

**Hall of the House of Representatives**  
86th General Assembly - Regular Session, 2007  
**Amendment Form**

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**Subtitle of House Bill No. 2318**

"TO ALLOW A SALES AND USE TAX EXEMPTION FOR THE SALE OF PROSTHETICS  
TO A DULY LICENSED PRACTITIONER AND TO INCLUDE DENTAL PROSTHESIS IN  
THE DEFINITION OF PROSTHETICS."

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**Amendment No. 1 to House Bill No. 2318.**

Amend House Bill No. 2318 as originally introduced:

Page 1, line 10, delete "DULY LICENSED"

AND

Page 1, line 11, delete "PRACTITIONER" and substitute "PHYSICIAN"

AND

Page 1, delete lines 16 through 20 and substitute the following:  
"TO ALLOW A SALES AND USE TAX EXEMPTION FOR THE SALE OF PROSTHETICS TO A  
PHYSICIAN AND TO INCLUDE DENTAL PROSTHESIS IN THE DEFINITION OF PROSTHETICS."

AND

Page 1, delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 26-52-433(a), (b), and (c) [Effective until January 1, 2008], as amended by Act 180 of 2007 and Act 140 of 2007, is amended to read as follows:

26-52-433. Adaptive medical equipment and disposable medical supplies. [Effective until January 1, 2008.]

(a)(1) Gross receipts or gross proceeds derived from the rental, sale, or repair of adaptive medical equipment prescribed by a physician and disposable medical supplies prescribed by a physician shall be exempt from all state and local sales and use taxes.

(2) This exemption shall only apply to adaptive medical equipment and disposable medical supplies prescribed for a specific patient prior to the sale.

(3) This exemption shall not apply to items purchased by physicians, hospitals, nursing homes, or long-term care facilities for use by



their patients or residents.

~~(b)(4)~~ As used in this ~~section~~ subsection (a), "adaptive medical equipment and disposable medical supplies" includes, but is not limited to, the following:

- (1) Wheelchairs;
- ~~(2) Leg braces;~~
- ~~(3)(2)~~ Wheelchair lifts;
- ~~(4)(3)~~ Ostomy, urostomy, and colostomy supplies;
- ~~(5)(4)~~ Raised toilet seats;
- ~~(6) Catheters;~~
- ~~(7)(5)~~ Wheelchair batteries, tires, cushions, and supplies;
- ~~(8)(6)~~ Enemas, suppositories, and laxatives used in routine

bowel care;

- ~~(9) Flexor wrist splints;~~
- ~~(10)(7)~~ Trapeze bars;
- ~~(11)(8)~~ Grab bars and hand rails;
- ~~(12)(9)~~ Wheelchair adaptive devices;
- ~~(13)(10)~~ Hospital beds and adaptive devices;
- ~~(14)(11)~~ Patient lifts;
- ~~(15) Orthopedic shoes and devices such as shoe lifts and~~

~~inserts;~~

- ~~(16)(12)~~ Walkers;
- ~~(17)(13)~~ Crutches;
- ~~(18)(14)~~ Automobile hand controls;
- (19)(15) Shower benches and chairs;
- ~~(20)(16)~~ Disposable undergarments and linen savers;
- ~~(21) Prosthetics;~~
- ~~(22)(17)~~ Braille writers, large print aids, and visual and

communication aids for those who are legally blind;

- ~~(23) Hearing aids;~~

~~(24)(18) Telecommunications~~ Hand-held telecommunications devices and other hand-held communication devices for the deaf, hearing impaired, and others with communicative disorders; and

- ~~(25)(19) Speech~~ Hand-held speech devices for those with

laryngectomies.

(b)(1) Gross receipts or gross proceeds derived from the rental, sale, or repair of a prosthetic device to a physician or to a specific patient pursuant to a prescription written before the sale are exempt from all state and local sales and use taxes.

(2)(A) As used in this subsection, "prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

(i) Artificially replace a missing portion of the  
body;

(ii) Prevent or correct physical deformity or  
malfunction; or

(iii) Support a weak or deformed portion of the  
body.

(B) "Prosthetic device" does not include corrective  
eyeglasses and contact lenses.

(c) As used in this section, "physician" means a person licensed under ~~§ 17-95-401 et seq~~ the Arkansas Medical Practices Act, § 17-95-201, or the

Arkansas Dental Practice Act, § 17-82-101 et seq.

SECTION 2. Arkansas Code § 26-52-433 [Effective January 1, 2008], as amended by Act 181 of 2007 and Act 140 of 2007, is amended to read as follows:

26-52-433. Durable medical equipment, mobility-enhancing equipment, prosthetic devices, and disposable medical supplies. [Effective January 1, 2008.]

(a)(1) Gross receipts or gross proceeds derived from the rental, sale, or repair of durable medical equipment prescribed by a physician, mobility-enhancing equipment prescribed by a physician, ~~a prosthetic device prescribed by a physician~~, and disposable medical supplies prescribed by a physician shall be exempt from all state and local sales and use taxes.

