

ASSEMBLY, No. 4949

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 9, 2020

Sponsored by:

Assemblyman WILLIAM F. MOEN, JR.

District 5 (Camden and Gloucester)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblymen Caputo, Rooney, Conaway and Assemblywoman Quijano

SYNOPSIS

Exempts protective face coverings from sales and use tax during public health emergencies.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/16/2020)

1 AN ACT exempting protective face coverings from the sales and use
2 tax during public health emergencies, amending P.L.1980, c.105.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 13 of P.L.1980, c.105 (54:32B-8.1) is amended to
8 read as follows:

9 13. a. Receipts from sales of the following sold for human use
10 are exempt from the tax imposed under the "Sales and Use Tax
11 Act":

12 (1) drugs sold pursuant to a doctor's prescription;

13 (2) over-the-counter drugs;

14 (3) diabetic supplies;

15 (4) prosthetic devices;

16 (5) tampons or like products;

17 (6) medical oxygen;

18 (7) human blood and its derivatives;

19 (8) durable medical equipment for home use;

20 (9) mobility enhancing equipment sold by prescription; and

21 (10) repair and replacement parts for any of the foregoing
22 exempt devices and equipment.

23 b. As used in this section:

24 "Drug" means a compound, substance, or preparation, and any
25 component of a compound, substance, or preparation, other than
26 food and food ingredients, dietary supplements, or alcoholic
27 beverages:

28 (1) recognized in the official United States Pharmacopoeia,
29 official Homeopathic Pharmacopoeia of the United States, or
30 official National Formulary, and supplement to any of them; or

31 (2) intended for use in the diagnosis, cure, mitigation, treatment,
32 or prevention of disease; or

33 (3) intended to affect the structure or any function of the body.

34 "Over-the-counter-drug" means a drug that contains a label
35 which identifies the product as a drug, required by 21 CFR 201.66.

36 The label includes:

37 (1) a "Drug Facts" panel or

38 (2) a statement of the "active ingredient" or "active ingredients"
39 with a list of those ingredients contained in the compound,
40 substance or preparation. "Over-the-counter drug" does not include
41 a grooming and hygiene product.

42 "Grooming and hygiene product" is soap or cleaning solution,
43 shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion
44 or screen, regardless of whether the item meets the definition of
45 "over-the-counter drug."

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Prescription" means an order, formula, or recipe issued in any
2 form of oral, written, electronic, or other means of transmission by
3 a duly licensed practitioner authorized by the laws of this State.

4 "Prosthetic device" means a replacement, corrective, or
5 supportive device including repair and replacement parts for same
6 worn on or in the body in order to:

- 7 (1) artificially replace a missing portion of the body; or
- 8 (2) prevent or correct a physical disability; or
- 9 (3) support a weak or disabled portion of the body.

10 "Durable medical equipment" means equipment, including repair
11 and replacement parts, but not including mobility enhancing
12 equipment, that:

- 13 (1) can withstand repeated use;
- 14 (2) is primarily and customarily used to serve a medical
15 purpose;
- 16 (3) is generally not useful to a person in the absence of illness or
17 injury; and
- 18 (4) is not worn in or on the body.

19 "Mobility enhancing equipment" means equipment, including
20 repair and replacement parts, other than durable medical equipment,
21 that:

- 22 (1) is primarily and customarily used to provide or increase the
23 ability to move from one place to another and which is appropriate
24 for use either at home or in a motor vehicle; and
- 25 (2) is not generally used by persons with typical mobility; and
- 26 (3) does not include any motor vehicle or equipment on a motor
27 vehicle normally provided by a motor vehicle manufacturer.

28 "Protective face coverings" means medical masks, respirators, or
29 other face coverings that are designed, or sold for use, to protect the
30 wearer or others from the spread of infection or illness.

31 c. Receipts from sales of supplies purchased for use in
32 providing medical services for compensation, but not transferred to
33 the purchaser of the service in conjunction with the performance of
34 the service, shall be considered taxable receipts from retail sales
35 notwithstanding the exemption from the tax imposed under the
36 "Sales and Use Tax Act" provided under this section.

37 d. Receipts from sales of protective face coverings shall be
38 exempt from the tax imposed under the "Sales and Use Tax Act"
39 during a State-wide public health emergency declared by the
40 Governor pursuant to the "Emergency Health Powers Act,"
41 P.L.2005, c.222 (C.26:13-1 et seq.); provided that agencies or
42 official representatives of the federal or State government require or
43 encourage protective face coverings to be worn to help mitigate the
44 public health emergency.

45 (cf: P.L.2017, c.131, s.214)

46

47 2. This act shall take effect immediately.

STATEMENT

1

2

3 This bill exempts protective face coverings from taxation under
4 the “Sales and Use Tax Act” during a State-wide public health
5 emergency declared by the Governor provided that agencies or
6 official representatives of the federal or State government require or
7 encourage New Jerseyans to wear protective face coverings to
8 mitigate the public health emergency. In response to the COVID-
9 19 pandemic, the Governor has mandated New Jerseyans to wear
10 protective face coverings, commonly referred to as masks, indoors
11 and outdoors when social distancing is not feasible. By exempting
12 protective face coverings from sales and use tax during public
13 health emergencies, cost will become less of a barrier to purchasing
14 protective face coverings during a time when they are necessary for
15 safeguarding public health.

16 As defined in the bill, protective face coverings are medical
17 masks, respirators, or other coverings that are designed, or sold for
18 use, to protect the wearer or others from the spread of infection or
19 illness.