

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 17-0774.01 Kate Meyer x4348

**HOUSE BILL 17-1195**

---

**HOUSE SPONSORSHIP**

**Winter,**

**SENATE SPONSORSHIP**

**Martinez Humenik,**

---

**House Committees**

Finance  
Appropriations

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE SALES TAX IMPOSED ON DIAPERS.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill creates a state sales tax exemption, commencing January 1, 2018, for the sale, storage, and use of diapers. The bill further specifies that local statutory taxing jurisdictions may choose to adopt the same exemption by express inclusion in their sales and use tax ordinance or resolution.

---

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) Colorado families are the backbone of the state economy and  
5 many of those families have the need to purchase diapers for children;

6 (b) The cost of diapers for working families is between \$80-100  
7 a month per child, which is a high burden for many low-income families;

8 (c) There are currently over forty-two thousand children under the  
9 age of three living in low-income Colorado homes, but there are only  
10 seven diaper banks in the state that provide assistance for children;

11 (d) A family of four living at the national poverty level spends  
12 approximately ten percent of their annual budget on diapers;

13 (e) When working families cannot afford diapers, they can lose  
14 access to affordable childcare options, which often require a week's  
15 supply of disposable diapers at a time, as most childcare facilities do not  
16 accept cloth diapers;

17 (f) The barriers created by diaper need go beyond health care and  
18 can permeate a parent's ability to go to work;

19 (g) Without an adequate supply of clean diapers, children spend  
20 too long in soiled diapers, and some families wash and reuse products that  
21 are meant to be disposable, which creates health risks;

22 (h) Exempting these products from the state sales tax will create  
23 an immediate financial relief for Colorado families; and

24 (i) This legislation will send the message that Colorado puts  
25 families first.

26 (2) The general assembly hereby finds and declares that the  
27 intended purpose of the tax expenditure in this act is to increase the

1 affordability of diapers to alleviate the financial burden that such products  
2 put on Colorado families.

3 **SECTION 2.** In Colorado Revised Statutes, 39-26-717, **amend**  
4 (1) introductory portion, (1)(k), (1)(l), and (2); and **add** (1)(m) as follows:

5 **39-26-717. Drugs and medical and therapeutic devices -**  
6 **definitions.** (1) The following ~~shall be~~ ARE exempt from taxation under  
7 ~~the provisions of part 1 of this article~~ ARTICLE 26:

8 (k) All sales of nonprescription drugs or materials when furnished  
9 by a licensed provider as part of professional services provided to a  
10 patient; ~~and~~

11 (l) All sales of corrective eyeglasses, contact lenses, or hearing  
12 aids; AND

13 (m) ALL SALES OF DIAPERS PURCHASED ON AND AFTER JANUARY  
14 1, 2018.

15 (2) As used in this section, unless the context otherwise requires:

16 (a) "DIAPER" MEANS AN ABSORBENT GARMENT THAT IS  
17 DISPOSABLE AND THAT IS DESIGNED TO BE WORN EITHER BY A CHILD WHO  
18 CANNOT CONTROL BLADDER OR BOWEL MOVEMENTS OR BY AN ADULT WHO  
19 SUFFERS FROM INCONTINENCE. THE TERM DOES NOT INCLUDE CLOTH OR  
20 OTHER WASHABLE DIAPERS.

21 ~~(a)~~ (b) (I) "Durable medical equipment" means equipment,  
22 including repair and replacement parts for such equipment, dispensed  
23 pursuant to a prescription, that:

24 (A) Can withstand repeated use;

25 (B) Is primarily and customarily used to serve a medical purpose;

26 (C) Is generally not useful to a person in the absence of illness or  
27 injury; and

1 (D) Is not worn in or on the body.

2 (II) "Durable medical equipment" includes, but is not limited to,  
3 hospital beds, intravenous poles and pumps, trapeze bars, toileting aids,  
4 bath and shower aids, standing aids, adaptive car seats, communication  
5 devices, and any related accessories for such items.