(2) ~~This~~ The exemption provided under subdivision (a)(1) of this section shall apply only to durable medical equipment, mobility-enhancing equipment, ~~prosthetic device~~, and disposable medical supplies sold to a specific patient pursuant to a prescription written before the sale.

(b) Gross receipts or gross proceeds derived from the rental, sale, or repair of a prosthetic device to a physician or to a specific patient pursuant to a prescription written before the sale are exempt from all state and local sales and use taxes.

~~(b)(c)~~ As used in this section:

(1) "Disposable medical supplies" includes without limitation the following:

(A) Ostomy, urostomy, and colostomy supplies;

~~(B) Catheters;~~

~~(C)(B)~~ Enemas, suppositories, and laxatives used in routine bowel care; and

~~(D)(C)~~ Disposable undergarments and linen savers;

(2)(A) "Durable medical equipment" means equipment, including repair and replacement parts for the equipment that:

(i) Can withstand repeated use;

(ii) Is primarily and customarily used to serve a medical purpose;

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

(iv) Is not worn in or on the body~~†~~.

(B) "Durable medical equipment" does not include mobility-enhancing equipment;

(3)(A) "Mobility-enhancing equipment" means equipment, including repair and replacement parts for the equipment, that:

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

(ii) Is not generally used by a person with normal mobility; and

(iii) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer~~†~~.

(B) "Mobility-enhancing equipment" does not include durable medical equipment;

(4) "Physician" means a person licensed under ~~§ 17-95-401 et~~

~~seq.;~~ the Arkansas Medical Practices Act, § 17-95-201, or the Arkansas Dental Practice Act, § 17-82-101 et seq.;

(5) "Prescription" means an order, formula, or recipe issued in any form and transmitted by an oral, written, electronic, or other means of transmission by a duly licensed physician or practitioner authorized to issue prescriptions under Arkansas law; and

(6)(A) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

(i) Artificially replace a missing portion of the body;

(ii) Prevent or correct physical deformity or malfunction; or

(iii) Support a weak or deformed portion of the body.

(B) "Prosthetic device" does not include corrective eyeglasses, and contact lenses, ~~and dental prostheses.~~

~~(e)(1)~~(d)(1) Notwithstanding subdivision (a)(2) of this section, a patient may claim the exemption under this section for a wheelchair lift or automobile hand controls prescribed for the patient after the sale if:

(A) The wheelchair lift or automobile hand controls are purchased in conjunction with the purchase of a motor vehicle;

(B) The gross receipts or gross proceeds derived from the sale of the wheelchair lift or automobile hand controls are separately stated on the invoice or bill of sale for the purchase of the motor vehicle; and

(C) The patient has a prescription for the wheelchair lift or automobile hand controls at the time the motor vehicle is registered.

(2) A patient purchasing a wheelchair lift or automobile hand controls directly from a vendor of adaptive medical equipment for subsequent installation shall possess a prescription for the wheelchair lift or automobile hand controls prior to the sale in compliance with subdivision (a)(2) of this section.

SECTION 3. Arkansas Code § 26-53-141(a), (b), and (c) [Effective until January 1, 2008], as amended by Act 180 of 2007 and Act 140 of 2007, is amended to read as follows:

26-53-141. Adaptive medical equipment and disposable medical supplies. [Effective until January 1, 2008.]

(a)(1) Gross receipts or gross proceeds derived from the rental, sale, or repair of adaptive medical equipment prescribed by a physician and disposable medical supplies prescribed by a physician shall be exempt from all state and local sales and use taxes.

(2) This exemption shall only apply to adaptive medical equipment and disposable medical supplies prescribed for a specific patient prior to the sale.

(3) This exemption shall not apply to items purchased by physicians, hospitals, nursing homes, or long-term care facilities for use by their patients or residents.

~~(b)~~(4) As used in this ~~section~~ subsection (a), "adaptive medical equipment" and "disposable medical supplies" shall include, but not be limited to, the following:

(1) Wheelchairs;

~~(2) Leg braces;~~  
~~(3)(2) Wheelchair lifts;~~  
~~(4)(3) Ostomy, urostomy, and colostomy supplies;~~  
~~(5)(4) Raised toilet seats;~~  
~~(6) Catheters;~~  
~~(7)(5) Wheelchair batteries, tires, cushions, and supplies;~~  
~~(8)(6) Enemas, suppositories, and laxatives used in routine~~  
 bowel care;  
~~(9) Flexor wrist splints;~~  
~~(10)(7) Trapeze bars;~~  
~~(11)(8) Grab bars and hand rails;~~  
~~(12)(9) Wheelchair adaptive devices;~~  
~~(13)(10) Hospital beds and adaptive devices;~~  
~~(14)(11) Patient lifts;~~  
~~(15) Orthopedic shoes and devices such as shoe lifts and~~  
 inserts;  
~~(16)(12) Walkers;~~  
~~(17)(13) Crutches;~~  
~~(18)(14) Automobile hand controls;~~  
~~(19)(15) Shower benches and chairs;~~  
~~(20)(16) Disposable undergarments and linen savers;~~  
~~(21) Prosthetics;~~  
~~(22)(17) Braille writers, large print aids, and visual and~~  
 communication aids for those who are legally blind;  
~~(23) Hearing aids;~~  
~~(24)(18) Telecommunications~~ Hand-held telecommunications devices  
 and other hand-held communication devices for the deaf, hearing impaired, and  
 others with communicative disorders; and  
~~(25)(19) Speech~~ Hand-held speech devices for those with  
 laryngectomies.

