

HOUSE BILL REPORT

SSB 5218

As Passed House:

April 17, 2023

Title: An act relating to providing a sales and use tax exemption for mobility enhancing equipment for use by or for a complex needs patient.

Brief Description: Providing a sales and use tax exemption for mobility enhancing equipment for use by or for a complex needs patient.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Padden, Mullet and Torres).

Brief History:

Committee Activity:

Finance: 4/14/23 [DP].

Floor Activity:

Passed House: 4/17/23, 96-0.

Brief Summary of Substitute Bill

- Exempts certain mobility enhancing equipment from retail sales and use tax.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 13 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Stokesbary, Thai, Walen and Wylie.

Staff: Kristina King (786-7190).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.1 percent, depending on the location.

Health-Related Purchases.

There are several sales and use tax exemptions for health-related products or devices.

These include:

- prosthetic devices, including eyeglasses and frames, prescribed for individuals by a person licensed by the state to prescribe them;
- medically prescribed oxygen and oxygen delivery systems;
- medicine of mineral, animal or botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a naturopath; and
- components of prosthetic devices and charges for repairing devices exempted by statute.

The term "mobility enhancing equipment" is defined as equipment, including repair and replacement parts for mobility enhancing equipment that: is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

The term "complex needs patient" is defined as an individual with a diagnosis or medical condition that results in significant physical or functional needs and capacities.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

Beginning August 1, 2023, retail sales and use tax is not applied to sales or use of mobility

enhancing equipment for use by a complex needs patient to meet the patient's medical, physical, and functional needs and capacities for basic activities when medically necessary and to prevent hospitalizations or institutionalization. The purchaser must provide the seller with an exemption certificate as prescribed by the Department of Revenue and the seller must retain a copy for the seller's files. The exemption is permanent and not subject to review by the JLARC.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill removes sales tax from high-end and high-cost wheelchairs and other mobility-enhancing equipment. Patients who use these items often suffer from traumatic brain injury, muscular dystrophy, multiple sclerosis, cerebral palsy, or a spinal cord injury. These products are very expensive and the sales tax paid on them is a significant amount of money for the patient. Wheelchairs can be as expensive as purchasing a car. Some patients are lucky and their insurance covers all or most of the costs, but there are still some patients who pay out of pocket and this bill provides relief. Currently, there are some sales and use tax exemptions for some medical equipment, but this does not cover all the mobility enhancements patients need. This bill must be passed to maintain patient access to complex equipment so that patients can stay in their homes and not be forced into long-term health care facilities. This exemption could be extended in the future to cover other items, such as handicap mobility vans.

Required sales and use tax on mobility-enhancing equipment has created an access issue for patients, especially in rural areas. Patients are not reimbursed for sales tax, yet they must pay it. In 2007 it was clarified that if an insurance company does not pay the tax, patients are required to be billed for it so, for example, a \$25,000 power wheelchair would require a patient to pay \$2,250 in sales tax in Spokane County. Companies that sell this equipment are forced to make a hard decision to close their businesses and not provide products unless the patient pays the sales tax or provide cheaper and inferior products.

(Opposed) None.

Persons Testifying: Senator Mike Padden, prime sponsor; Donald Whitney, Inland Medical & Rehab and Pacific Association for Medical Equipment Services; Shawn Latham, Allies in Advocacy; and Mark Challender.

Persons Signed In To Testify But Not Testifying: None.