

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

S-258

DATE OF INTRODUCTION:

January 8, 2002

SPONSOR:

Senator Bucco
Senator Girgenti

DATE OF RECOMMENDATION:

February 26, 2002

IDENTICAL BILL:

COMMITTEE:

Senate Law and Public Safety and Veteran's Affairs

DESCRIPTION:

The Bill provides a sales and use tax exemption for carbon monoxide detectors and any device or equipment sold for residential use to detect, warn of, abate or extinguish fires.

ANALYSIS:

This exemption benefits a specialized group and does not promote horizontal equity. Horizontal equity mandates that sales tax legislation be broadly based and taxes similar transactions, persons or things in a similar manner. This proposal creates disparity between fire warning and protection equipment and other types of protection equipment. Fire warning and protection equipment is only one group of many devices that are available to protect or warn individuals when life or property is threatened. This Bill gives preferential treatment to fire warning and protection equipment for residential use.

There are no overarching public policy reasons to provide a broader exemption for fire warning and protection equipment than for all other types of protection equipment used. Consumers who cannot afford to purchase fire warning and protection equipment are not going to be encouraged or economically assisted by being relieved of the obligation to pay 6% tax. Thus, the Bill does nothing to promote safety by encouraging people to purchase fire warning and protection equipment. The Commission believes that the imposition of tax on the purchase of fire warning and protection equipment would never work as a disincentive to purchase. Homeowners who can afford to do so will safeguard their homes and families whether or not a tax exemption is enacted.

The Bill provides an exemption when there is a purchase of fire warning and protection equipment for residential use. The limitation of this exemption to purchases for residential use present an administrative burden on both the taxing authority and the vendor who is responsible for collecting tax. Enforcement and administrative problems arise because of the inherent difficulty in determining whether the purchase is being used for residential use and thus qualified for the exemption. Vendors cannot reasonably be expected to recognize whether a particular individual is making a purchase for business

or personal use, and it is foreseeable that, this exemption will be misused and abused by consumers making purchases for their businesses.

There are no strong tax policy reasons to support this exemption. Enactment of special exemptions for purchases of socially desirable merchandise tend to create an increased demand for similar exemptions for other good, useful, necessary, or politically favored purchases. Such piecemeal exemptions alter the broad-based nature of the sales and use tax and reduce its credibility as a fairly administered and simple to understand tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer and is generally perceived by consumers as economically neutral and “fair”. When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. An exemption for fire warning and protection equipment would save an individual taxpayer a fairly insignificant sum. However, the cumulative loss of revenue to the State could be substantial, leaving the State to find other means of generating the funds lost as a result of another exemption.

RECOMMENDATION:

The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 8

COMMISSION MEMBERS ABSTAINING: 0