

HB131 ENROLLED



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



HB131 Enrolled

1 Enrolled, An Act,

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

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§40-9-30

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

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

20 (c) A provider who rents or leases oxygen or durable
21 medical equipment to a recipient of benefits under the
22 Medicare or Medicaid program under orders from a duly licensed
23 physician shall be exempt from all state and local rental and
24 leasing taxes.

25 (d) (1) In addition to any other exemptions provided in
26 subsection (b) or (c), any items used for the treatment of
27 illness or injury or to replace all or part of a limb or
28 internal body part purchased by or on behalf of an individual



HB131 Enrolled

29 pursuant to a valid prescription and covered by and billed to
30 Medicare, Medicaid, or a health benefit plan shall be exempt
31 from state, county, and municipal sales, use, and rental and
32 leasing taxes, including, but not limited to, any of the
33 following: Durable medical equipment, including repair parts
34 and the disposable or single patient use supplies required for
35 the use of the equipment; medical oxygen and related equipment
36 and supplies; prosthetic and orthotic devices; and medical
37 supplies, as defined and covered under the Medicare program,
38 including, but not limited to, items such as catheters,
39 catheter supplies, ostomy bags and supplies related to ostomy
40 care, specialized wound care products, and similar items that
41 are covered by and billed to Medicare, Medicaid, or a health
42 benefit plan.

43 (2) Beginning September 1, 2024, any health care
44 provider claiming an exemption pursuant to this subsection
45 shall obtain and maintain a certificate of exemption from the
46 Department of Revenue, in accordance with the provisions of
47 Section 40-9-60, prior to the purchase and shall provide the
48 certificate to the seller at the time of the purchase."

49 "§40-9-60

50 (a) All persons or companies, including, but not
51 limited to, those cited in this chapter, other than
52 governmental entities, which have statutory exemption from the
53 payment of Alabama sales and use taxes levied in, including,
54 but not limited to, Chapter 23, or lodgings taxes levied in
55 Chapter 26, regardless of the type of transaction or whether
56 the tangible personal property is subject to sales and use tax



HB131 Enrolled

57 or whether the accommodations are subject to lodgings tax,
58 shall be required to annually obtain a certificate of
59 exemption from the Department of Revenue. This requirement
60 does not supersede or replace the provisions of Section
61 40-9-14.1 or any other provision of statute requiring an
62 entity to obtain a certificate of exemption.

63 Except as otherwise provided in this title, this ~~This~~
64 article only applies to entities that have been granted a
65 general exemption from sales, use, or lodging taxes. Except as
66 otherwise provided in this title, the ~~The~~ requirements of this
67 article are not triggered by the purchase of tangible personal
68 property that is exempt from sales and use tax.

69 (1) For purposes of this article, the term governmental
70 entity means the Federal Government, the State of Alabama,
71 Alabama public schools, Alabama public universities,
72 healthcare authorities, airport authorities, Alabama counties
73 and municipalities, and public corporations incorporated under
74 any of the provisions of Chapter 50 of Title 11, Chapter 50A
75 of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39.

76 (2) The term governmental entity does not include
77 public corporations, other than those public corporations
78 described in subdivision (1), private schools, or private
79 universities.

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

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



HB131 Enrolled

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

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

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

111 (e) The Department of Revenue may adopt rules to
112 administer and implement this section and may adopt rules



HB131 Enrolled

113 requiring an annual exemption certificate for persons or
114 companies not subject to subsection (a), other than government
115 entities, providing for an annual information report from such
116 persons or companies, and imposing penalties equivalent to the
117 penalties provided for in subsection (c) for noncompliance by
118 such persons or companies in order to verify exemptions and
119 make reports to the Legislature."

120 Section 2. This act shall become effective immediately.



HB131 Enrolled

121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 22-Feb-24, as amended.

John Treadwell
Clerk

Senate

08-May-24

Passed