By:  Huffman, et al. S.B. No. 379

(In the Senate - Filed January 11, 2023; February 15, 2023, read first time and referred to Committee on Finance; May 10, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 13, Nays 0; May 10, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman              X

Hinojosa             X

Bettencourt          X

Campbell             X

Creighton            X

Flores               X

Hall                           X

Hancock                        X

Hughes                         X

Kolkhorst                      X

Nichols              X

Paxton               X

Perry                X

Schwertner           X

West                 X

Whitmire             X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR S.B. No. 379 By:  Huffman

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from sales and use taxes for certain family care items.

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

SECTION 1.  Section 151.313, Tax Code, is amended by amending Subsection (a) and adding Subsections (g), (h), and (i) to read as follows:

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

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

(2)  insulin;

(3)  a drug or medicine that is required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration, without regard to whether it is prescribed or dispensed by a licensed practitioner of the healing arts;

(4)  a hypodermic syringe or needle;

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

(6)  a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;

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

(8)  specialized printing or signalling equipment used by a person who is [~~the~~] deaf for the purpose of enabling the person [~~the deaf~~] to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;

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

(10)  each of the following items if purchased for use by a person who is [~~the~~] blind to enable the person [~~them~~] to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking clock, large print terminal, talking terminal, or harness for a guide dog;

(11)  hospital beds;

(12)  blood glucose monitoring test strips;

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

(14)  subject to Subsection (d), a dietary supplement; [~~and~~]

(15)  intravenous systems, supplies, and replacement parts designed or intended to be used in the diagnosis or treatment of humans;

(16)  a wound care dressing;

(17)  an adult or a children's diaper; and

(18)  a baby wipe.

(g)  A product is a wound care dressing for purposes of this section if the product is used to prevent bacterial contamination of a wound by absorbing wound drainage, protecting healing tissue, or maintaining a moist or dry wound environment. The term includes individual sterile adhesive bandages, sterile rolls or pads of gauze, and surgical and medical tape used to secure a wound care dressing to a patient. The term does not include general purpose absorption items, such as cotton balls, cotton swabs, or tissues, or appliances or devices used to drain bodily fluids or irrigate body cavities, such as drains, suction catheters, or irrigation systems.

(h)  A product is:

(1)  a diaper for purposes of this section if the product is an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements;

(2)  an adult diaper for purposes of this section if the product is a diaper other than a children's diaper; and

(3)  a children's diaper for purposes of this section if the product is a diaper marketed to be worn by children.

(i)  A product is a baby wipe for purposes of this section if the product is a moistened and disposable tissue or towel intended for cleansing the skin of a young child.

SECTION 2.  Subchapter H, Chapter 151, Tax Code, is amended by adding Sections 151.3132, 151.3133, 151.3134, and 151.3135 to read as follows:

Sec. 151.3132.  FEMININE HYGIENE PRODUCTS. (a) In this section, "feminine hygiene product" means a tampon, sanitary napkin, menstrual cup, menstrual sponge, menstrual pad, or other similar tangible personal property sold for the principal purpose of feminine hygiene in connection with the menstrual cycle or postpartum care.

(b)  The sale, storage, use, or other consumption of a feminine hygiene product is exempted from the taxes imposed by this chapter.

Sec. 151.3133.  MATERNITY CLOTHING. (a) In this section, "maternity clothing" means clothing labeled for a woman to wear during pregnancy that is designed to accommodate the changes in body size and shape that occur as a result of a pregnancy or to facilitate breastfeeding. The term includes a nursing bra or nursing pad.

(b)  The sale, storage, use, or other consumption of an article of maternity clothing is exempted from the taxes imposed by this chapter.

Sec. 151.3134.  BREAST MILK PUMPING PRODUCTS. (a) In this section:

(1)  "Breast milk pumping product" means a breast pump, a breast milk storage bag or other container designed to store pumped breast milk, or a pumping bra.

(2)  "Breast pump" means an electrically or manually controlled device designed or marketed to be used to express milk from a human breast during lactation, including accessories necessary for use of the device such as flanges and tubing. The term includes any battery, AC adapter, or other power supply unit packaged and sold with the device to power the device.

(b)  The sale, storage, use, or other consumption of a breast milk pumping product is exempted from the taxes imposed by this chapter.

Sec. 151.3135.  BABY BOTTLES. (a) In this section, "baby bottle" means a bottle fitted with a nipple for giving milk and other drinks to a young child.

(b)  The sale, storage, use, or other consumption of a baby bottle is exempted from the taxes imposed by this chapter.

SECTION 3.  The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 4.  This Act takes effect September 1, 2023.

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