(b)(1) Gross receipts or gross proceeds derived from the rental, sale, or repair of a prosthetic device to a physician or to a specific patient pursuant to a prescription written before the sale are exempt from all state and local sales and use taxes.

(2)(A) As used in this subsection, "prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

(i) Artificially replace a missing portion of the  
body;

(ii) Prevent or correct physical deformity or  
malfunction; or

(iii) Support a weak or deformed portion of the  
body.

(B) "Prosthetic device" does not include corrective eyeglasses and contact lenses.

(c) As used in this section, "physician" means a person licensed under § 17-95-401 et seq. the Arkansas Medical Practices Act, § 17-95-201, or the Arkansas Dental Practice Act, § 17-82-101 et seq.

SECTION 4. Arkansas Code § 26-53-141 [Effective January 1, 2008], as amended by Act 181 of 2007 and Act 140 of 2007, is amended to read as follows:

26-53-141. Durable medical equipment, mobility-enhancing equipment, prosthetic devices, and disposable medical supplies. [Effective January 1, 2008.]

(a)(1) Gross receipts or gross proceeds derived from the rental, sale, or repair of durable medical equipment prescribed by a physician, mobility-enhancing equipment prescribed by a physician, ~~a prosthetic device prescribed by a physician~~, and disposable medical supplies prescribed by a physician shall be exempt from all state and local sales and use taxes.

(2) ~~This~~ The exemption provided under subdivision (a)(1) of this section shall apply only to durable medical equipment, mobility-enhancing equipment, prosthetic device, and disposable medical supplies sold to a specific patient pursuant to a prescription written before the sale.

(b) Gross receipts or gross proceeds derived from the rental, sale, or repair of a prosthetic device to a physician or to a specific patient pursuant to a prescription written before the sale are exempt from all state and local sales and use taxes.

~~(b)(c)~~ As used in this section:

(1) "Disposable medical supplies" includes without limitation the following:

(A) Ostomy, urostomy, and colostomy supplies;

~~(B) Catheters;~~

~~(C)(B)~~ Enemas, suppositories, and laxatives used in routine bowel care; and

~~(D)(C)~~ Disposable undergarments and linen savers;

(2)(A) "Durable medical equipment" means equipment including repair and replacement parts for the equipment that:

(i) Can withstand repeated use;

(ii) Is primarily and customarily used to serve a medical purpose;

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

(iv) Is not worn in or on the body.

(B) "Durable medical equipment" does not include mobility-enhancing equipment;

(3)(A) "Mobility-enhancing equipment" means equipment, including repair and replacement parts for the equipment, that:

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

(ii) Is not generally used by a person with normal mobility; and

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

(B) "Mobility-enhancing equipment" does not include "durable medical equipment";

(4) "Physician" means a person licensed under ~~§ 17-95-401 et seq.~~; the Arkansas Medical Practices Act, § 17-95-201, or the Arkansas Dental Practice Act, § 17-82-101 et seq.;

(5) "Prescription" means an order, formula, or recipe issued in any form and transmitted by an oral, written, electronic, or other means of transmission by a duly licensed physician or practitioner authorized to issue

prescriptions under Arkansas law; and

(6)(A) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

(i) Artificially replace a missing portion of the body;

(ii) Prevent or correct physical deformity or malfunction; or

(iii) Support a weak or deformed portion of the body.

(B) "Prosthetic device" does not include corrective eyeglasses, and contact lenses, ~~and dental prostheses.~~

~~(e)(1)~~(d)(1) Notwithstanding subdivision (a)(2) of this section, a patient may claim the exemption under this section for a wheelchair lift or automobile hand controls prescribed for the patient after the sale if:

(A) The wheelchair lift or automobile hand controls are purchased in conjunction with the purchase of a motor vehicle;

(B) The gross receipts or gross proceeds derived from the sale of the wheelchair lift or automobile hand controls are separately stated on the invoice or bill of sale for the purchase of the motor vehicle; and

(C) The patient has a prescription for the wheelchair lift or automobile hand controls at the time the motor vehicle is registered.

(2) A patient purchasing a wheelchair lift or automobile hand controls directly from a vendor of adaptive medical equipment for subsequent installation shall possess a prescription for the wheelchair lift or automobile hand controls prior to the sale in compliance with subdivision (a)(2) of this section.

SECTION 5. Sections 1, 2, 3, and 4 of this act are effective on the first day of the calendar quarter following the effective date of this act."

The Amendment was read \_\_\_\_\_  
By: Representative Ragland  
MMC/RCK - 03-05-2007 14:45  
MMC128

\_\_\_\_\_  
Chief Clerk