

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0069.01 Esther van Mourik x4215

SENATE BILL 18-129

SENATE SPONSORSHIP

Moreno, Martinez Humenik, Tate, Zenzinger

HOUSE SPONSORSHIP

Arndt, Hooton, McKean, Thurlow

Senate Committees

Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE NONSUBSTANTIVE REORGANIZATION OF THE LAW
102 EXEMPTING FROM STATE SALES TAX CERTAIN DRUGS AND
103 MEDICAL AND THERAPEUTIC DEVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. In order to increase comprehensibility of the law exempting from state sales tax certain drugs and medical and therapeutic devices, the bill:

- ! Condenses the 5 essentially identical definitions of the term "prescription" in the current law into a single definition;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Relocates another defined term within that law so that all definitions are in the same place, which relocation necessitates relettering existing defined terms so as to maintain alphabetical order; and
- ! Makes other adjustments to the current language by removing the false imperative, removing superfluous verbiage, and updating internal citations to conform to modern drafting format.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby declares that its intent in enacting Senate Bill 18-____, enacted in
4 2018, is to effect a nonsubstantive reorganization of section 39-26-717,
5 Colorado Revised Statutes, so as to increase clarity and readability of that
6 law. The general assembly further declares that this reorganization does
7 not in any way alter the scope or applicability of section 39-26-717,
8 Colorado Revised Statutes.

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

11 **39-26-717. Drugs and medical and therapeutic devices -**
12 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
13 OTHERWISE REQUIRES:

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

17 (A) CAN WITHSTAND REPEATED USE;

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

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

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

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

7 (b) "LICENSED PROVIDER" MEANS ANY PERSON AUTHORIZED TO
8 PRESCRIBE DRUGS UNDER TITLE 12.

9 (c) (I) "MOBILITY ENHANCING EQUIPMENT" MEANS EQUIPMENT,
10 INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT,
11 DISPENSED PURSUANT TO A PRESCRIPTION, THAT:

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

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

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

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

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

27 (d) FOR PURPOSES OF SUBSECTIONS (1)(a)(I), (1)(c)(I), (2)(g),

1 (2)(h), AND (2)(i) OF THIS SECTION, "PRESCRIPTION" MEANS ANY ORDER:

2 (I) (A) IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN,
3 PHYSICIAN ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
4 PRESCRIPTIVE AUTHORITY; OR

5 (B) Given orally by a person described in subsection (1)(d)(I)(A)
6 OF THIS SECTION AND IMMEDIATELY REDUCED TO WRITING BY THE
7 PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY A
8 REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN
9 SUBSECTION (1)(a)(I), (1)(c)(I), (2)(g), (2)(h), OR (2)(i) OF THIS SECTION SO
10 LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION
11 OF THE ORDER TO THE BUSINESS; AND

12 (II) SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR
13 WHOM AN ITEM DESCRIBED IN SUBSECTION (1)(a)(I), (1)(c)(I), (2)(g),
14 (2)(h), OR (2)(i) OF THIS SECTION IS ORDERED AND DIRECTIONS, IF ANY, TO
15 BE INCLUDED WITH SUCH ITEM.

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

18 (a) ALL SALES OF PRESCRIPTION DRUGS DISPENSED IN
19 ACCORDANCE WITH A PRESCRIPTION BY A LICENSED PROVIDER OR
20 FURNISHED BY A LICENSED PROVIDER AS PART OF PROFESSIONAL SERVICES
21 PROVIDED TO A PATIENT OR CLIENT;

22 (b) ALL SALES OF INSULIN IN ALL ITS FORMS DISPENSED PURSUANT
23 TO THE DIRECTION OF A LICENSED PROVIDER;

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

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

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

3 (f) ALL SALES OF PROSTHETIC DEVICES;

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

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

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

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

16 (k) ALL SALES OF NONPRESCRIPTION DRUGS OR MATERIALS WHEN
17 FURNISHED BY A LICENSED PROVIDER AS PART OF PROFESSIONAL SERVICES
18 PROVIDED TO A PATIENT; AND

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

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2018 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.