6 (III) For purposes of this ~~paragraph (a)~~ SUBSECTION (2)(b),  
7 "prescription" means any order in writing, dated and signed by a licensed  
8 physician, physician assistant, or advanced practice nurse with  
9 prescriptive authority, or given orally by such a person and immediately  
10 reduced to writing by the pharmacist, assistant pharmacist, or pharmacy  
11 intern, or by a representative of a business licensed to sell items of  
12 durable medical equipment so long as such order is also followed by an  
13 electronic submission of the order to the business, specifying the name  
14 and address of the person for whom an item of durable medical  
15 equipment is ordered and directions, if any, to be included with the  
16 equipment.

17 ~~(b)~~ (c) (I) "Mobility enhancing equipment" means equipment,  
18 including repair and replacement parts for such equipment, dispensed  
19 pursuant to a prescription, that:

20 (A) Is primarily and customarily used to provide or increase the  
21 ability to move from one place to another;

22 (B) Is appropriate for use in a home, in a person's community, or  
23 in a motor vehicle;

24 (C) Is not generally used by persons with normal mobility; and

25 (D) Does not include any motor vehicle or equipment on a motor  
26 vehicle normally provided by a motor vehicle manufacturer.

27 (II) "Mobility enhancing equipment" includes, but is not limited

1 to, wheelchairs and wheelchair components or accessories, walking aids  
2 such as crutches, canes, or walkers, grab bars, trapeze bars, lift chairs,  
3 patient lifts, motorized carts, scooters, controls that are installed on motor  
4 vehicles, and any related accessories for such items.

5 (III) For purposes of this ~~paragraph (b)~~ SUBSECTION (2)(c),  
6 "prescription" means any order in writing, dated and signed by a licensed  
7 physician, physician assistant, or advanced practice nurse with  
8 prescriptive authority, or given orally by such a person and immediately  
9 reduced to writing by the pharmacist, assistant pharmacist, or pharmacy  
10 intern, or by a representative of a business licensed to sell items of  
11 mobility enhancing equipment so long as such order is also followed by  
12 an electronic submission of the order to the business, specifying the name  
13 and address of the person for whom an item of mobility enhancing  
14 equipment is ordered and directions, if any, to be included with the  
15 equipment.

16 **SECTION 3.** In Colorado Revised Statutes, 29-2-105, **amend** (1)  
17 introductory portion and (1)(d)(I) introductory portion; and **add**  
18 (1)(d)(I)(O) as follows:

19 **29-2-105. Contents of sales tax ordinances and proposals -**  
20 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,  
21 city, or county adopted pursuant to this ~~article shall~~ ARTICLE 2 MUST be  
22 imposed on the sale of tangible personal property at retail or the  
23 furnishing of services, as provided in ~~paragraph (d) of this subsection (1)~~  
24 SUBSECTION (1)(d) OF THIS SECTION. Any countywide or incorporated  
25 town or city sales tax ordinance or proposal ~~shall~~ MUST include the  
26 following provisions:

27 (d) (I) A provision that the sale of tangible personal property and

1 services taxable pursuant to this ~~article shall be~~ ARTICLE 2 IS the same as  
2 the sale of tangible personal property and services taxable pursuant to  
3 section 39-26-104 ~~C.R.S.~~, except as otherwise provided in this paragraph  
4 ~~(d)~~ SUBSECTION (1)(d). The sale of tangible personal property and  
5 services taxable pursuant to this ~~article shall be~~ ARTICLE 2 IS subject to the  
6 same sales tax exemptions as those specified in part 7 of article 26 of title  
7 39; ~~C.R.S.~~; except that the sale of the following may be exempted from  
8 a town, city, or county sales tax only by the express inclusion of the  
9 exemption either at the time of adoption of the initial sales tax ordinance  
10 or resolution or by amendment thereto:

11 (O) THE EXEMPTION FOR SALES OF DIAPERS AS SPECIFIED IN  
12 SECTION 39-26-717 (1)(m).

13 **SECTION 4. Act subject to petition - effective date.** This act  
14 takes effect at 12:01 a.m. on the day following the expiration of the  
15 ninety-day period after final adjournment of the general assembly (August  
16 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
17 referendum petition is filed pursuant to section 1 (3) of article V of the  
18 state constitution against this act or an item, section, or part of this act  
19 within such period, then the act, item, section, or part will not take effect  
20 unless approved by the people at the general election to be held in  
21 November 2018 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor.