

SENATE BILL NO. 419—SENATOR HARDY

MARCH 20, 2017

Referred to Committee on Revenue and Economic Development

SUMMARY—Exempts and proposes to exempt sales of certain durable medical equipment, oxygen delivery equipment and mobility enhancing equipment from sales and use taxes and analogous taxes. (BDR 32-325)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for certain durable medical equipment, oxygen delivery equipment and mobility enhancing equipment; providing an exemption from the Local School Support Tax and certain analogous taxes tax for certain durable medical equipment, oxygen delivery equipment and mobility enhancing equipment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Sales and Use Tax Act of 1955 (part of chapter 372 of NRS) was approved
2 by the voters by a referendum and therefore may not be amended, annulled,
3 repealed, set aside, suspended or in any way made inoperative except by the direct
4 vote of the people. (Nev. Const. Art. 19, § 1)
5 **Sections 2-9** of this bill require the submission of a question to the voters at the
6 2018 General Election of whether the Sales and Use Tax Act of 1955 should be
7 amended to provide an exemption for certain durable medical equipment, oxygen
8 delivery equipment and mobility enhancing equipment. **Section 10** of this bill
9 construes the terms used in the exemption. This tax exemption becomes effective
10 on January 1, 2019, and expires by limitation on December 31, 2058, only if the
11 voters approve the amendment to the Sales and Use Tax Act of 1955 at the General
12 Election in 2018.



13 **Sections 11 and 12** of this bill amend the Local School Support Tax Law to
14 provide an identical exemption. This tax exemption becomes effective on
15 October 1, 2017, and expires by limitation on December 31, 2058. Any amendment
16 to the Local School Support Tax Law also applies to other sales and use taxes
17 imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040,
18 377A.030, 377B.110 and 543.600 and various special and local acts)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** The Legislature hereby finds that each exemption
2 provided by this act from any excise tax on the sale, storage, use or
3 consumption of tangible personal property sold at retail:

4 1. Will achieve a bona fide social or economic purpose and that
5 the benefits of the exemption are expected to exceed any adverse
6 effect of the exemption on the provision of services to the public by
7 the State or a local government that would otherwise receive
8 revenue from the tax from which the exemption would be granted;
9 and

10 2. Will not impair adversely the ability of the State or a local
11 government to pay, when due, all interest and principal on any
12 outstanding bonds or any other obligations for which revenue from
13 the tax from which the exemption would be granted was pledged.

14 **Sec. 2.** At the General Election on November 6, 2018, a
15 proposal must be submitted to the registered voters of this State to
16 amend the Sales and Use Tax Act, which was enacted by the 47th
17 session of the Legislature of the State of Nevada and approved by
18 the Governor in 1955, and subsequently approved by the people of
19 this State at the General Election held on November 6, 1956.

20 **Sec. 3.** At the time and in the manner provided by law, the
21 Secretary of State shall transmit the proposed act to the several
22 county clerks, and the county clerks shall cause it to be published
23 and posted as provided by law.

24 **Sec. 4.** The proclamation and notice to the voters given by the
25 county clerks pursuant to law must be in substantially the following
26 form:

27 Notice is hereby given that at the General Election on
28 November 6, 2018, a question will appear on the ballot for
29 the adoption or rejection by the registered voters of the State
30 of the following proposed act:

31 AN ACT to amend an Act entitled "An Act to provide
32 revenue for the State of Nevada; providing for sales
33 and use taxes; providing for the manner of collection;
34 defining certain terms; providing penalties for



1 violation, and other matters properly relating thereto.”
2 approved March 29, 1955, as amended.
3

4 THE PEOPLE OF THE STATE OF NEVADA
5 DO ENACT AS FOLLOWS:
6

7 Section 1. Section 56.1 of the above-entitled Act,
8 being chapter 397, Statutes of Nevada 1955, as added by
9 chapter 306, Statutes of Nevada 1969, at page 532, and
10 amended by chapter 627, Statutes of Nevada 1985, at page
11 2028, and amended by chapter 404, Statutes of Nevada
12 1995, at page 1007, is hereby amended to read as follows:

13 Sec. 56.1. 1. There are exempted from the taxes
14 imposed by this act the gross receipts from sales and
15 the storage, use or other consumption of:

16 (a) Prosthetic devices, orthotic appliances and
17 ambulatory casts for human use, and other supports
18 and casts if prescribed or applied by a licensed
19 provider of health care, within his scope of practice, for
20 human use.

21 (b) Appliances and supplies relating to an ostomy.

22 (c) Products for hemodialysis.

23 (d) Medicines:

24 (1) Prescribed for the treatment of a human
25 being by a person authorized to prescribe medicines,
26 and dispensed on a prescription filled by a registered
27 pharmacist in accordance with law;

28 (2) Furnished by a licensed physician, dentist or
29 podiatric physician to his own patient for the treatment
30 of the patient;

31 (3) Furnished by a hospital for treatment of any
32 person pursuant to the order of a licensed physician,
33 dentist or podiatric physician; or

34 (4) Sold to a licensed physician, dentist,
35 podiatric physician or hospital for the treatment of a
36 human being.

