

HOUSE No. 3906

The Commonwealth of Massachusetts



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June 23, 2021

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Establishing an Extended Sales Tax Holiday in 2021” for the reasons set forth below.

I recommend designating August and September 2021 as sales tax holiday months. The exceedingly strong revenue performance in Fiscal Year 2021 presents us with a unique opportunity to support Main Street businesses, local economies, and Massachusetts consumers as the Commonwealth continues recovering from the COVID-19 pandemic.

As we all know too well, the public health emergency has created unanticipated hardships for every individual, family, and business across Massachusetts. The virus forced companies to substantially change or halt their operations for significant periods of time, resulting in unprecedented unemployment and job loss, and fewer opportunities for growth and development in cities and towns.

Despite these ongoing challenges, tax revenues continue to exceed projections. Through May 2021, Fiscal Year 2021 tax revenues collections are \$3.938 billion or 14.9% more than the year-to-date benchmark. Additionally, Massachusetts has been awarded significant federal resources since the start of the COVID-19 pandemic, including Coronavirus Relief Fund dollars through the CARES Act which have helped to reduce pressure on the operating budget.

With the transfer this week of certain capital gains taxes to the Stabilization Fund, our reserves are now at an all-time high of approximately \$4.4 billion, compared to just over \$1

billion when I took office. Although it is premature to reforecast Fiscal Year 2022 tax revenue at this moment, we are confident that we can close this fiscal year and manage through the next without withdrawing money from the Stabilization Fund. Meanwhile, by returning money to taxpayers through a two-month suspension of the sales tax, we give every individual who purchases goods a welcome break while also encouraging the economic activity that is the lifeblood of retailers across the state.

I therefore recommend taking advantage of this increase in tax collections to support consumers and local and small businesses by making the entire months of August and September 2021 sales tax free. Consistent with the previous year and current state statute, I recommend having retail items of up to \$2,500 purchased in Massachusetts for personal use exempted from sales tax during these two months.

I have also included language in this legislation to ensure that the Massachusetts Bay Transportation Authority, the Massachusetts School Building Authority, and the various convention centers still receive their normal statutory transfers despite the two-month sales tax holiday. Specifically, the language directs the Commissioner of the Department of Revenue to certify the likely amount of foregone sales tax revenue during these two months by August 13, 2021. The Comptroller shall then transfer a proportion of these certified amounts to the Massachusetts Bay Transportation Authority State and Local Contribution Fund, the School Modernization and Reconstruction Trust Fund, and the funds for the various convention centers.

Our Administration has been proud to work closely with you and other key state, federal, and local stakeholders to protect public health and maintain our quality of life. We recognize that we all must continue responding to these lingering difficulties by providing relief to businesses, consumers, and residents, and promoting increased economic activity.

Given the Commonwealth's already high revenue totals and the COVID-related challenges that continue to burden Massachusetts residents and business, I urge you to enact this legislation promptly to promote increased economic growth and development across local neighborhoods and Main Streets.

Respectfully submitted

Charles D. Baker,
Governor

HOUSE No. 3906

A message from His Excellency the Governor recommending legislation relative to establishing an extended sales tax holiday in 2021. June 23, 2021.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act establishing an extended sales tax holiday in 2021.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for a certain exemption from the sales tax, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law to the contrary, for the days of
2 August 1, 2021 to September 30, 2021, an excise shall not be imposed upon nonbusiness sales at
3 retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws.
4 For the purposes of this act, tangible personal property shall not include telecommunications
5 services, tobacco products subject to the excise imposed by chapter 64C of the General Laws,
6 marijuana or marijuana products subject to chapter 94G of the General Laws, alcoholic
7 beverages, as defined in section 1 of chapter 138 of the General Laws, gas, steam, electricity,
8 motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

9 SECTION 2. Notwithstanding any general or special law to the contrary, for the days of
10 August 1, 2021 to September 30, 2021, a vendor shall not add to the sales price or collect from a
11 nonbusiness purchaser an excise upon sales at retail of tangible personal property. The

12 commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail
13 of tangible personal property purchased on August 1, 2021 through September 30, 2021,
14 including on September 30, 2021. An excise erroneously or improperly collected during the
15 days of August 1, 2021 to September 30, 2021, shall be remitted to the department of revenue.

