

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2007-054

State of Arkansas

*As Engrossed: H3/9/07*

86th General Assembly

**A Bill**

Regular Session, 2007

HOUSE BILL 2318

By: Representative Ragland

Referred to  
Revenue & Taxation- House  
by the House of Representatives  
on 04/02/2007

**For An Act To Be Entitled**

AN ACT TO ALLOW A SALES AND USE TAX EXEMPTION FOR  
THE SALE OF PROSTHETICS TO A *PHYSICIAN*; TO  
INCLUDE DENTAL PROSTHESIS IN THE DEFINITION OF  
PROSTHETICS; AND FOR OTHER PURPOSES.

**Subtitle**

*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.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*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*

1 all state and local sales and use taxes.

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

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

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

11 (1) Wheel chairs;

12 ~~(2) Leg braces;~~

13 ~~(3)~~(2) Wheel chair lifts;

14 ~~(4)~~(3) Ostomy, urostomy, and colostomy supplies;

15 ~~(5)~~(4) Raised toilet seats;

16 ~~(6) Catheters;~~

17 ~~(7)~~(5) Wheel chair batteries, tires, cushions, and supplies;

18 ~~(8)~~(6) Enemas, suppositories, and laxatives used in routine  
19 bowel care;

20 ~~(9) Flexor wrist splints;~~

21 ~~(10)~~(7) Trapeze bars;

22 ~~(11)~~(8) Grab bars and hand rails;

23 ~~(12)~~(9) Wheel chair adaptive devices;

24 ~~(13)~~(10) Hospital beds and adaptive devices;

25 ~~(14)~~(11) Patient lifts;

26 ~~(15) Orthopedic shoes and devices such as shoe lifts and  
27 inserts;~~

28 ~~(16)~~(12) Walkers;

29 ~~(17)~~(13) Crutches;

30 ~~(18)~~(14) Automobile hand controls;

31 (19)(15) Shower benches and chairs;

32 ~~(20)~~(16) Disposable undergarments and linen savers;

33 ~~(21) Prosthetics;~~

34 ~~(22)~~(17) Braille writers, large print aids, and visual and  
35 communication aids for those who are legally blind;

36 ~~(23) Hearing aids;~~

1 ~~(24)~~(18) Telecommunications Hand-held telecommunications devices  
 2 and other hand-held communication devices for the deaf, hearing impaired, and  
 3 others with communicative disorders; and

4 ~~(25)~~(19) Speech Hand-held speech devices for those with  
 5 laryngectomies.

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

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

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

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

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

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

21 (c) As used in this section, "physician" means a person licensed under  
 22 § 17-95-401 et seq the Arkansas Medical Practices Act, § 17-95-201, or the  
 23 Arkansas Dental Practice Act, § 17-82-101 et seq.

24  
 25 SECTION 2. Arkansas Code § 26-52-433 [Effective January 1, 2008], as  
 26 amended by Act 181 of 2007 and Act 140 of 2007, is amended to read as  
 27 follows:

28 26-52-433. Durable medical equipment, mobility-enhancing equipment,  
 29 prosthetic devices, and disposable medical supplies. [Effective January 1,  
 30 2008.]

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

36 (2) ~~This~~ The exemption provided under subdivision (a)(1) of this

1 section shall apply only to durable medical equipment, mobility-enhancing  
2 equipment, ~~prosthetic device,~~ and disposable medical supplies sold to a  
3 specific patient pursuant to a prescription written before the sale.

