

1 AN ACT relating to taxation of breast pumps and related supplies.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 139.472 is amended to read as follows:

- 4 (1) Notwithstanding any other provisions of this chapter, the taxes imposed by this
5 chapter shall not apply to the sale or purchase of:
- 6 (a) A drug purchased for the treatment of a human being for which a prescription
7 is required by state or federal law, whether the drug is dispensed by a licensed
8 pharmacist, administered by a physician or other health care provider, or
9 distributed as a free sample to or from a physician's office;
 - 10 (b) An over-the-counter drug purchased for the treatment of a human being for
11 which a prescription is issued;
 - 12 (c) Medical oxygen and oxygen delivery equipment purchased for home use.
13 Oxygen delivery equipment includes:
 - 14 1. High pressure cylinders, cryogenic tanks, oxygen concentrators, or
15 similar medical oxygen delivery equipment including repair and
16 replacement parts for the equipment; and
 - 17 2. Tubes, masks, and similar items required for the delivery of oxygen to
18 the patient;
 - 19 (d) Insulin and diabetic supplies, including hypodermic syringes, needles, and
20 sugar (urine and blood) testing materials purchased by an individual for
21 private use;
 - 22 (e) Colostomy, urostomy, or ileostomy supplies purchased by an individual for
23 private use;
 - 24 (f) Prosthetic devices purchased by any health care provider for use in the
25 treatment of a specific individual or purchased by an individual as prescribed
26 by a person authorized under the laws of the Commonwealth to issue
27 prescriptions;

- 1 (g) Prosthetic devices that are individually designed or created for an individual
2 regardless of the purchaser;
- 3 (h) Mobility enhancing equipment for which a prescription is issued;~~and~~
- 4 (i) Durable medical equipment, including hospital beds for which a prescription
5 is issued; and
- 6 **(j) 1. Breast pumps, breast pump kits, and breast pump storage and**
7 **collection supplies sold or purchased on or after July 1, 2023, and on**
8 **or before June 30, 2027.**
- 9 **2. On or before July 1, 2024, and on or before each July 1 thereafter as**
10 **long as the exemption applies, the department shall report to the**
11 **Interim Joint Committee on Appropriations and Revenue the total**
12 **amount of tax exemption that has been claimed for the immediately**
13 **preceding fiscal year and the total cumulative amount of the**
14 **exemption claimed.**
- 15 (2) Except as specifically provided in subsection (1) of this section, supplies or
16 equipment used to deliver a drug to a patient are taxable.
- 17 (3) As used in this section and KRS 139.480:
- 18 (a) **"Breast pump" means:**
- 19 **1. An electrically or manually controlled pump device designed or**
20 **marketed to be used to express milk from a human breast during**
21 **lactation; and**
- 22 **2. Any battery, AC adapter, or other power supply unit packaged and**
23 **sold with the pump device at the time of sale to power the pump**
24 **device;**
- 25 **(b) 1. "Breast pump collection and storage supplies" means tangible**
26 **personal property designed or marketed to be used in conjunction with**
27 **a breast pump to collect milk expressed from a human breast or store**

- 1 collected breast milk until it is ready for consumption.
- 2 2. "Breast pump collection and storage supplies" includes but is not
- 3 limited to:
- 4 a. Breast shields and breast shield connectors;
- 5 b. Breast pump tubes and tubing adapters;
- 6 c. Breast pump valves and membranes;
- 7 d. Backflow protectors and backflow protector adapters;
- 8 e. Bottles and bottle caps specific to the operation of a breast pump;
- 9 f. Breast milk storage bags; and
- 10 g. Other items that may be useful to initiate, support, or sustain
- 11 breastfeeding using a breast pump during lactation, that may be
- 12 sold separately, but are generally sold as part of a breast pump
- 13 kit.
- 14 3. Unless sold as a part of a breast pump kit prepackaged by the breast
- 15 pump manufacturer or distributor, "breast pump collection and
- 16 storage supplies" does not include:
- 17 a. Bottles and bottle caps not specific to the operation of a breast
- 18 pump;
- 19 b. Breast pump travel bags and other similar carrying accessories;
- 20 c. Ice packs, labels, and other similar products;
- 21 d. Breast pump cleaning supplies;
- 22 e. Nursing bras, bra pads, breast shells, and other similar products;
- 23 and
- 24 f. Creams, ointments, and other similar products that relieve
- 25 breastfeeding-related symptoms or conditions of the breast or
- 26 nipples;
- 27 (c) "Breast pump kit" means a kit that contains a breast pump and one (1) or

