SENATE, No. 1281

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Exempts sales of condoms from sales and use tax.

CURRENT VERSION OF TEXT

As introduced.

AN ACT exempting sales of condoms from the sales and use tax, amending P.L.1980, c.105.

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

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

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

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

(2) over-the-counter drugs;

(3) diabetic supplies;

(4) prosthetic devices;

(5) tampons or like products;

(6) medical oxygen;

(7) human blood and its derivatives;

(8) durable medical equipment for home use;

(9) mobility enhancing equipment sold by prescription; **[**and**]**

(10) repair and replacement parts for any of the foregoing exempt devices and equipment **[**.**]** ; and

(11) condoms for use by a male or female.

b. As used in this section:

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

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

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

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

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

(1) a "Drug Facts" panel or

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

"Grooming and hygiene product" is soap or cleaning solution, shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion

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.

or screen, regardless of whether the item meets the definition of "over-the-counter drug."

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

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

(1) artificially replace a missing portion of the body; or

(2) prevent or correct a physical disability; or

(3) support a weak or disabled portion of the body.

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

(1) can withstand repeated use;

(2) is primarily and customarily used to serve a medical purpose;

(3) is generally not useful to a person in the absence of illness or injury; and

(4) is not worn in or on the body.

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

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

(2) is not generally used by persons with typical mobility; and

(3) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

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

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

2. This act shall take effect immediately and apply to receipts from all sales made on or after the first day of the fourth month next following the date of enactment.

STATEMENT

This bill provides and exemption from the sales and use tax for sales of condoms.

According to the federal Center for Disease Control and Prevention (CDC) Sexually Transmitted Disease Surveillance

Report, there has been a steady increase in the number of cases of sexually transmitted diseases, including syphilis, gonorrhea, and chlamydia. The CDC data suggest that multiple factors are contributing to the overall increase in sexually transmitted diseases (STD), including drug use, poverty, stigma, and unstable housing, all of which can reduce access to STD prevention and care, and decreased condom use among vulnerable populations.

It is the sponsor's view that exempting the sale of condoms from the sales tax will make them more affordable and encourage people to engage in responsible personal behavior.

The bill takes effect immediately, but provides for the exemption to apply to receipts received from all sales made on or after the first day of the fourth month next following enactment.