H-3167.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2429**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Hudgins, Appleton, Kloba, Santos, and Tarleton

AN ACT Relating to sales and use tax exemptions for durable medical equipment used in the home and prescribed mobility enhancing equipment; amending RCW 82.08.0283, 82.12.0277, 82.08.803, and 82.12.803; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in chapter . . ., Laws of 2018 (this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preferences in chapter . . ., Laws of 2018 (this act) as ones intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to provide financial relief to individuals needing certain medically necessary items. It is the legislature's intent to provide a sales and use tax exemption for durable medical equipment for home use and mobility enhancing equipment.

(4) To measure the effectiveness of this act in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee may refer to data provided by the department of revenue.

**Sec.**  RCW 82.08.0283 and 2007 c 6 s 1101 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 ((~~shall~~)) does not apply to sales of:

(a) Prosthetic devices prescribed, fitted, or furnished for an individual by a person licensed under the laws of this state to prescribe, fit, or furnish prosthetic devices, and the components of such prosthetic devices;

(b) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW; ((~~and~~))

(c) Medically prescribed oxygen, including, but not limited to, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems prescribed for an individual by a person licensed under chapter 18.57 or 18.71 RCW for use in the medical treatment of that individual;

(d) Durable medical equipment, and the components of durable medical equipment, for home use and prescribed by a person licensed under the laws of this state to prescribe such equipment; and

(e) Mobility enhancing equipment, and the components of mobility enhancing equipment, prescribed by a person licensed under the laws of this state to prescribe such equipment.

(2) In addition, the tax levied by RCW 82.08.020 ((~~shall~~)) does not apply to charges made for labor and services rendered in respect to the repairing, cleaning, altering, or improving of any of the items exempted under subsection (1) of this section.

(3) ((~~The exemption in subsection (1) of this section shall not apply to sales of durable medical equipment, other than as specified in subsection (1)(c) of this section, or mobility enhancing equipment.~~

~~(4)~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for a prosthetic device, worn on or in the body to:

(i) Artificially replace a missing portion of the body;

(ii) Prevent or correct a physical deformity or malfunction; or

(iii) Support a weak or deformed portion of the body.

(b) "Durable medical equipment" means equipment, including repair and replacement parts for durable medical equipment that:

(i) Can withstand repeated use;

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

(iii) Generally is not useful to a person in the absence of illness or injury; and

(iv) Is not worn in or on the body.

(c) "Mobility enhancing equipment" means equipment, including repair and replacement parts for mobility enhancing equipment that:

(i) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

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

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

(d) The terms "durable medical equipment" and "mobility enhancing equipment" are mutually exclusive.

**Sec.**  RCW 82.12.0277 and 2007 c 6 s 1102 are each amended to read as follows:

(1) The provisions of this chapter ((~~shall~~)) do not apply in respect to the use of:

(a) Prosthetic devices prescribed, fitted, or furnished for an individual by a person licensed under the laws of this state to prescribe, fit, or furnish prosthetic devices, and the components of such prosthetic devices;

(b) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW; ((~~and~~))

(c) Medically prescribed oxygen, including, but not limited to, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems prescribed for an individual by a person licensed under chapter 18.57 or 18.71 RCW for use in the medical treatment of that individual;

(d) Durable medical equipment, and the components of durable medical equipment, for home use and prescribed by a person licensed under the laws of this state to prescribe such equipment; and

(e) Mobility enhancing equipment, and the components of mobility enhancing equipment, prescribed by a person licensed under the laws of this state to prescribe such equipment.

(2) In addition, the provisions of this chapter ((~~shall~~)) do not apply in respect to the use of labor and services rendered in respect to the repairing, cleaning, altering, or improving of any of the items exempted under subsection (1) of this section.

(3) ((~~The exemption provided by subsection (1) of this section shall not apply to the use of durable medical equipment, other than as specified in subsection (1)(c) of this section, or mobility enhancing equipment.~~

~~(4)~~)) "Prosthetic device," "durable medical equipment," and "mobility enhancing equipment" have the same meanings as in RCW 82.08.0283.

**Sec.**  RCW 82.08.803 and 2007 c 6 s 1103 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 in the form of a refund is provided for sales of nebulizers for other than home use, including repair, replacement, and component parts for such nebulizers, for human use pursuant to a prescription. In addition, the tax levied by RCW 82.08.020 ((~~shall~~)) does not apply to charges made for labor and services rendered in respect to the repairing, cleaning, altering, or improving of nebulizers that are exempt under this section. "Nebulizer" means a device, not a building fixture, that converts a liquid medication into a mist so that it can be inhaled.

(2) Sellers ((~~shall~~)) must collect tax on sales subject to this exemption. The buyer ((~~shall~~)) must apply for a refund directly from the department in a form and manner prescribed by the department.

**Sec.**  RCW 82.12.803 and 2007 c 6 s 1104 are each amended to read as follows:

(1) The provisions of this chapter ((~~shall~~)) do not apply in respect to the use of nebulizers for other than home use, including repair, replacement, and component parts for such nebulizers, for human use pursuant to a prescription. In addition, the provisions of this chapter ((~~shall~~)) do not apply in respect to labor and services rendered in respect to the repairing, cleaning, altering, or improving of nebulizers that are exempt under this section. "Nebulizer" has the same meaning as in RCW 82.08.803.

(2) Sellers obligated to collect use tax ((~~shall~~)) must collect tax on sales subject to this exemption. The buyer ((~~shall~~)) must apply for a refund directly from the department in a form and manner prescribed by the department.

**--- END ---**