37 *(e) Durable medical equipment, oxygen delivery*
38 *equipment and mobility enhancing equipment*
39 *prescribed for human use by a licensed provider of*
40 *health care acting within his or her scope of practice.*

41 2. As used in this section:

42 (a) “Medicine” means any substance or preparation
43 intended for use by external or internal application to
44 the human body in the diagnosis, cure, mitigation,
45 treatment or prevention of disease or affliction of the



1 human body and which is commonly recognized as a
2 substance or preparation intended for such use. The
3 term includes splints, bandages, pads, compresses and
4 dressings.

5 (b) "Medicine" does not include:

6 (1) Any auditory, ophthalmic or ocular device
7 or appliance.

8 (2) Articles which are in the nature of
9 instruments, crutches, canes, devices or other
10 mechanical, electronic, optical or physical equipment.

11 (3) Any alcoholic beverage, except where the
12 alcohol merely provides a solution in the ordinary
13 preparation of a medicine.

14 (4) Braces or supports, other than those
15 prescribed or applied by a licensed provider of health
16 care, within his scope of practice, for human use.

17 3. Insulin furnished by a registered pharmacist to
18 a person for treatment of diabetes as directed by a
19 physician shall be deemed to be dispensed on a
20 prescription within the meaning of this section.

21 Sec. 2. This act becomes effective on January 1,
22 2019, and expires by limitation on December 31, 2058.

23 **Sec. 5.** The ballot page assemblies and the paper ballots to be
24 used in voting on the question must present the question in
25 substantially the following form:

26 Shall the Sales and Use Tax Act of 1955 be amended to
27 provide an exemption from the taxes imposed by this Act on
28 the gross receipts from the sale and the storage, use or other
29 consumption of durable medical equipment, oxygen delivery
30 equipment and mobility enhancing equipment prescribed by a
31 licensed provider of health care?

32
33 Yes No

34 **Sec. 6.** The explanation of the question which must appear on
35 each paper ballot and sample ballot and in every publication and
36 posting of notice of the question must be in substantially the
37 following form:

38
39 (Explanation of Question)

40 The proposed amendment to the Sales and Use Tax Act of
41 1955 would exempt from the taxes imposed by this Act the
42 gross receipts from the sale and storage, use or other
43 consumption of durable medical equipment, oxygen delivery
44 equipment and mobility enhancing equipment prescribed by a
45 licensed provider of health care.



1 If this proposal is adopted, the Legislature has provided
2 that the Local School Support Tax Law and certain analogous
3 taxes on retail sales will be amended to provide the same
4 exemptions.

5 **Sec. 7.** If a majority of the votes cast on the question is yes,
6 the amendment to the Sales and Use Tax Act of 1955 becomes
7 effective on January 1, 2019, and expires by limitation on
8 December 31, 2058. If less than a majority of votes cast on the
9 question is yes, the question fails and the amendment to the Sales
10 and Use Tax Act of 1955 does not become effective.

11 **Sec. 8.** All general election laws not inconsistent with this act
12 are applicable.

13 **Sec. 9.** Any informalities, omissions or defects in the content
14 or making of the publications, proclamations or notices provided for
15 in this act and by the general election laws under which this election
16 is held must be so construed as not to invalidate the adoption of the
17 act by a majority of the registered voters voting on the question if it
18 can be ascertained with reasonable certainty from the official returns
19 transmitted to the Office of the Secretary of State whether the
20 proposed amendment was adopted by a majority of those registered
21 voters.

22 **Sec. 10.** Chapter 372 of NRS is hereby amended by adding
23 thereto a new section to read as follows:

24 *In administering the provisions of section 56.1 of chapter 397,*
25 *Statutes of Nevada 1955, which is included in NRS as NRS*
26 *372.283, the Department shall construe the term:*

27 1. *“Durable medical equipment” to mean equipment,*
28 *including any repair and replacement parts therefor, which:*

29 (a) *Can withstand repeated use;*

30 (b) *Is primarily and customarily used to serve a medical*
31 *purpose;*

32 (c) *Generally is not useful to a person in the absence of illness*
33 *or injury; and*

34 (d) *Is not worn in or on the body.*

35 ↪ *The term includes, without limitation, nebulizers, drug infusion*
36 *devices, feeding pumps, infant apnea monitors, hospitals beds and*
37 *bath and shower aids.*

38 2. *“Mobility enhancing equipment” to mean equipment,*
39 *including any repair and replacement parts therefor, which:*

40 (a) *Is primarily and customarily used to provide or increase*
41 *the ability to move from one place to another and which is*
42 *appropriate for use either in a home or a motor vehicle;*

43 (b) *Is not generally used by persons with normal mobility; and*



1 (c) Does not include any motor vehicle or equipment on a
2 motor vehicle normally provided by a manufacturer of motor
3 vehicles.

