

ASSEMBLY, No. 610

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 23 (Hunterdon, Somerset and Warren)

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SYNOPSIS

Exempts from sales and use tax sales of medical marijuana.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/5/2020)

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.

45 "Grooming and hygiene product" is soap or cleaning solution,

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.

1 shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion
2 or screen, regardless of whether the item meets the definition of
3 "over-the-counter drug."

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

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

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

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

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

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

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

31 c. Receipts from sales of supplies purchased for use in
32 providing medical services for compensation, but not transferred to
33 the purchaser of the service in conjunction with the performance of
34 the service, shall be considered taxable receipts from retail sales
35 notwithstanding the exemption from the tax imposed under the
36 "Sales and Use Tax Act" provided under this section.
37 (cf: P.L.2017, c.131, s.214)
38

39 2. This act shall take effect immediately and shall apply to
40 receipts from sales of medical marijuana made on or after the first
41 day of the first month of the first calendar quarter beginning at least
42 90 days after the date of enactment.
43
44

45 STATEMENT

46
47 This bill exempts from the sales and use tax the sale of medical
48 marijuana authorized pursuant to the "New Jersey Compassionate

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.