

# SENATE BILL REPORT

## ESSB 5147

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As Passed Senate, March 7, 2020

**Title:** An act relating to providing tax relief to females by exempting feminine hygiene products from retail sales and use tax.

**Brief Description:** Providing tax relief by exempting menstrual products from retail sales and use tax.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Wilson, L., Brown, Carlyle, Conway, Darneille, Palumbo, Keiser, Mullet, O'Ban, Short, Wagoner and Warnick).

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/21/19 [w/oRec-WM].

Ways & Means: 1/27/20, 3/02/20 [DPS].

**Floor Activity:**

Passed Senate: 3/07/20, 49-0.

**Brief Summary of Engrossed First Substitute Bill**

- Exempts feminine hygiene products from the state's sales and use tax.
- Makes the exemption permanent.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** That it be referred without recommendation and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Becker, Conway, Dhingra, Frockt, Keiser and Van De Wege.

**Staff:** LeighBeth Merrick (786-7445)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5147 be substituted therefor, and the substitute bill do pass.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

**Staff:** Alia Kennedy (786-7405)

**Background:** Sales taxes are imposed on retail sales of most articles of tangible personal property, including feminine hygiene products. A retail sale is a sale to the final consumer or end user of the property. If sales taxes were not collected when the consumer purchased the property, then the consumer owes the state use tax on the value of the property. The state's sales and use tax rate is 6.5 percent. Most cities and all counties also levy sales and use taxes, with rates varying from 0.5 percent to 3.9 percent.

Under current law, tax preferences expire every ten years and any bill enacting a new tax preference must include a performance statement so the Legislature may determine whether or not the tax preference is meeting its intended goals. Every four years, the Department of Revenue (DOR) is required to report to the Legislature on the amount of reduced revenues as a result of tax preferences for the current and next biennium. The Joint Legislative Audit and Review Committee (JLARC) also reviews specific tax preferences on behalf of the Legislature.

**Summary of Engrossed First Substitute Bill:** Sales of feminine hygiene products to consumers are exempt from the state's sales and use tax. Feminine hygiene products is defined as "sanitary napkins, tampons, menstrual cups, or any other similar product sold at retail designed specifically to catch menstrual flow either internally or externally." The ten year automatic expiration date does not apply to this tax preference.

The tax preference performance statement is to reduce the tax burden on females for a product that is fundamental to personal hygiene and health. JLARC is not required to review the tax preferences as part of its normal review process. The tax preference will be included in DOR's four-year tax exemption report.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2020.

**Staff Summary of Public Testimony on Original Bill (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: Feminine hygiene products are medically necessary, despite the fact that women use them exclusively. Medically necessary products are usually tax exempt. Removing the tax directly benefits low-income woman the most. Seventeen states are already exempting feminine hygiene products from tax. Women pay hundreds of dollars in sales tax on the purchase of feminine

hygiene products over the course of their lifetime. Women are disproportionately impacted by this tax because of their gender. Washington should join the 17 other states that understand this is a gender tax on necessary items and can also help lead the way for the rest of states. The tax should be removed or reduced until a more comprehensive understanding of the impact is assessed, like other states have done. Menstrual products are essential to allowing women to participate in society, such as going to school or work. This tax exemption may help ensure low-income students are able to go to school. The tax on tampons unfairly burdens half the population in Washington. Telling half the population their needs are not important is wrong. The tax on feminine hygiene products is unconstitutional because it disproportionately impacts women over men.

**Persons Testifying (Ways & Means):** PRO: Senator Lynda Wilson, Prime Sponsor; Sarah Freeman, Lake Washington High School; Nicole Carpenter, citizen; Nora McCarthy, citizen; Lisa Kremer, citizen; Lindsay Cohen, citizen.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.