4 ↳ The term includes, without limitation, wheelchairs, walkers,
5 canes and crutches.

6 3. "Oxygen delivery equipment" means equipment, including
7 any repair and replacement parts therefor, which is used to deliver
8 oxygen to a person. The term includes, without limitation, oxygen
9 tanks and concentrators, ventilators and continuous positive
10 airway pressure (CPAP) machines.

11 **Sec. 11.** Chapter 374 of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 *In administering the provisions of NRS 374.287, the*
14 *Department shall construe the term:*

15 1. "Durable medical equipment" to mean equipment,
16 including any repair and replacement parts therefor, which:

17 (a) Can withstand repeated use;

18 (b) Is primarily and customarily used to serve a medical
19 purpose;

20 (c) Generally is not useful to a person in the absence of illness
21 or injury; and

22 (d) Is not worn in or on the body.

23 ↳ The term includes, without limitation, nebulizers, drug infusion
24 devices, feeding pumps, infant apnea monitors, hospital beds and
25 bath and shower aids.

26 2. "Mobility enhancing equipment" to mean equipment,
27 including any repair and replacement parts therefor, which:

28 (a) Is primarily and customarily used to provide or increase
29 the ability to move from one place to another and which is
30 appropriate for use either in a home or a motor vehicle;

31 (b) Is not generally used by persons with normal mobility; and

32 (c) Does not include any motor vehicle or equipment on a
33 motor vehicle normally provided by a manufacturer of motor
34 vehicles.

35 ↳ The term includes, without limitation, wheelchairs, walkers,
36 canes and crutches.

37 3. "Oxygen delivery equipment" means equipment, including
38 any repair and replacement parts therefor, which is used to deliver
39 oxygen to a person. The term includes, without limitation, oxygen
40 tanks and concentrators, ventilators and continuous positive
41 airway pressure (CPAP) machines.

42 **Sec. 12.** NRS 374.287 is hereby amended to read as follows:

43 374.287 1. There are exempted from the taxes imposed by
44 this chapter the gross receipts from sales and the storage, use or
45 other consumption of:



1 (a) Prosthetic devices, orthotic appliances and ambulatory casts
2 for human use, and other supports and casts if prescribed or applied
3 by a licensed provider of health care, within his or her scope of
4 practice, for human use.

5 (b) Appliances and supplies relating to an ostomy.

6 (c) Products for hemodialysis.

7 (d) Medicines:

8 (1) Prescribed for the treatment of a human being by a person
9 authorized to prescribe medicines, and dispensed on a prescription
10 filled by a registered pharmacist in accordance with law;

11 (2) Furnished by a licensed physician, dentist or podiatric
12 physician to his or her own patient for the treatment of the patient;

13 (3) Furnished by a hospital for treatment of any person
14 pursuant to the order of a licensed physician, dentist or podiatric
15 physician; or

16 (4) Sold to a licensed physician, dentist, podiatric physician
17 or hospital for the treatment of a human being.

18 *(e) Durable medical equipment, oxygen delivery equipment*
19 *and mobility enhancing equipment prescribed for human use by a*
20 *licensed provider of health care acting within his or her scope of*
21 *practice.*

22 2. As used in this section:

23 (a) "Medicine" means any substance or preparation intended for
24 use by external or internal application to the human body in the
25 diagnosis, cure, mitigation, treatment or prevention of disease or
26 affliction of the human body and which is commonly recognized as
27 a substance or preparation intended for such use. The term includes
28 splints, bandages, pads, compresses and dressings.

29 (b) "Medicine" does not include:

30 (1) Any auditory, ophthalmic or ocular device or appliance.

31 (2) Articles which are in the nature of instruments, crutches,
32 canes, devices or other mechanical, electronic, optical or physical
33 equipment.

34 (3) Any alcoholic beverage, except where the alcohol merely
35 provides a solution in the ordinary preparation of a medicine.

36 (4) Braces or supports, other than those prescribed or applied
37 by a licensed provider of health care, within his or her scope of
38 practice, for human use.

39 3. Insulin furnished by a registered pharmacist to a person for
40 treatment of diabetes as directed by a physician shall be deemed to
41 be dispensed on a prescription within the meaning of this section.

42 **Sec. 13.** 1. This section and sections 1 to 9, inclusive, 11 and
43 12 of this act become effective on October 1, 2017.

44 2. Section 10 of this act becomes effective on January 1, 2019,
45 and expires by limitation on December 31, 2058, only if the



1 proposal submitted pursuant to sections 2 to 9, inclusive, of this act
2 is approved by the voters at the General Election on November 6,
3 2018.
4 3. Sections 11 and 12 of this act expire by limitation on
5 December 31, 2058.

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