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

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

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

11 (A) Ostomy, urostomy, and colostomy supplies;

12 ~~(B) Catheters;~~

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

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

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

18 (i) Can withstand repeated use;

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

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

23 (iv) Is not worn in or on the body;\_

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

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

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

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

33 (iii) Does not include any motor vehicle or  
34 equipment on a motor vehicle normally provided by a motor vehicle  
35 manufacturer;\_

36 (B) "Mobility-enhancing equipment" does not include

1 durable medical equipment;

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

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

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

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

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

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

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

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

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

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

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

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

35

36 SECTION 3. Arkansas Code § 26-53-141(a), (b), and (c) [Effective until

1 January 1, 2008], as amended by Act 180 of 2007 and Act 140 of 2007, is  
2 amended to read as follows:

3 26-53-141. Adaptive medical equipment and disposable medical supplies.  
4 [Effective until January 1, 2008.]

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

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

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

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

18 (1) Wheel chairs;

19 ~~(2) Leg braces;~~

20 ~~(3)~~(2) Wheel chair lifts;

21 ~~(4)~~(3) Ostomy, urostomy, and colostomy supplies;

22 ~~(5)~~(4) Raised toilet seats;

23 ~~(6) Catheters;~~

24 ~~(7)~~(5) Wheelchair batteries, tires, cushions, and supplies;

25 ~~(8)~~(6) Enemas, suppositories, and laxatives used in routine  
26 bowel care;

27 ~~(9) Flexor wrist splints;~~

28 ~~(10)~~(7) Trapeze bars;

29 ~~(11)~~(8) Grab bars and hand rails;

30 ~~(12)~~(9) Wheelchair adaptive devices;

31 ~~(13)~~(10) Hospital beds and adaptive devices;

32 ~~(14)~~(11) Patient lifts;

33 ~~(15) Orthopedic shoes and devices such as shoe lifts and  
34 inserts;~~

35 ~~(16)~~(12) Walkers;

36 ~~(17)~~(13) Crutches;

1           ~~(18)~~(14) Automobile hand controls;

2           ~~(19)~~(15) Shower benches and chairs;

3           ~~(20)~~(16) Disposable undergarments and linen savers;

4           ~~(21)~~ Prosthetics;

5           ~~(22)~~(17) Braille writers, large print aids, and visual and

6 communication aids for those who are legally blind;

7           ~~(23)~~ Hearing aids;

8           ~~(24)~~(18) Telecommunications Hand-held telecommunications devices

9 and other hand-held communication devices for the deaf, hearing impaired, and

10 others with communicative disorders; and

11           ~~(25)~~(19) ~~Speech~~ Hand-held speech devices for those with

12 laryngectomies.

13           (b)(1) Gross receipts or gross proceeds derived from the rental, sale,

14 or repair of a prosthetic device to a physician or to a specific patient

15 pursuant to a prescription written before the sale are exempt from all state

16 and local sales and use taxes.

17           (2)(A) As used in this subsection, "prosthetic device" means a

18 replacement, corrective, or supportive device, including repair and

19 replacement parts for the device, worn on or in the body to:

20                           (i) Artificially replace a missing portion of the

21 body;

22                           (ii) Prevent or correct physical deformity or

23 malfunction; or

24                           (iii) Support a weak or deformed portion of the

25 body.

26                           (B) "Prosthetic device" does not include corrective

27 eyeglasses and contact lenses.

28           (c) As used in this section, "physician" means a person licensed under

29 § 17-95-401 et seq. the Arkansas Medical Practices Act, § 17-95-201, or the

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

31

32           SECTION 4. Arkansas Code § 26-53-141 [Effective January 1, 2008], as

33 amended by Act 181 of 2007 and Act 140 of 2007, is amended to read as

34 follows:

35           26-53-141. Durable medical equipment, mobility-enhancing equipment,

36 prosthetic devices, and disposable medical supplies. [Effective January 1,

1 2008.]

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

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

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

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

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

18 (A) Ostomy, urostomy, and colostomy supplies;

19 ~~(B) Catheters;~~

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

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

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

25 (i) Can withstand repeated use;

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

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

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

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

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

35 (i) Is primarily and customarily used to provide or  
36 increase the ability to move from one (1) place to another and which is



1 appropriate for use either in a home or a motor vehicle;

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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