

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/9/07
A Bill

HOUSE BILL 2318

5 By: Representative Ragland
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO ALLOW A SALES AND USE TAX EXEMPTION FOR
10 THE SALE OF PROSTHETICS TO A *PHYSICIAN*; TO
11 INCLUDE DENTAL PROSTHESIS IN THE DEFINITION OF
12 PROSTHETICS; AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 *TO ALLOW A SALES AND USE TAX EXEMPTION*
16 *FOR THE SALE OF PROSTHETICS TO A*
17 *PHYSICIAN AND TO INCLUDE DENTAL*
18 *PROSTHESIS IN THE DEFINITION OF*
19 *PROSTHETICS.*
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

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

27 *26-52-433. Adaptive medical equipment and disposable medical supplies.*
28 *[Effective until January 1, 2008.]*

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

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

36 *(3) This exemption shall not apply to items purchased by*



1 physicians, hospitals, nursing homes, or long-term care facilities for use by
2 their patients or residents.

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

- 6 (1) Wheelchairs;
- 7 ~~(2)~~ ~~Leg braces~~;
- 8 ~~(3)~~(2) Wheelchair lifts;
- 9 ~~(4)~~(3) Ostomy, urostomy, and colostomy supplies;
- 10 ~~(5)~~(4) Raised toilet seats;
- 11 ~~(6)~~ ~~Catheters~~;
- 12 ~~(7)~~(5) Wheelchair batteries, tires, cushions, and supplies;
- 13 ~~(8)~~(6) Enemas, suppositories, and laxatives used in routine
14 bowel care;
- 15 ~~(9)~~ ~~Flexor wrist splints~~;
- 16 ~~(10)~~(7) Trapeze bars;
- 17 ~~(11)~~(8) Grab bars and hand rails;
- 18 ~~(12)~~(9) Wheelchair adaptive devices;
- 19 ~~(13)~~(10) Hospital beds and adaptive devices;
- 20 ~~(14)~~(11) Patient lifts;
- 21 ~~(15)~~ ~~Orthopedic shoes and devices such as shoe lifts and~~
22 ~~inserts~~;
- 23 ~~(16)~~(12) Walkers;
- 24 ~~(17)~~(13) Crutches;
- 25 ~~(18)~~(14) Automobile hand controls;
- 26 (19)(15) Shower benches and chairs;
- 27 ~~(20)~~(16) Disposable undergarments and linen savers;
- 28 ~~(21)~~ ~~Prosthetics~~;
- 29 ~~(22)~~(17) Braille writers, large print aids, and visual and
30 communication aids for those who are legally blind;
- 31 ~~(23)~~ ~~Hearing aids~~;
- 32 ~~(24)~~(18) ~~Telecommunications~~ Hand-held telecommunications devices
33 and other hand-held communication devices for the deaf, hearing impaired, and
34 others with communicative disorders; and
- 35 ~~(25)~~(19) ~~Speech~~ Hand-held speech devices for those with
36 laryngectomies.

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

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

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

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

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

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

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

19
 20 SECTION 2. Arkansas Code § 26-52-433 [Effective January 1, 2008], as
 21 amended by Act 181 of 2007 and Act 140 of 2007, is amended to read as
 22 follows:

23 26-52-433. Durable medical equipment, mobility-enhancing equipment,
 24 prosthetic devices, and disposable medical supplies. [Effective January 1,
 25 2008.]

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

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

35 (b) Gross receipts or gross proceeds derived from the rental, sale, or
 36 repair of a prosthetic device to a physician or to a specific patient

1 pursuant to a prescription written before the sale are exempt from all state
2 and local sales and use taxes.

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

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

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

7 ~~(B) Catheters;~~

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

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

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

13 (i) Can withstand repeated use;

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

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

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

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

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

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

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

28 (iii) Does not include any motor vehicle or
29 equipment on a motor vehicle normally provided by a motor vehicle
30 manufacturer~~+~~.

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

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

36 (5) "Prescription" means an order, formula, or recipe issued in

1 any form and transmitted by an oral, written, electronic, or other means of
2 transmission by a duly licensed physician or practitioner authorized to issue
3 prescriptions under Arkansas law; and

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

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

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

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

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

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

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

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

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

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

30
31 SECTION 3. Arkansas Code § 26-53-141(a), (b), and (c) [Effective until
32 January 1, 2008], as amended by Act 180 of 2007 and Act 140 of 2007, is
33 amended to read as follows:

34 26-53-141. Adaptive medical equipment and disposable medical supplies.
35 [Effective until January 1, 2008.]

36 (a)(1) Gross receipts or gross proceeds derived from the rental, sale,

1 or repair of adaptive medical equipment prescribed by a physician and
 2 disposable medical supplies prescribed by a physician shall be exempt from
 3 all state and local sales and use taxes.

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

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

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

13 (1) Wheelchairs;

14 ~~(2) Leg braces;~~

15 ~~(3)~~(2) Wheelchair lifts;

16 ~~(4)~~(3) Ostomy, urostomy, and colostomy supplies;

17 ~~(5)~~(4) Raised toilet seats;

18 ~~(6) Catheters;~~

19 ~~(7)~~(5) Wheelchair batteries, tires, cushions, and supplies;

20 ~~(8)~~(6) Enemas, suppositories, and laxatives used in routine

21 bowel care;

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

23 ~~(10)~~(7) Trapeze bars;

24 ~~(11)~~(8) Grab bars and hand rails;

25 ~~(12)~~(9) Wheelchair adaptive devices;

26 ~~(13)~~(10) Hospital beds and adaptive devices;

27 ~~(14)~~(11) Patient lifts;

28 ~~(15) Orthopedic shoes and devices such as shoe lifts and~~

29 ~~inserts;~~

30 ~~(16)~~(12) Walkers;

31 ~~(17)~~(13) Crutches;

32 ~~(18)~~(14) Automobile hand controls;

33 ~~(19)~~(15) Shower benches and chairs;

34 ~~(20)~~(16) Disposable undergarments and linen savers;

35 ~~(21) Prosthetics;~~

36 ~~(22)~~(17) Braille writers, large print aids, and visual and

1 communication aids for those who are legally blind;

2 ~~(23) Hearing aids;~~

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

6 ~~(25)(19) Speech~~ Hand-held speech devices for those with
7 laryngectomies.

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

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

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

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

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

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

23 (c) As used in this section, "physician" means a person licensed under
24 ~~§ 17-95-401 et seq.~~ the Arkansas Medical Practices Act, § 17-95-201, or the
25 Arkansas Dental Practice Act, § 17-82-101 et seq.

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

30 26-53-141. Durable medical equipment, mobility-enhancing equipment,
31 prosthetic devices, and disposable medical supplies. [Effective January 1,
32 2008.]

33 (a)(1) Gross receipts or gross proceeds derived from the rental, sale,
34 or repair of durable medical equipment prescribed by a physician, mobility-
35 enhancing equipment prescribed by a physician, ~~a prosthetic device prescribed~~
36 ~~by a physician,~~ and disposable medical supplies prescribed by a physician

1 shall be exempt from all state and local sales and use taxes.

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

6 (b) Gross receipts or gross proceeds derived from the rental, sale, or
 7 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 ~~(b)(c)~~ As used in this section:

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

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

14 ~~(B) Catheters;~~

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

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

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

20 (i) Can withstand repeated use;

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

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

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

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

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

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

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

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

1 manufacturer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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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.

/s/ Ragland