

CHAPTER 128

TAXATION

SENATE BILL 18-129

BY SENATOR(S) Moreno, Martinez Humenik, Tate, Zenzinger, Crowder, Fields, Jones, Kefalas, Lundberg, Marble, Merrifield, Todd;
also REPRESENTATIVE(S) Arndt, Hooton, McKean, Thurlow, Kraft-Tharp, Pabon.

AN ACT**CONCERNING THE NONSUBSTANTIVE REORGANIZATION OF THE LAW EXEMPTING FROM STATE SALES TAX CERTAIN DRUGS AND MEDICAL AND THERAPEUTIC DEVICES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly hereby declares that its intent in enacting Senate Bill 18-129, enacted in 2018, is to effect a nonsubstantive reorganization of section 39-26-717, Colorado Revised Statutes, so as to increase clarity and readability of that law. The general assembly further declares that this reorganization does not in any way alter the scope or applicability of section 39-26-717, Colorado Revised Statutes.

SECTION 2. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 39-26-717 as follows:

39-26-717. Drugs and medical and therapeutic devices - definitions. (1) As USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "DURABLE MEDICAL EQUIPMENT" MEANS EQUIPMENT, INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT, DISPENSED PURSUANT TO A PRESCRIPTION ORDER, THAT:

(A) CAN WITHSTAND REPEATED USE;

(B) IS PRIMARILY AND CUSTOMARILY USED TO SERVE A MEDICAL PURPOSE;

(C) IS GENERALLY NOT USEFUL TO A PERSON IN THE ABSENCE OF ILLNESS OR INJURY; AND

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(D) IS NOT WORN IN OR ON THE BODY.

(II) "DURABLE MEDICAL EQUIPMENT" INCLUDES HOSPITAL BEDS, INTRAVENOUS POLES AND PUMPS, TRAPEZE BARS, TOILETING AIDS, BATH AND SHOWER AIDS, STANDING AIDS, ADAPTIVE CAR SEATS, COMMUNICATION DEVICES, AND ANY RELATED ACCESSORIES FOR SUCH ITEMS.

(b) (I) "MOBILITY ENHANCING EQUIPMENT" MEANS EQUIPMENT, INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT, DISPENSED PURSUANT TO A PRESCRIPTION ORDER, THAT:

(A) IS PRIMARILY AND CUSTOMARILY USED TO PROVIDE OR INCREASE THE ABILITY TO MOVE FROM ONE PLACE TO ANOTHER;

(B) IS APPROPRIATE FOR USE IN A HOME, IN A PERSON'S COMMUNITY, OR IN A MOTOR VEHICLE;

(C) IS NOT GENERALLY USED BY PERSONS WITH NORMAL MOBILITY; AND

(D) DOES NOT INCLUDE ANY MOTOR VEHICLE OR EQUIPMENT ON A MOTOR VEHICLE NORMALLY PROVIDED BY A MOTOR VEHICLE MANUFACTURER.

(II) "MOBILITY ENHANCING EQUIPMENT" INCLUDES WHEELCHAIRS AND WHEELCHAIR COMPONENTS OR ACCESSORIES, WALKING AIDS SUCH AS CRUTCHES, CANES, OR WALKERS, GRAB BARS, TRAPEZE BARS, LIFT CHAIRS, PATIENT LIFTS, MOTORIZED CARTS, SCOOTERS, CONTROLS THAT ARE INSTALLED ON MOTOR VEHICLES, AND ANY RELATED ACCESSORIES FOR SUCH ITEMS.

(c) "PRACTITIONER" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-42.5-102.

(d) "PRESCRIPTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-42.5-102.

(e) FOR PURPOSES OF SUBSECTIONS (1)(a)(I), (1)(b)(I), (2)(g), (2)(h), AND (2)(i) OF THIS SECTION, "PRESCRIPTION ORDER" MEANS ANY ORDER FOR A PRESCRIPTION THAT:

(I) (A) IS IN WRITING, DATED, AND SIGNED BY A PRACTITIONER; OR

(B) IS GIVEN ORALLY BY A PRACTITIONER AND IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBSECTION (2)(g), (2)(h), (2)(i), OR (2)(j) OF THIS SECTION SO LONG AS SUCH PRESCRIPTION ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION OF THE PRESCRIPTION ORDER TO THE BUSINESS; AND

(II) SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN SUBSECTION (2)(g), (2)(h), (2)(i), OR (2)(j) OF THIS SECTION IS PRESCRIBED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH SUCH ITEM.

(2) THE FOLLOWING ARE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE 26:

(a) ALL SALES OF PRESCRIPTION DRUGS DISPENSED IN ACCORDANCE WITH A PRESCRIPTION BY A PRACTITIONER OR FURNISHED BY A PRACTITIONER AS PART OF PROFESSIONAL SERVICES PROVIDED TO A PATIENT OR CLIENT;

(b) ALL SALES OF INSULIN IN ALL ITS FORMS DISPENSED PURSUANT TO THE DIRECTION OF A PRACTITIONER;

(c) ALL SALES OF GLUCOSE USEABLE FOR TREATMENT OF INSULIN REACTIONS;

(d) ALL SALES OF URINE- AND BLOOD-TESTING KITS AND MATERIALS;

(e) ALL SALES OF INSULIN MEASURING AND INJECTING DEVICES, INCLUDING HYPODERMIC SYRINGES AND NEEDLES;

(f) ALL SALES OF PROSTHETIC DEVICES;

(g) ALL SALES OF OXYGEN DELIVERY EQUIPMENT AND DISPOSABLE MEDICAL SUPPLIES RELATED TO OXYGEN DELIVERY DISPENSED PURSUANT TO A PRESCRIPTION ORDER;

(h) ALL SALES OF MEDICAL, FEEDING, AND DISPOSABLE SUPPLIES, INCLUDING ANY RELATED ACCESSORIES, FOR INCONTINENCE, INFUSION, ENTERAL NUTRITION, OSTOMY, UROLOGY, DIABETIC CARE, AND WOUND CARE DISPENSED PURSUANT TO A PRESCRIPTION ORDER;

(i) ALL SALES OF EQUIPMENT AND RELATED ACCESSORIES FOR SLEEP THERAPY, INHALATION THERAPY, AND ELECTROTHERAPY DISPENSED PURSUANT TO A PRESCRIPTION ORDER;

(j) ALL SALES OF DURABLE MEDICAL EQUIPMENT AND MOBILITY ENHANCING EQUIPMENT;

(k) ALL SALES OF NONPRESCRIPTION DRUGS OR MATERIALS WHEN FURNISHED BY A PRACTITIONER AS PART OF PROFESSIONAL SERVICES PROVIDED TO A PATIENT; AND

(l) ALL SALES OF CORRECTIVE EYEGLASSES, CONTACT LENSES, OR HEARING AIDS.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 12, 2018