

By: Keffer

H.B. No. 3319

A BILL TO BE ENTITLED

1

AN ACT

2 relating to updating and clarifying the state sales and use tax.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Sections 151.313(a) and (c), Tax Code, are
5 amended to read as follows:

6 (a) The following items are exempted from the taxes imposed
7 by this chapter:

8 (1) a drug or medicine, other than insulin, if
9 prescribed or dispensed for a human or animal by a licensed
10 practitioner of the healing arts;

11 (2) insulin;

12 (3) ~~[subject to Subsection (c),]~~ a drug or medicine
13 that is labeled or required to be labeled with a "Drug Facts" panel
14 in accordance with regulations of the federal Food and Drug
15 Administration, without regard to whether it is prescribed or
16 dispensed by a licensed practitioner of the healing arts;

17 (4) a hypodermic syringe or needle;

18 (5) a brace; hearing aid or audio loop; orthopedic,
19 dental, or prosthetic device; ileostomy, colostomy, or ileal
20 bladder appliance; or supplies or replacement parts for the listed
21 items;

22 (6) a therapeutic appliance, device, and any related
23 supplies specifically designed for those products, if dispensed or
24 prescribed by a licensed practitioner of the healing arts, when

1 those items are purchased and used by an individual for whom the
2 items listed in this subdivision were dispensed or prescribed;

3 (7) corrective lens and necessary and related
4 supplies, if dispensed or prescribed by an ophthalmologist or
5 optometrist;

6 (8) specialized printing or signalling equipment used
7 by the deaf for the purpose of enabling the deaf to communicate
8 through the use of an ordinary telephone and all materials, paper,
9 and printing ribbons used in that equipment;

10 (9) a braille wristwatch, braille writer, braille
11 paper and braille electronic equipment that connects to computer
12 equipment, and the necessary adaptive devices and adaptive computer
13 software;

14 (10) each of the following items if purchased for use
15 by the blind to enable them to function more independently: a slate
16 and stylus, print enlarger, light probe, magnifier, white cane,
17 talking clock, large print terminal, talking terminal, or harness
18 for guide dog;

19 (11) hospital beds;

20 (12) blood glucose monitoring test strips;

21 (13) an adjustable eating utensil used to facilitate
22 independent eating if purchased for use by a person, including a
23 person who is elderly or physically disabled, has had a stroke, or
24 is a burn victim, who does not have full use or control of the
25 person's hands or arms;

26 (14) subject to Subsection (d), a dietary supplement;

27 and

1 (15) intravenous systems, supplies, and replacement
2 parts used in the treatment of humans.

3 (c) A product is a drug or medicine for purposes of this
4 section if ~~[+~~

5 ~~[(1)]~~ the product:

6 (1) ~~[(A)]~~ is intended for use in the diagnosis, cure,
7 mitigation, treatment, or prevention of disease, illness, injury,
8 or pain;

9 (2) ~~[(B)]~~ is applied to the human body or is a product
10 that a human ingests or inhales;

11 (3) ~~[(C)]~~ is not an appliance or device; and

12 (4) ~~[(D)]~~ is not food ~~[, or~~

13 ~~[(2) the product is labeled or required to be labeled
14 with a "Drug Facts" panel in accordance with regulations of the
15 federal Food and Drug Administration].~~

16 SECTION 2. Section 151.3162(b), Tax Code, is amended to
17 read as follows:

18 (b) The following items are exempted from the tax imposed by
19 this chapter:

20 (1) seedlings of trees ~~[commonly]~~ grown for commercial
21 timber;

22 (2) defoliants, desiccants, equipment, fertilizers,
23 fungicides, herbicides, insecticides, and machinery exclusively
24 used in the production of timber to be sold in the regular course of
25 business;

26 (3) machinery and equipment used in, and pollution
27 control equipment required as a result of, the processing, packing,

1 or marketing of timber products by an original producer if:

2 (A) the processing, packing, or marketing occurs
3 at or from a location operated by the original producer;

4 (B) at least 50 percent of the value of the timber
5 products processed, packed, or marketed at or from the location is
6 attributable to products produced by the original producer and not
7 purchased or acquired from others; and

8 (C) the original producer does not process, pack,
9 or market for consideration timber products that belong to another
10 person with a value greater than five percent of the total value of
11 the timber products processed, packed, or marketed by the producer;
12 and

13 (4) tangible personal property sold or used to be
14 installed as a component of an underground irrigation system
15 exclusively used in the production of timber to be sold in the
16 regular course of business.

17 SECTION 3. Sections 151.328(a) and (c), Tax Code, are
18 amended to read as follows:

19 (a) Aircraft are exempted from the taxes imposed by this
20 chapter if:

21 (1) sold to a person using the aircraft as a
22 certificated or licensed carrier of persons or property;

23 (2) sold to a person who:

24 (A) has a sales tax permit issued under this
25 chapter; and

26 (B) uses the aircraft for the purpose of
27 providing flight instruction that is:

1 (i) recognized by the Federal Aviation
2 Administration;

3 (ii) under the direct or general
4 supervision of a flight instructor certified by the Federal
5 Aviation Administration; and

6 (iii) designed to lead to a pilot
7 certificate or rating issued by the Federal Aviation Administration
8 or otherwise required by a rule or regulation of the Federal
9 Aviation Administration;

10 (3) sold to a foreign government; or

11 (4) sold to a person in this state for use and
12 registration in another state or nation before any use in this state
13 other than flight training in the aircraft and the transportation
14 of the aircraft out of this state.

15 (c) In this section, "aircraft" does not include a rocket or
16 missile, but does include:

17 (1) a fixed wing, heavier-than-air craft that is
18 driven by propeller or jet and supported by the dynamic reaction of
19 the air against its wings;

20 (2) a helicopter; and

21 (3) an airplane flight simulator approved by the
22 Federal Aviation Administration for use as a Level C [~~Phase II~~] or
23 higher flight simulator under Appendix A [~~H~~], 14 C.F.R. Part 60
24 [~~121~~].

25 SECTION 4. Section 151.0232, Tax Code, is repealed.

26 SECTION 5. The change in law made by this Act does not
27 affect tax liability accruing before the effective date of this

1 Act. That liability continues in effect as if this Act had not been
2 enacted, and the former law is continued in effect for the
3 collection of taxes due and for civil and criminal enforcement of
4 the liability for those taxes.

5 SECTION 6. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2007.