

**STATE and LOCAL
FISCAL IMPACT**

This fiscal note is prepared pursuant to Joint Rule 22(b)(2). It is based on amendment L.003, which strikes everything below the enacting clause of the introduced bill.

Drafting Number: LLS 10-1123
Prime Sponsor(s): Sen. Tochtrop
 Rep. Gagliardi

Date: May 5, 2010
Bill Status: Senate Finance
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TITLE: CONCERNING MORE PRECISE SPECIFICATION OF THE CIRCUMSTANCES IN WHICH SALES OF MEDICAL PRODUCTS ARE EXEMPT FROM SALES TAX.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue General Fund	at least \$792,000	at least \$765,000
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: None.		
Local Government Impact: <i>Revenue decrease.</i> See the Local Government Impact section.		

Summary of Legislation

As amended by L.003, this bill would exempt from sales tax drugs and therapeutic devices furnished by a licensed provider as part of professional services provided to a patient or client by a licensed medical provider who is not a physician. Currently, drugs and materials must be furnished by a licensed physician to be exempt from sales tax. This bill defines licensed provider as any person authorized to prescribe drugs. This includes an advance practice nurse, a dentist, a dermatologist, an optometrist, a physician, a physician assistant, a podiatrist, and a veterinarian.

This bill will exempt from sales tax materials used at medical spas. Typically, licensed providers perform nonsurgical cosmetic procedures at medical spas. Current practice has been to exempt products used in medical procedures performed by doctors but not procedures performed by licensed providers, which are assumed to be purely cosmetic. Many medical spa procedures include an injection or application of chemicals, such as collagen, acids used for chemical peels, and Botulinum Toxin Type A, including Botox and Dysport. Sales of these chemicals would be exempt from tax under this bill.

The bill also exempts sales of therapeutic devices, appliances, or related accessories with a retail value of more than one hundred dollars. These accessories must be sold to correct or treat a human physical disability or surgically created abnormality in accordance with a written recommendation from a licensed provider who is not a physician. Currently, these items are exempt when recommended by a physician. The bill also exempts parts used for repairs and maintenance of wheelchairs and hospital beds.

State Revenue

State General Fund revenue will decrease by at least \$792,000 in FY 2010-11 and \$765,000 in FY 2011-12. The revenue impact decreases in FY 2011-12 because, under current law, vendors will begin retaining 3.33 percent of the taxes they collect on July 1, 2011.

Revenue estimates were generated using an analysis of U.S. expenditures on non-surgical procedures from the American Society for Aesthetic Plastic Surgery. Data was estimated for Colorado, and 35 percent of the cost of procedures is assumed to be tangible personal property.

There will be an additional undetermined decrease in revenue from other provisions in the bill, including the exemption of parts used to repair wheelchairs and hospital beds.

State Expenditures

The Department of Revenue will experience an increase in workload to notify taxpayers of the change in legislation, however, no additional expenditure will be necessary.

Local Government Impact

This bill will result in an undetermined decrease in revenue for local government entities. The decrease in revenues for the Regional Transportation District (RTD) will be at least \$155,232 per year.

Departments Contacted

Colorado Counties, Inc.
Revenue
Regional Transportation District
Human Services

Regulatory Agencies
Law
Agriculture
Public Health and Environment