

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0181.01 Esther van Mourik

HOUSE BILL 11-1091

HOUSE SPONSORSHIP

Liston, Balmer, Kerr J., Barker, Bradford, Court, Joshi, Looper, Murray, Szabo

SENATE SPONSORSHIP

Morse, Harvey, Tochtrop

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE SALES TAX EXEMPTION FOR PURCHASES OF MEDICAL**
102 **EQUIPMENT.**

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://www.leg.state.co.us/billsummaries>.)

The bill specifies that "durable medical equipment" and "mobility enhancing equipment" are exempt from sales tax and defines those particular terms.

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.*

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

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

4 **39-26-717. Drugs and medical and therapeutic devices -**
5 **definitions.** (1) The following shall be exempt from taxation under the
6 provisions of part 1 of this article:

7 (a) All sales of drugs dispensed in accordance with a prescription;

8 (b) All sales of insulin in all its forms dispensed pursuant to the
9 direction of a licensed physician;

10 (c) All sales of glucose useable for treatment of insulin reactions;

11 (d) All sales of urine- and blood-testing kits and materials;

12 (e) All sales of insulin measuring and injecting devices, including
13 hypodermic syringes and needles;

14 (f) All sales of prosthetic devices;

15 (g) (I) ALL SALES OF OXYGEN DELIVERY EQUIPMENT AND
16 DISPOSABLE MEDICAL SUPPLIES RELATED TO OXYGEN DELIVERY DISPENSED
17 PURSUANT TO A PRESCRIPTION.

18 (II) FOR PURPOSES OF THIS PARAGRAPH (g), "PRESCRIPTION"
19 MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED
20 PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
21 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
22 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
23 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A
24 BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF
25 THIS PARAGRAPH (g) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN
26 ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE
27 NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN

1 SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) IS ORDERED AND DIRECTIONS,
2 IF ANY, TO BE INCLUDED WITH SUCH ITEM.

3 (h) (I) ALL SALES OF MEDICAL, FEEDING, AND DISPOSABLE
4 SUPPLIES, INCLUDING ANY RELATED ACCESSORIES, FOR INCONTINENCE,
5 INFUSION, ENTERAL NUTRITION, OSTOMY, UROLOGY, DIABETIC CARE, AND
6 WOUND CARE DISPENSED PURSUANT TO A PRESCRIPTION.

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

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

22 (II) FOR PURPOSES OF THIS PARAGRAPH (i), "PRESCRIPTION" MEANS
23 ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN,
24 PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
25 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
26 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
27 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A

1 BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF
2 THIS PARAGRAPH (i) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN
3 ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE
4 NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) IS ORDERED AND DIRECTIONS,
6 IF ANY, TO BE INCLUDED WITH SUCH ITEM.

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

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

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

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

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

22 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

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

27 (A) CAN WITHSTAND REPEATED USE;

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

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

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

6 (II) "DURABLE MEDICAL EQUIPMENT" INCLUDES, BUT IS NOT
7 LIMITED TO, HOSPITAL BEDS, INTRAVENOUS POLES AND PUMPS, TRAPEZE
8 BARS, TOILETING AIDS, BATH AND SHOWER AIDS, STANDING AIDS,
9 ADAPTIVE CAR SEATS, COMMUNICATION DEVICES, AND ANY RELATED
10 ACCESSORIES FOR SUCH ITEMS.

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

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

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

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

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

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

8 (II) "MOBILITY ENHANCING EQUIPMENT" INCLUDES, BUT IS NOT
9 LIMITED TO, WHEELCHAIRS AND WHEELCHAIR COMPONENTS OR
10 ACCESSORIES, WALKING AIDS SUCH AS CRUTCHES, CANES, OR WALKERS,
11 GRAB BARS, TRAPEZE BARS, LIFT CHAIRS, PATIENT LIFTS, MOTORIZED
12 CARTS, SCOOTERS, CONTROLS THAT ARE INSTALLED ON MOTOR VEHICLES,
13 AND ANY RELATED ACCESSORIES FOR SUCH ITEMS.

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

26 **SECTION 2. Act subject to petition - effective date -**
27 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day

1 following the expiration of the ninety-day period after final adjournment
2 of the general assembly (August 10, 2011, if adjournment sine die is on
3 May 11, 2011); except that, if a referendum petition is filed pursuant to
4 section 1 (3) of article V of the state constitution against this act or an
5 item, section, or part of this act within such period, then the act, item,
6 section, or part shall not take effect unless approved by the people at the
7 general election to be held in November 2012 and shall take effect on the
8 date of the official declaration of the vote thereon by the governor.

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