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more of the following:

1. Breast pump collection and storage supplies; and

2. Other items of tangible personal property that may be useful to initiate, support, or sustain breastfeeding using a breast pump during lactation if these items, when sold with the breast pump kit, are less than ten percent (10%) of the total sales price of the breast pump kit;

(b) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:

- 1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- 2. Intended to affect the structure or any function of the body;

~~**(c)**~~~~**(b)**~~ "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions, regardless of whether the items meet the definition of an over-the-counter drug;

~~**(d)**~~~~**(e)**~~ 1. "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66.

The "over-the-counter drug" label shall include:

- a. A "Drug Facts" panel; or
- b. A statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

2. "Over-the-counter drug" shall not include grooming and hygiene products;

1 ~~(e)~~~~(d)~~ "Prescription" means an order, formula, or recipe issued in any form of
2 oral, written, electronic, or other means of transmission by a person
3 authorized under the laws of the Commonwealth to prescribe a drug;

4 ~~(f)~~~~(e)~~ 1. "Prosthetic device" means a replacement, corrective, or supportive
5 device, including repair and replacement parts for the device, worn on or
6 in the body to:

- 7 a. Artificially replace a missing portion of the body;
8 b. Prevent or correct a physical deformity or malfunction; or
9 c. Support a weak or deformed portion of the body.

10 2. "Prosthetic device" shall not include any of the following:

- 11 a. Corrective eyeglasses;
12 b. Contact lenses; or
13 c. Dental prosthesis;

14 ~~(g)~~~~(f)~~ 1. "Mobility enhancing equipment" means equipment, including
15 repair and replacements part for same, which:

- 16 a. Is primarily and customarily used to provide or increase the ability
17 to move from one place to another and which is appropriate for
18 use either in a home or a motor vehicle;
19 b. Is not generally used by persons with normal mobility; and
20 c. Does not include any motor vehicle or equipment on a motor
21 vehicle normally provided by a motor vehicle manufacturer.

22 2. "Mobility enhancing equipment" shall not include durable medical
23 equipment; and

24 ~~(h)~~~~(g)~~ 1. "Durable medical equipment" means equipment, including repair
25 and replacement parts for same, which:

- 26 a. Can withstand repeated use;
27 b. Is primarily and customarily used to serve a medical purpose;

- 1 c. Generally is not useful to a person in the absence of illness or
2 injury; and
- 3 d. Is not worn in or on the body.
- 4 2. "Durable medical equipment" shall not include mobility enhancing
5 equipment or oxygen delivery equipment that is not worn in or on the
6 body.
- 7 3. As used in this paragraph, "repair and replacement parts" includes all
8 components or attachments used in connection with durable medical
9 equipment.

10 ➔Section 2. KRS 131.190 is amended to read as follows:

- 11 (1) No present or former commissioner or employee of the department, present or
12 former member of a county board of assessment appeals, present or former property
13 valuation administrator or employee, present or former secretary or employee of the
14 Finance and Administration Cabinet, former secretary or employee of the Revenue
15 Cabinet, or any other person, shall intentionally and without authorization inspect
16 or divulge any information acquired by him or her of the affairs of any person, or
17 information regarding the tax schedules, returns, or reports required to be filed with
18 the department or other proper officer, or any information produced by a hearing or
19 investigation, insofar as the information may have to do with the affairs of the
20 person's business.
- 21 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 22 (a) Information required in prosecutions for making false reports or returns of
23 property for taxation, or any other infraction of the tax laws;
- 24 (b) Any matter properly entered upon any assessment record, or in any way made
25 a matter of public record;
- 26 (c) Furnishing any taxpayer or his or her properly authorized agent with
27 information respecting his or her own return;

