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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2402

02/20/2012 Authored by Quam, Davids and Laine
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; sales and use; clarifying exemptions for medical devices;
1.3 amending Minnesota Statutes 2010, section 297A.67, subdivision 7, by adding a
1.4 subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 297A.67, subdivision 7, is amended to
1.7 read:

1.8 Subd. 7. **Drugs; medical devices.** (a) Sales of the following drugs and medical
1.9 devices for human use are exempt:

1.10 (1) drugs, including over-the-counter drugs;

1.11 (2) single-use finger-pricking devices for the extraction of blood and other single-use
1.12 devices and single-use diagnostic agents used in diagnosing, monitoring, or treating
1.13 diabetes;

1.14 (3) insulin and medical oxygen for human use, regardless of whether prescribed
1.15 or sold over the counter;

1.16 (4) prosthetic devices;

1.17 (5) durable medical equipment for home use only;

1.18 (6) mobility enhancing equipment;

1.19 (7) prescription corrective eyeglasses; and

1.20 (8) kidney dialysis equipment, including repair and replacement parts.

1.21 (b) Items purchased in transactions covered by:

1.22 (1) Medicare as defined under title XVIII of the Social Security Act, United States

1.23 Code, title 42, sections 1395, et seq.; or

2.1 (2) Medicaid as defined under title XIX of the Social Security Act, United States
2.2 Code, title 42, sections 1396, et seq.

2.3 ~~(b)~~ (c) For purposes of this subdivision:

2.4 (1) "Drug" means a compound, substance, or preparation, and any component of
2.5 a compound, substance, or preparation, other than food and food ingredients, dietary
2.6 supplements, or alcoholic beverages that is:

2.7 (i) recognized in the official United States Pharmacopoeia, official Homeopathic
2.8 Pharmacopoeia of the United States, or official National Formulary, and supplement
2.9 to any of them;

2.10 (ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention
2.11 of disease; or

2.12 (iii) intended to affect the structure or any function of the body.

2.13 (2) "Durable medical equipment" means equipment, including repair and
2.14 replacement parts, including single patient use items, but not including mobility enhancing
2.15 equipment, that:

2.16 (i) can withstand repeated use;

2.17 (ii) is primarily and customarily used to serve a medical purpose;

2.18 (iii) generally is not useful to a person in the absence of illness or injury; and

2.19 (iv) is not worn in or on the body.

2.20 For purposes of this clause, "repair and replacement parts" includes all components
2.21 or attachments used in conjunction with the durable medical equipment, ~~but does not~~
2.22 ~~include~~ including repair and replacement parts which are for single patient use only.

2.23 (3) "Mobility enhancing equipment" means equipment, including repair and
2.24 replacement parts, but not including durable medical equipment, that:

2.25 (i) is primarily and customarily used to provide or increase the ability to move from
2.26 one place to another and that is appropriate for use either in a home or a motor vehicle;

2.27 (ii) is not generally used by persons with normal mobility; and

2.28 (iii) does not include any motor vehicle or equipment on a motor vehicle normally
2.29 provided by a motor vehicle manufacturer.

2.30 (4) "Over-the-counter drug" means a drug that contains a label that identifies the
2.31 product as a drug as required by Code of Federal Regulations, title 21, section 201.66. The
2.32 label must include a "drug facts" panel or a statement of the active ingredients with a list of
2.33 those ingredients contained in the compound, substance, or preparation. Over-the-counter
2.34 drugs do not include grooming and hygiene products, regardless of whether they otherwise
2.35 meet the definition. "Grooming and hygiene products" are soaps, cleaning solutions,
2.36 shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens.

3.1 (5) "Prescribed" and "prescription" means a direction in the form of an order,
3.2 formula, or recipe issued in any form of oral, written, electronic, or other means of
3.3 transmission by a duly licensed health care professional.

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

3.6 (i) artificially replace a missing portion of the body;

3.7 (ii) prevent or correct physical deformity or malfunction; or

3.8 (iii) support a weak or deformed portion of the body.

3.9 Prosthetic device does not include corrective eyeglasses.

3.10 (7) "Kidney dialysis equipment" means equipment that:

3.11 (i) is used to remove waste products that build up in the blood when the kidneys are
3.12 not able to do so on their own; and

3.13 (ii) can withstand repeated use, including multiple use by a single patient,
3.14 notwithstanding the provisions of clause (2).

3.15 (8) A transaction is covered by Medicare or Medicaid if any portion of the cost of
3.16 the item purchased in the transaction is paid for or reimbursed by the federal government
3.17 or the state of Minnesota pursuant to the Medicare or Medicaid program, by a private
3.18 insurance company administering the Medicare or Medicaid program on behalf of the
3.19 federal government or the state of Minnesota, or by a managed care organization for the
3.20 benefit of a patient enrolled in a prepaid program that furnishes medical services in lieu
3.21 of conventional Medicare or Medicaid coverage pursuant to agreement with the federal
3.22 government or the state of Minnesota.

3.23 **EFFECTIVE DATE.** This section is effective retroactively for sales and purchases
3.24 made after April 1, 2009.

3.25 Sec. 2. Minnesota Statutes 2010, section 297A.67, is amended by adding a subdivision
3.26 to read:

3.27 Subd. 7a. **Accessories and supplies.** Accessories and supplies required for
3.28 the effective use of durable medical equipment for home use only, or purchased in
3.29 a transaction covered by Medicare or Medicaid, that are not already exempt under
3.30 subdivision 7 are exempt. Accessories and supplies for the effective use of a prosthetic
3.31 device that are not already exempt under subdivision 7 are exempt. For purposes of
3.32 this subdivision, "durable medical equipment," "prosthetic device," "Medicare," and
3.33 "Medicaid" have the meanings given in subdivision 7.

4.1 **EFFECTIVE DATE.** This section is effective retroactively for sales and purchases
4.2 made after April 1, 2009.