve-out. This approach still would allow retailers to advertise these products and educate consumers about the benefits of energy conservation.

**NOTES:**

The committee substitute modified the definitions of some products eligible for the tax exemption and specified that Memorial Day weekend would be classified as a tax holiday under the bill instead of the existing August tax holiday on clothing and footwear, as in the bill as filed.

According to LBB, CSHB 1000 would have a negative impact to general revenue of \$11.4 million in fiscal 2008-09 if the bill took immediate effect. If the effective date was October 1, 2007, the bill would have a negative impact to general revenue of \$9.2 million.