16 SECTION 3. Notwithstanding the provisions of section 6A of chapter 64H of the
17 General Laws, the sales tax holiday for 2021 designated pursuant to subsection (b) of said
18 section 6A shall run concurrently with the dates set forth in sections 1 and 2 and shall not be
19 interpreted as being in addition to any such dates.

20 SECTION 4. Reporting requirements imposed upon vendors of tangible personal
21 property, by law or by regulation, including, but not limited to, the requirements for filing returns
22 required by chapter 62C of the General Laws, shall remain in effect for sales for the days of
23 August 1, 2021 to September 30, 2021.

24 SECTION 5. (a) On or before August 13, 2021, the commissioner of revenue shall
25 certify the amount of sales tax receipts estimated to be foregone as a result of the provisions of
26 sections 1 and 2, based on the likely volume of sales tax collections in the absence of this act. In
27 this certification, the commissioner shall specify distinctly the amounts of tax receipts that would
28 have been credited or otherwise assigned to non-budgeted funds for transfer of sales tax revenue
29 dedicated to the Massachusetts Bay Transportation Authority pursuant to section 35T of chapter
30 10 of the General Laws and the Massachusetts School Building Authority pursuant to section
31 35BB of said chapter 10. Additionally, in this certification, the commissioner shall specify
32 distinctly the amounts of tax receipts that would have been pledged to the expenses of the
33 various convention centers.

34 (b) In calculating the consolidated net surplus for fiscal year 2021 pursuant to section 5C
35 of chapter 29 of the General Laws and any relevant special acts, the comptroller shall exclude
36 from the consolidated net surplus an amount equal to the total amount of sales tax receipts
37 foregone as a result of the provisions of sections 1 and 2, as certified by the commissioner of
38 revenue. That amount shall be treated as a reserved balance in the General Fund at the close of
39 fiscal year 2021.

40 (c) In fiscal year 2022, the comptroller shall transfer from the General Fund to the
41 Massachusetts Bay Transportation Authority State and Local Contribution Fund established in
42 section 35T of chapter 10 of the General Laws, the School Modernization and Reconstruction
43 Trust Fund established in section 35BB of said chapter 10, and funds for the various convention
44 centers established in chapter 152 of the acts of 1997 as amended, chapter 45 of the acts of 2001
45 and chapter 422 of the acts of 2006 as amended, the specified portions of the sales tax receipts
46 foregone as a result of the provisions of sections 1 and 2, as certified by the commissioner of
47 revenue pursuant to subsection (a) of this section. Transfers pursuant to this subsection shall be
48 in amounts and on a schedule that approximates the allocation of funds that would have occurred
49 in the absence of this act. For purposes of calculating amounts due under sections 35T and 35BB
50 of chapter 10 of the General Laws, chapter 152 of the acts of 1997 as amended, chapter 45 of the
51 acts of 2001, chapter 422 of the acts of 2006 as amended, and any other general or special act,
52 funds transferred pursuant to this section shall be treated as sales tax receipts.

53 SECTION 6. On or before December 31, 2021, the commissioner of revenue shall
54 certify to the comptroller the amount of sales tax forgone pursuant to this act, as well as new
55 revenue raised from personal and corporate income taxes and other sources; provided, that the
56 amounts transferred pursuant to subsection (c) of section 5 shall be final notwithstanding any

57 variance from the amounts certified pursuant to this section. The commissioner shall file a report
58 with the joint committee on revenue and the house and senate committees on ways and means
59 detailing, for each fund affected, the amounts that were deposited into each fund pursuant to this
60 act.

61 SECTION 7. The commissioner of revenue shall issue instructions or forms or
62 promulgate rules or regulations necessary for the implementation of this act.

63 SECTION 8. Eligible sales at retail of tangible personal property under sections 1 and 2
64 are restricted to those transactions occurring on days between and including August 1, 2021 and
65 September 30, 2021. Transfer of possession of or payment in full for the property shall occur on
66 1 of those days. Transactions where a deposit, prepayment or binding promise to pay is made
67 before August 1, 2021, prior sales, and layaway sales shall be ineligible.

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