

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 August 1, 2024, and
8 on or before July 31, 2028.
- 9 2. On or before September 1, 2025, and on or before each September 1
10 thereafter as long as the exemption applies, the department shall
11 report to the Legislative Research Commission, for referral to the
12 Interim Joint Committee on Appropriations and Revenue, the total
13 amount of tax exemption that has been claimed for the immediately
14 preceding fiscal year and the total cumulative amount of the
15 exemption claimed.
- 16 (2) Except as specifically provided in subsection (1) of this section, supplies or
17 equipment used to deliver a drug to a patient are taxable.
- 18 (3) As used in this section and KRS 139.480:
- 19 (a) "Breast pump" means:
- 20 1. An electrically or manually controlled pump device designed or
21 marketed to be used to express milk from a human breast during
22 lactation; and
- 23 2. Any battery, AC adapter, or other power supply unit packaged and
24 sold with the pump device at the time of sale to power the pump
25 device;
- 26 (b) 1. "Breast pump collection and storage supplies" means tangible
27 personal property designed or marketed to be used in conjunction with

1 a breast pump to collect milk expressed from a human breast or store
2 collected breast milk until it is ready for consumption.

3 2. "Breast pump collection and storage supplies" includes but is not
4 limited to:

5 a. Breast shields and breast shield connectors;

6 b. Breast pump tubes and tubing adapters;

7 c. Breast pump valves and membranes;

8 d. Backflow protectors and backflow protector adapters;

9 e. Bottles and bottle caps specific to the operation of a breast pump;

10 f. Breast milk storage bags; and

11 g. Other items that may be useful to initiate, support, or sustain
12 breastfeeding using a breast pump during lactation, that may be
13 sold separately, but are generally sold as part of a breast pump
14 kit.

15 3. Unless sold as a part of a breast pump kit prepackaged by the breast
16 pump manufacturer or distributor, "breast pump collection and
17 storage supplies" does not include:

18 a. Bottles and bottle caps not specific to the operation of a breast
19 pump;

20 b. Breast pump travel bags and other similar carrying accessories;

21 c. Ice packs, labels, and other similar products;

22 d. Breast pump cleaning supplies;

23 e. Nursing bras, bra pads, breast shells, and other similar products;
24 and

25 f. Creams, ointments, and other similar products that relieve
26 breastfeeding-related symptoms or conditions of the breast or
27 nipples;

1 (c) "Breast pump kit" means a kit that contains a breast pump and one (1) or
2 more of the following:

- 3 1. Breast pump collection and storage supplies; and
- 4 2. Other items of tangible personal property that may be useful to
5 initiate, support, or sustain breastfeeding using a breast pump during
6 lactation if these items, when sold with the breast pump kit, are less
7 than ten percent (10%) of the total sales price of the breast pump kit;

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

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

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

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

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

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

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

1 products;

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

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

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

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

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

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

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

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

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

- 27 a. Can withstand repeated use;

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

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

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

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

- 1 necessary to administer the provisions of KRS 160.613 to 160.617 to
2 applicable school districts on a confidential basis;
- 3 (j) Providing documents, data, or other information to a third party pursuant to an
4 order issued by a court of competent jurisdiction; or
- 5 (k) Providing information to the Legislative Research Commission under:
- 6 1. KRS 139.519 for purposes of the sales and use tax refund on building
7 materials used for disaster recovery;
- 8 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 9 3. KRS 141.437 for purposes of the ENERGY STAR home and the
10 ENERGY STAR manufactured home credits;
- 11 4. KRS 141.383 for purposes of the film industry incentives;
- 12 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
13 tax credits and the job assessment fees;
- 14 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 15 7. KRS 141.396 for purposes of the angel investor tax credit;
- 16 8. KRS 141.389 for purposes of the distilled spirits credit;
- 17 9. KRS 141.408 for purposes of the inventory credit;
- 18 10. KRS 141.390 for purposes of the recycling and composting credit;
- 19 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 20 12. KRS 141.4231 for purposes of the renewable chemical production tax
21 credit;
- 22 13. KRS 141.524 for purposes of the Education Opportunity Account
23 Program tax credit;
- 24 14. KRS 141.398 for purposes of the development area tax credit;
- 25 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
26 commercial mining of cryptocurrency;~~and~~
- 27 16. KRS 141.419 for purposes of the decontamination tax credit; **and**

1 17. Section 1 of this Act for purposes of the exemption for sale or
2 purchase of breast pumps and related supplies.

3 (3) The commissioner shall make available any information for official use only and on
4 a confidential basis to the proper officer, agency, board or commission of this state,
5 any Kentucky county, any Kentucky city, any other state, or the federal
6 government, under reciprocal agreements whereby the department shall receive
7 similar or useful information in return.

8 (4) Access to and inspection of information received from the Internal Revenue Service
9 is for department use only, and is restricted to tax administration purposes.
10 Information received from the Internal Revenue Service shall not be made available
11 to any other agency of state government, or any county, city, or other state, and
12 shall not be inspected intentionally and without authorization by any present
13 secretary or employee of the Finance and Administration Cabinet, commissioner or
14 employee of the department, or any other person.

15 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
16 requirements of KRS Chapter 137 and statistics of natural gas production as
17 reported to the department under the natural resources severance tax requirements
18 of KRS Chapter 143A may be made public by the department by release to the
19 Energy and Environment Cabinet, Department for Natural Resources.

20 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
21 submissions for the 1989 tax year, the department may make public or divulge only
22 those portions of mine maps submitted by taxpayers to the department pursuant to
23 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
24 out parcel areas. These electronic maps shall not be relied upon to determine actual
25 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
26 required under KRS Chapters 350 and 352 shall not be construed to constitute land
27 surveying or boundary surveys as defined by KRS 322.010 and any administrative

1 regulations promulgated thereto.

2 ➔Section 3. This Act takes effect August 1, 2024.