

CHAPTER 235

TAXATION

HOUSE BILL 11-1091

BY REPRESENTATIVE(S) Liston, Balmer, Kerr J., Barker, Bradford, Court, Joshi, Loooper, Murray, Szabo, Becker, Conti, Gardner B., Gerou, Hamner, Labuda, Massey, Nikkel, Pace, Scott, Summers, Todd, Vigil;
also SENATOR(S) Morse, Harvey, Tochtrop, Aguilar, Boyd, Grantham, King K., Newell, Nicholson.

AN ACT**CONCERNING THE SALES TAX EXEMPTION FOR PURCHASES OF MEDICAL EQUIPMENT.**

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

SECTION 1. 39-26-717, Colorado Revised Statutes, is amended to read:

39-26-717. Drugs and medical and therapeutic devices - definitions. (1) The following shall be exempt from taxation under the provisions of part 1 of this article:

- (a) All sales of drugs dispensed in accordance with a prescription;
- (b) All sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician;
- (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) (I) ALL SALES OF OXYGEN DELIVERY EQUIPMENT AND DISPOSABLE MEDICAL SUPPLIES RELATED TO OXYGEN DELIVERY DISPENSED PURSUANT TO A PRESCRIPTION.
(II) FOR PURPOSES OF THIS PARAGRAPH (g), "PRESCRIPTION" MEANS ANY ORDER

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

IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) IS ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH SUCH ITEM.

(h) (I) 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.

(II) FOR PURPOSES OF THIS PARAGRAPH (h), "PRESCRIPTION" MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) IS ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH SUCH ITEM.

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

(II) FOR PURPOSES OF THIS PARAGRAPH (i), "PRESCRIPTION" MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) IS ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH SUCH ITEM.

(j) All sales of ~~wheelchairs and hospital beds~~ DURABLE MEDICAL EQUIPMENT AND MOBILITY ENHANCING EQUIPMENT;

(k) All sales of drugs or materials when furnished by a doctor as part of professional services provided to a patient; and

(l) All sales of corrective eyeglasses, contact lenses, or hearing aids.

~~(b) When sold in accordance with a written recommendation from a licensed doctor, all sales of therapeutic devices, appliances, or related accessories, with a retail value of more than one hundred dollars, that are sold to correct or treat a human physical disability or surgically created abnormality; and~~

~~(c) All sales of therapeutic devices, appliances, or related accessories, with a retail value of one hundred dollars or less, that are sold to correct or treat a human physical disability or surgically created abnormality.~~

(2) 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, 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

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

(II) "DURABLE MEDICAL EQUIPMENT" INCLUDES, BUT IS NOT LIMITED TO, 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.

(III) FOR PURPOSES OF THIS PARAGRAPH (a), "PRESCRIPTION" MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS OF DURABLE MEDICAL EQUIPMENT SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM OF DURABLE MEDICAL EQUIPMENT IS ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH THE EQUIPMENT.

(b) (I) "MOBILITY ENHANCING EQUIPMENT" MEANS EQUIPMENT, INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT, DISPENSED PURSUANT TO A PRESCRIPTION, 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, BUT IS NOT LIMITED TO, 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.

(III) FOR PURPOSES OF THIS PARAGRAPH (b), "PRESCRIPTION" MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A BUSINESS LICENSED TO SELL ITEMS OF MOBILITY ENHANCING EQUIPMENT SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM OF MOBILITY ENHANCING EQUIPMENT IS ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH THE EQUIPMENT.

SECTION 2. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act shall take 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 10, 2011, if adjournment sine die is on May 11, 2011); 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 shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to purchases of medical equipment on or after the applicable effective date of this act.

Approved: May 27, 2011