

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

BILL (1)(A)

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LLS NO. 18-0069.01 Kate Meyer x4348

COMMITTEE BILL

Statutory Revision Committee

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:

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

- Condenses the 5 essentially identical definitions of the term "prescription" in the current law into a single definition;
- 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 _____ <{***Placeholder for bill***
4 ***#, which will be added after introduction.***> is to effect a nonsubstantive
5 reorganization of section 39-26-717, C.R.S., so as to increase clarity and
6 readability of that law. The general assembly further declares that this
7 reorganization does not in any way alter the scope or applicability of
8 section 39-26-717, C.R.S. <{***Do you wish to use this nonsubstantive***
9 ***declaration?***>

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

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

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

18 (A) CAN WITHSTAND REPEATED USE;

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

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

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

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

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

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

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

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

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

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

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

1 SUCH ITEMS.

2 (d) FOR PURPOSES OF SUBSECTIONS (1)(a)(I), (1)(c)(I), (2)(g),
3 (2)(h), AND (2)(i) OF THIS SECTION, "PRESCRIPTION" MEANS ANY ORDER:
4 <{*This maintains the current law's definitions' applicability, but please*
5 *see my note under new (2)(a), below.*>

6 (I) (A) IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN,
7 PHYSICIAN ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
8 PRESCRIPTIVE AUTHORITY; OR

9 (B) GIVEN ORALLY BY A PERSON DESCRIBED IN SUBSECTION
10 (1)(d)(I)(A) OF THIS SECTION AND IMMEDIATELY REDUCED TO WRITING BY
11 THE PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY
12 A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN
13 SUBSECTION (1)(a)(I), (1)(c)(I), (2)(g), (2)(h), OR (2)(i) OF THIS SECTION SO
14 LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION
15 OF THE ORDER TO THE BUSINESS; AND

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

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

22 (a) ALL SALES OF PRESCRIPTION DRUGS DISPENSED IN
23 ACCORDANCE WITH A PRESCRIPTION BY A LICENSED PROVIDER OR
24 FURNISHED BY A LICENSED PROVIDER AS PART OF PROFESSIONAL SERVICES
25 PROVIDED TO A PATIENT OR CLIENT; <{*These are currently the only*
26 *instances of the term "prescription" in this statute that aren't defined.*
27 *Should the definition apply to this (2)(a), too?*>

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

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

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

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

9 (f) ALL SALES OF PROSTHETIC DEVICES;

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

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

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

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

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

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

27 **SECTION 3. Act subject to petition - effective date.** This act

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