

# ASSEMBLY, No. 4571

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

**Sponsored by:**

**Assemblyman JOHN DIMAIO**

**District 23 (Hunterdon, Somerset and Warren)**

**Co-Sponsored by:**

**Assemblyman DePhillips**

**SYNOPSIS**

Exempts from sales and use tax sales of medical marijuana.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/4/2018)**

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1 AN ACT exempting from the sales and use tax sales of medical  
2 marijuana and 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 (C.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; and

23 (11) medical marijuana authorized pursuant to the "New Jersey  
24 Compassionate Use Medical Marijuana Act," P.L.2009, c.307  
25 (C.24:6I-1 et seq.).

26 b. As used in this section:

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

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

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

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

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

40 (1) a "Drug Facts" panel or

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

**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.**

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

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

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

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

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

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

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

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

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

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

39

40 2. This act shall take effect immediately and shall apply to  
41 receipts from sales of medical marijuana made on or after the first  
42 day of the first month of the first calendar quarter beginning at least  
43 90 days after the date of enactment.

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STATEMENT

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47 This bill exempts from the sales and use tax the sale of medical  
48 marijuana authorized pursuant to the "New Jersey Compassionate

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1 Use Medical Marijuana Act," N.J.S.A.24:6I-1 et seq. The  
2 Department of the Treasury has interpreted the "Sales and Use Tax  
3 Act" to apply to the dispensation of medical marijuana.

4 Medical marijuana is prescribed in New Jersey for several  
5 chronic and debilitating diseases, such as terminal cancer, multiple  
6 sclerosis, and seizure disorders, among other life altering  
7 conditions. Drugs sold pursuant to a doctor's prescription are  
8 exempt from the sales and use tax; however, medical marijuana is  
9 still subject to the sales and use tax despite being prescribed by  
10 doctors. The patients who are prescribed medical marijuana will  
11 incur the full cost since medical marijuana is federally prohibited  
12 from being insured. The bill's intent is to help patients, who are  
13 suffering from a chronic and debilitating disease, afford their  
14 prescribed medication by removing the burden of taxation. Thus,  
15 the bill eliminates the sales tax imposed on medical marijuana  
16 purchases.

17 The bill takes effect immediately and applies to medical  
18 marijuana sold on or after the first day of the first month of the first  
19 calendar quarter beginning at least 90 days after the date of  
20 enactment.