

ASSEMBLY BILL NO. 402—ASSEMBLYWOMEN
JAUREGUI; AND KRASNER

MARCH 20, 2017

Referred to Committee on Taxation

SUMMARY—Proposes to exempt sales of feminine hygiene products and diapers from sales and use taxes and analogous taxes. (BDR 32-830)

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 feminine hygiene products and diapers; providing for the exemptions from certain analogous taxes if the voters approve this amendment to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The nonadministrative provisions of the Sales and Use Tax Act of 1955 (part of chapter 372 of NRS) was approved by the voters by a referendum and therefore cannot be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. (Nev. Const. Art. 19, § 1)

Sections 2-9 of this bill require the submission of a question to the voters at the 2018 General Election of whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for feminine hygiene products and diapers. **Section 10** of this bill construes the terms “feminine hygiene product” and “diaper” for the purposes of the exemption. **Sections 11 and 12** of this bill amend the Local School Support Tax Law to provide an identical exemption. This tax exemption becomes effective on January 1, 2019, and expires by limitation on December 31, 2028, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2018.

Any amendment to the Local School Support Tax Law also applies to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 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:

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

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

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

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

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

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

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

AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA
DO ENACT AS FOLLOWS:

Section 1. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by



chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

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

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

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

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

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

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

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

(e) Feminine hygiene products.

(f) Diapers.

2. As used in this section:

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

(b) "Medicine" does not include:

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

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



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

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

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

Sec. 2. This act becomes effective on January 1, 2019, and expires by limitation on December 31, 2028.

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

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of feminine hygiene products and diapers?

Yes ☐ No ☐

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

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of feminine hygiene products and diapers.

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

Sec. 7. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2019, and expires by limitation on December 31, 2028. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

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

Sec. 9. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for



1 in this act and by the general election laws under which this election
2 is held must be so construed as not to invalidate the adoption of the
3 act by a majority of the registered voters voting on the question if it
4 can be ascertained with reasonable certainty from the official returns
5 transmitted to the Office of the Secretary of State whether the
6 proposed amendment was adopted by a majority of those registered
7 voters.

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

10 *In administering the provisions of section 56.1 of chapter 397,*
11 *Statutes of Nevada 1955, which is included in NRS as NRS*
12 *372.283, the Department shall construe the term:*

13 1. *“Diaper” to mean any type of diaper intended for use by a*
14 *child or an adult, including, without limitation, a disposable*
15 *diaper.*

16 2. *“Feminine hygiene product” to mean a sanitary napkin or*
17 *tampon.*

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

20 *In administering the provisions of NRS 374.287, the*
21 *Department shall construe the term:*

22 1. *“Diaper” to mean any type of diaper intended for use by a*
23 *child or an adult, including, without limitation, a disposable*
24 *diaper.*

25 2. *“Feminine hygiene product” to mean a sanitary napkin or*
26 *tampon.*

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

28 374.287 1. There are exempted from the taxes imposed by
29 this chapter the gross receipts from sales and the storage, use or
30 other consumption of:

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

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

36 (c) Products for hemodialysis.

37 (d) Medicines:

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

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

43 (3) Furnished by a hospital for treatment of any person
44 pursuant to the order of a licensed physician, dentist or podiatric
45 physician; or



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

(e) Feminine hygiene products.

(f) Diapers.

2. As used in this section:

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

(b) "Medicine" does not include:

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

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

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

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

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

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

2. Sections 10, 11 and 12 of this act become effective on January 1, 2019, and expire by limitation on December 31, 2028, only if the proposal submitted pursuant to sections 2 to 9, inclusive, of this act is approved by the voters at the General Election on November 6, 2018.

