ENGROSSED SENATE
BILL NO. 377

BY: STIPE, BROWN, EASLEY, FAIR and MICKLE of the SENATE

and

THOMAS and GLOVER of the HOUSE

[REVENUE AND TAXATION - AMENDING 68 O.S., SECTION 1357 - MODIFYING CERTAIN EXEMPTION - CODIFICATION - EFFECTIVE DATE]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1981, Section 1357, as last amended by Section 4 of Enrolled Senate Bill No. 1 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 1357. Exemption - General.

There are hereby specifically exempted from the tax levied by this article:

(A) Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

(B) Transportation of persons where the fare of each person does not exceed One Dollar ($1.00), or local transportation of

persons within the corporate limits of a municipality except by taxicabs;

(C) Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit. The exemption provided by this subsection shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by this article. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

(D) Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

(E) Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of

animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that he is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

(F) Sale of natural or artificial gas and electricity when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 5 of Enrolled House Bill No. 1001 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 5 of Enrolled House Bill No. 1001 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

(G) ~~Sales~~ <u>In addition to the exemptions authorized by Section 2 of this act, sales</u> of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

(H) Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling

or otherwise transferring empty, partially filled, or filled returnable oil drums;

(I) Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

(J) Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the State of Oklahoma in the federal food stamp program;

(K) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment to a new or expanding business. In order to qualify for the exemption provided for by this subsection, the sale of said items shall equal or exceed the sum of Two Million Dollars ($2,000,000.00). For purposes of this subsection, qualified purchaser means any new or expanding business which adds at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment made within thirty-six (36) months of the effective date of this act shall be eligible for the exemption provided by this subsection;

(L) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this subsection, "qualified aircraft maintenance or manufacturing facility" means a new or

expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this subsection, the cost of said items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars ($2,000,000.00);

(M) Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in subsection (L) of this section. For purposes of this subsection, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility; and

(N) Effective July 1, 1993, and thereafter, sales of repair machinery, repair equipment and repair parts, and fuel, oil, lubricants and other substances used for the operation and maintenance of such repair machinery, repair equipment and repair parts, all of which are to be used directly within a nongovernmental aircraft maintenance facility which is primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis and:

1. Which has been certified by the Oklahoma Employment Security Commission as employing at least two thousand (2,000) full-time-equivalent employees; or

2. Whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two

hundred fifty (250) new full-time-equivalent employees and which is owned or leased by an aircraft manufacturing facility which employs at least two thousand (2,000) full-time-equivalent employees in this state as certified by the Oklahoma Employment Security Commission.

Provided, the provisions of this subsection shall be null and void unless and until there are two (2) or more such facilities located in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.4 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There are hereby exempted from the tax levied by this article, Section 1351 et seq. of Title 68 of the Oklahoma Statutes, the following items when administered or distributed by a practitioner, as defined in subsection B of this section, who is authorized by law to administer or distribute such items or when purchased or leased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner who is authorized by law to prescribe such items and when the cost of such items is reimbursable to the practitioner, supplier or the individual under the Medicare or Medicaid Program:

1. Drugs, hypodermic syringes, insulin, insulin syringes, artificial eyes, hearing aids and hearing aid parts and accessories;

2. Drugs and supplies used in hemodialysis and peritoneal dialysis;

3. Braces and other orthopedic appliances;

4. Catheters, urinary accessories, colostomy supplies and other prosthetic devices, as defined in subsection C of this section, which shall include, but not be limited to, enteral and parental feeding equipment and supplies such as tubing, pumps and containers, catheter devices and supplies, but which shall not include eyeglasses, contact lenses or dental bridgework;

5. Equipment and devices or chemical reagents which are used by a diabetic to test or monitor blood or urine; and

6. Other durable medical equipment, as defined in subsection D of this section, and devices and related parts and supplies specifically designed for those products which shall include, but not be limited to, oxygen equipment, oxygen cylinders, cylinder transport devices such as sheaths or carts, cylinder stands, support devices, regulators, flowmeters, tank wrenches, oxygen concentrators, liquid oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, oxygen fittings and accessories, respiratory therapy equipment, room humidifiers, aspirators, aerosol compressors both stationary and portable, ultrasonic nebulizers, volume ventilators, respirators and related device supplies, percussors, vibrators, intermittent positive pressure breathing circuits, devices and supplies, air oxygen mixers, manual resuscitators, nebulizers, tubing, emergency oxygen delivery units, patient care equipment, physical and occupational therapy items, hospital beds, trapeze bars and bar stands, bed rails, geriatric chairs, lift recliners, bedside commodes, overbed tables, patient lifts, patient lift slings, traction stands and pulleys, shower seating, shower grip bars, raised toilet seats, toilet safety frames, walking canes, quad canes and accessories, walkers, wheeled walkers, walker accessories, intravenous stands, crawlers, posture back supports for seating, posture back supports, wheelchairs, crutches, crutch pads, tips, grips, restraints, standing frame devices and accessories, hand exercise equipment and putty, specially designed hand utensils, leg weights, paraffin baths, communication aids for physically impaired persons, specialized seating such as desks, work stations and foam wedges, writing and speech aids for the impaired, dressing aids, button loops and zipper aids, grooming aids, dental aids, eating and drinking aids, splints, holders, household aids for the impaired,

shampoo trays, reaching aids, foam seating pads, decubitus seating pads, bed pads, fitted strollers, alternating pressure pads and pumps, stethoscopes, sphygmomanometers, otoscopes, sitting and sleeping cushions, patient transport devices, boards, stairglides, lifts in home, transcutaneous nerve stimulators, muscle stimulators and bone fracture therapy devices.

B. The term "practitioner" means a physician, osteopathic physician, surgeon, podiatrist, chiropractor, optometrist, psychologist, ophthalmologist, nurse practitioner, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law.

C. The term "prosthetic device" means a device which replaces a missing part or function of the human body and shall include any supplies physically connected to such device.

D. The term "durable medical equipment" means equipment which:

1. Can withstand repeated use;

2. Is primarily and customarily used to serve a medical purpose;

3. Generally is not useful to a person in the absence of illness or injury; and

4. Is appropriate for use in the home.

SECTION 3. This act shall become effective July 1, 1991.

Passed the Senate the 11th day of March, 1991.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1991.

Speaker of the House of Representatives