

HB131 ENGROSSED



1 HB131
2 IL9AWZW-2
3 By Representatives Butler, Gidley
4 RFD: State Government
5 First Read: 07-Feb-24



HB131 Engrossed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 40-9-30 and 40-9-60, Code of Alabama, 1975, to require certain health care providers to obtain a certificate of exemption from the Department of Revenue to make sales tax exempt purchases of certain durable medical equipment and medical supplies; and to provide further for the issuance of certificates of exemption.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-9-30 and 40-9-60, Code of Alabama 1975, are amended to read as follows:

"§40-9-30

(a) As used in this section, the term "durable medical equipment" means equipment which can stand repeated use, is used to serve a purpose for medical reasons, and is appropriate and suitable for use in the home.

(b) Oxygen or durable medical equipment dispensed under orders from a duly licensed physician by a participating provider to a recipient of benefits under the Medicare program shall be exempt from state and local sales and use taxes.

(c) A provider who rents or leases oxygen or durable medical equipment to a recipient of benefits under the



HB131 Engrossed

29 Medicare or Medicaid program under orders from a duly licensed
30 physician shall be exempt from all state and local rental and
31 leasing taxes.

32 (d) (1) In addition to any other exemptions provided in
33 subsection (b) or (c), any items used for the treatment of
34 illness or injury or to replace all or part of a limb or
35 internal body part purchased by or on behalf of an individual
36 pursuant to a valid prescription and covered by and billed to
37 Medicare, Medicaid, or a health benefit plan shall be exempt
38 from state, county, and municipal sales, use, and rental and
39 leasing taxes, including, but not limited to, any of the
40 following: Durable medical equipment, including repair parts
41 and the disposable or single patient use supplies required for
42 the use of the equipment; medical oxygen and related equipment
43 and supplies; prosthetic and orthotic devices; and medical
44 supplies, as defined and covered under the Medicare program,
45 including, but not limited to, items such as catheters,
46 catheter supplies, ostomy bags and supplies related to ostomy
47 care, specialized wound care products, and similar items that
48 are covered by and billed to Medicare, Medicaid, or a health
49 benefit plan.

50 (2) Beginning September 1, 2024, any health care
51 provider claiming an exemption pursuant to this subsection
52 shall obtain and maintain a certificate of exemption from the
53 Department of Revenue, in accordance with the provisions of
54 Section 40-9-60, prior to the purchase and shall provide the
55 certificate to the seller at the time of the purchase."

56 "§40-9-60



HB131 Engrossed

57 (a) All persons or companies, including, but not
58 limited to, those cited in this chapter, other than
59 governmental entities, which have statutory exemption from the
60 payment of Alabama sales and use taxes levied in, including,
61 but not limited to, Chapter 23, or lodgings taxes levied in
62 Chapter 26, regardless of the type of transaction or whether
63 the tangible personal property is subject to sales and use tax
64 or whether the accommodations are subject to lodgings tax,
65 shall be required to annually obtain a certificate of
66 exemption from the Department of Revenue. This requirement
67 does not supersede or replace the provisions of Section
68 40-9-14.1 or any other provision of statute requiring an
69 entity to obtain a certificate of exemption.

70 Except as otherwise provided in this title, this ~~This~~
71 article only applies to entities that have been granted a
72 general exemption from sales, use, or lodging taxes. Except as
73 otherwise provided in this title, the ~~The~~ requirements of this
74 article are not triggered by the purchase of tangible personal
75 property that is exempt from sales and use tax.

76 (1) For purposes of this article, the term governmental
77 entity means the Federal Government, the State of Alabama,
78 Alabama public schools, Alabama public universities,
79 healthcare authorities, airport authorities, Alabama counties
80 and municipalities, and public corporations incorporated under
81 any of the provisions of Chapter 50 of Title 11, Chapter 50A
82 of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39.

83 (2) The term governmental entity does not include
84 public corporations, other than those public corporations



HB131 Engrossed

85 described in subdivision (1), private schools, or private
86 universities.

87 (3) For purposes of this article, the term lodgings tax
88 means Transient Occupancy Tax, levied in Chapter 26.

89 (4) For the purposes of this article, the terms person
90 or company shall have the same meaning as prescribed in
91 Section 40-23-1.

92 (b) Certificates of exemption shall be valid for one
93 year from the date of issuance and shall be renewed annually
94 each subsequent year. Any person or company that fails to
95 obtain or renew a certificate of exemption prior to its
96 expiration may not make tax exempt purchases or rent tax
97 exempt accommodations after the expiration. The Department of
98 Revenue may assess any person or company with state and local
99 sales, use, and lodgings tax for any transaction conducted
100 with a certificate of exemption not properly accounted for and
101 reported as required in Section 40-9-61. Any reports required
102 by the Department of Revenue shall be filed as a prerequisite
103 to the renewal of a certificate of exemption.

104 (c) Any person or company that intentionally uses a
105 certificate of exemption in violation of its intended purpose,
106 in addition to the actual sales, use, and lodgings tax
107 liability due, shall be subject to a civil penalty levied by
108 the Department of Revenue in an amount of not less than
109 two-thousand dollars (\$2,000) or two times any state and local
110 sales, use, and lodgings tax due for the transactions,
111 whichever is greater, and based on the person or company's
112 willful misuse of the certificate of exemption, may be barred



HB131 Engrossed

113 from the use of any certificate of exemption for up to two
114 years.

115 (d) Except as otherwise provided in this title, this
116 ~~This~~ section shall be operative for all applicable exempt
117 persons or companies on January 1, 2016.

118 (e) The Department of Revenue may adopt rules to
119 administer and implement this section and may adopt rules
120 requiring an annual exemption certificate for persons or
121 companies not subject to subsection (a), other than government
122 entities, providing for an annual information report from such
123 persons or companies, and imposing penalties equivalent to the
124 penalties provided for in subsection (c) for noncompliance by
125 such persons or companies in order to verify exemptions and
126 make reports to the Legislature."

127 Section 2. This act shall become effective immediately.



HB131 Engrossed

128
129
130

131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148

House of Representatives

Read for the first time and referred07-Feb-24
to the House of Representatives
committee on State Government

Read for the second time and placed21-Feb-24
on the calendar:
0 amendments

Read for the third time and passed22-Feb-24
as amended
Yeas 101
Nays 0
Abstains 0

John Treadwell
Clerk