- 1 (d) Testimony provided by the commissioner or any employee of the department
2 in any court, or the introduction as evidence of returns or reports filed with the
3 department, in an action for violation of state or federal tax laws or in any
4 action challenging state or federal tax laws;
- 5 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
6 energy resources assessed under KRS 132.820, or owners of surface land
7 under which the unmined minerals lie, factual information about the owner's
8 property derived from third-party returns filed for that owner's property, under
9 the provisions of KRS 132.820, that is used to determine the owner's
10 assessment. This information shall be provided to the owner on a confidential
11 basis, and the owner shall be subject to the penalties provided in KRS
12 131.990(2). The third-party filer shall be given prior notice of any disclosure
13 of information to the owner that was provided by the third-party filer;
- 14 (f) Providing to a third-party purchaser pursuant to an order entered in a
15 foreclosure action filed in a court of competent jurisdiction, factual
16 information related to the owner or lessee of coal, oil, gas reserves, or any
17 other mineral resources assessed under KRS 132.820. The department may
18 promulgate an administrative regulation establishing a fee schedule for the
19 provision of the information described in this paragraph. Any fee imposed
20 shall not exceed the greater of the actual cost of providing the information or
21 ten dollars (\$10);
- 22 (g) Providing information to a licensing agency, the Transportation Cabinet, or
23 the Kentucky Supreme Court under KRS 131.1817;
- 24 (h) Statistics of gasoline and special fuels gallonage reported to the department
25 under KRS 138.210 to 138.448;
- 26 (i) Providing any utility gross receipts license tax return information that is
27 necessary to administer the provisions of KRS 160.613 to 160.617 to

- 1 applicable school districts on a confidential basis;
- 2 (j) Providing documents, data, or other information to a third party pursuant to an
- 3 order issued by a court of competent jurisdiction; or
- 4 (k) Providing information to the Legislative Research Commission under:
- 5 1. KRS 139.519 for purposes of the sales and use tax refund on building
- 6 materials used for disaster recovery;
- 7 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 8 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 9 ENERGY STAR manufactured home credits;
- 10 4. KRS 141.383 for purposes of the film industry incentives;
- 11 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 12 tax credits and the job assessment fees;
- 13 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 14 7. KRS 141.396 for purposes of the angel investor tax credit;
- 15 8. KRS 141.389 for purposes of the distilled spirits credit;
- 16 9. KRS 141.408 for purposes of the inventory credit;
- 17 10. KRS 141.390 for purposes of the recycling and composting credit;
- 18 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 19 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 20 credit;
- 21 13. KRS 141.524 for purposes of the Education Opportunity Account
- 22 Program tax credit;
- 23 14. KRS 141.398 for purposes of the development area tax credit;
- 24 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 25 commercial mining of cryptocurrency;~~and~~
- 26 16. KRS 141.419 for purposes of the decontamination tax credit; **and**
- 27 **17. Section 1 of this Act for purposes of the exemption for sale or**

1 *purchase of breast pumps and related supplies.*

- 2 (3) The commissioner shall make available any information for official use only and on
3 a confidential basis to the proper officer, agency, board or commission of this state,
4 any Kentucky county, any Kentucky city, any other state, or the federal
5 government, under reciprocal agreements whereby the department shall receive
6 similar or useful information in return.
- 7 (4) Access to and inspection of information received from the Internal Revenue Service
8 is for department use only, and is restricted to tax administration purposes.
9 Information received from the Internal Revenue Service shall not be made available
10 to any other agency of state government, or any county, city, or other state, and
11 shall not be inspected intentionally and without authorization by any present
12 secretary or employee of the Finance and Administration Cabinet, commissioner or
13 employee of the department, or any other person.
- 14 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
15 requirements of KRS Chapter 137 and statistics of natural gas production as
16 reported to the department under the natural resources severance tax requirements
17 of KRS Chapter 143A may be made public by the department by release to the
18 Energy and Environment Cabinet, Department for Natural Resources.
- 19 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
20 submissions for the 1989 tax year, the department may make public or divulge only
21 those portions of mine maps submitted by taxpayers to the department pursuant to
22 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
23 out parcel areas. These electronic maps shall not be relied upon to determine actual
24 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
25 required under KRS Chapters 350 and 352 shall not be construed to constitute land
26 surveying or boundary surveys as defined by KRS 322.010 and any administrative
27 regulations promulgated thereto.

1 ➔Section 3. This Act takes effect July 1, 2023.