

Legislative Analysis



SALES TAX EXEMPTION: OVER-THE-COUNTER MEDICATIONS OBTAINED BY PRESCRIPTION

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House Bill 4831

Sponsor: Rep. Lisa Posthumus Lyons

Committee: Tax Policy

(Enrolled as PA 211 of 2013)

Complete to 9-23-13

A SUMMARY OF HOUSE BILL 4831 AS INTRODUCED 6-13-13

The bill would amend the General Sales Tax Act to provide a tax exemption for over-the-counter drugs for human use when obtained under a prescription.

The act currently exempts sales of "drugs for human use that can only be legally dispensed by prescription." (Article IX, Section 8 of the State Constitution says, "No sales tax or use tax shall be charged or collected from and after January 1, 1975 on the sale or use of prescription drugs for human use.")

House Bill 4831 would exempt, instead, the sale of a prescription drug for human use and an over-the-counter drug for human use pursuant to a prescription. Further, the bill would define the terms "prescription" and "prescription drug" to refer to those terms as defined in Section 17708 of the Public Health Code.

In the Public Health Code, "prescription drug" means one or more of the following: (1) a drug dispensed pursuant to a prescription; (2) a drug bearing the federal legend "CAUTION: federal law prohibits dispensing without prescription" or "Rx only"; or (3) a drug designated by the Board of Pharmacy as a drug that may only be dispensed pursuant to a prescription.

Generally speaking, the term "prescription" means an order by a prescriber to fill, compound, or dispense a drug or device written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication.

The term "prescriber" refers to a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

MCL 205.54g

FISCAL IMPACT:

As written, the bill would reduce sales tax revenue, affecting the School Aid Fund (SAF), General Fund (GF), and constitutional revenue sharing. Using industry market research data from 2012 on sales of over-the-counter medication that are likely to be prescribed by a doctor, the bill could reduce sales tax revenue by \$8.2 million on a full year basis. Under this estimate, the loss to the SAF would be approximately \$6 million, the loss to constitutional revenue sharing would be approximately \$820,000, and the loss to the GF would be approximately \$1.37 million. The actual amount of these losses will depend on the rate at which doctors prescribe OTC drugs, and the prices of those medications, both of which are unknown.

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