

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 534

INTRODUCER: Community Affairs Committee; Senator Latvala and Senator Diaz de la Portilla

SUBJECT: Tax Exemptions

DATE: March 11, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|------------|------------------|
| 1. | <u>Weidenbenner</u> | <u>Halley</u> | <u>AG</u> | Favorable |
| 2. | <u>White</u> | <u>Yeatman</u> | <u>CA</u> | Fav/CS |
| 3. | _____ | _____ | <u>AFT</u> | _____ |
| 4. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 534 creates exemptions from sales tax for common remedies and supplies used in the treatment of animals and non-prescription, special diet food items intended for treatment of a health disorder, as diagnosed by a licensed veterinarian.

II. Present Situation:

Sales Tax Exemptions for Veterinarians

In 1998, the Legislature created a sales tax exemption for veterinarians' purchases of commonly recognized substances possessing curative or remedial properties that are ordered and dispensed as treatment for a diagnosed health disorder according to a prescription.¹ In addition to being exempt from paying sales tax on prescribed substances, veterinarians do not pay sales tax when they purchase antiseptics, absorbent cotton, gauze for bandages, lotions, vitamins, and worm remedies.²

¹ Chapter 98-143, s. 1, Laws of Fla. (creating s. 212.08(2)(h), F.S., effective July 1, 1998).

² Section 212.08(2)(h), F.S.

Therapeutic Diet Food for Animals

Therapeutic diet food is specially formulated for use in the treatment of animals with specific diagnosed illnesses. These foods are sometimes colloquially referred to as “prescription diets,” although a prescription is not required for purchase. The Revenue Estimating Conference believes that such “prescription” pet food may account for around 8.2% of all pet food sales.³ The sale of special diet food items for animals is currently subject to sales tax, regardless of naming or labeling.

Sales Tax Exemption on Common Household Remedies

A variety of medical items are exempt from sales tax if for human beings, but not exempt if for animals.⁴ A list of nontaxable medical items for humans is incorporated into the Department of Revenue’s (DOR) Rules, and includes test kits, prosthetics, and household remedies.⁵ Section 212.08(2)(a), F.S., explains that common household remedies are “recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings.” A common household remedy is exempt, if dispensed according to a prescription written by a licensed practitioner authorized by Florida law to prescribe medicinal drugs.⁶ Additionally, DOR specifically lists 78 common household remedies that are exempt even without a prescription, including such things as:⁷

- Allergy relief products,
- Burn ointments,
- Cod liver oil,
- Disinfectants,
- Eye patches,
- Gauze,
- Hydrogen peroxide,
- Insulin,
- Lice treatments,
- Motion sickness remedies, and
- Worming treatments.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08(2), F.S., to create a sales tax exemption for sales of therapeutic veterinary diets that are intended as treatment of a diagnosed health disorder, and that are only available from a licensed veterinarian.

Section 2 provides that the bill takes effect July 1, 2014.

³ Revenue Estimating Conference, *Therapeutic Pet Foods Analysis* (Jan. 17, 2014).

⁴ See Section 212.08(2)(a), F.S.

⁵ Rule 12A-1. F.A.C.

⁶ Department of Revenue, *Nontaxable Medical Items and General Grocery List*, available at <http://dor.myflorida.com/dor/forms/current/dr46nt.pdf> (last visited Feb. 3, 2014).

⁷*Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature.⁸ However, such a bill may be exempt under art. VII, s. 18(d) of the Florida Constitution if it has an insignificant fiscal impact.⁹ The portions of this bill relating to special diet food for animals may reduce local sales taxes. It cannot presently be ascertained whether this bill would be exempt from the two-thirds vote requirement, under art. VII, s. 18(d) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

New provisions of the bill have not been reviewed by the Revenue Estimating Conference, but it appears that by exempting therapeutic diets from sales taxes would reduce the amount of sales tax going to the General Revenue fund, as well as reduce the amount of local sales taxes.¹⁰

B. Private Sector Impact:

Animal owners will be relieved of sales taxes on therapeutic veterinary diets for animals.

C. Government Sector Impact:

The Department of Revenue estimates that implementation of this bill will result in an insignificant impact to its operations.¹¹

VI. Technical Deficiencies:

None.

⁸ FLA. CONST. art. VII, s. 18(b).

⁹ An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year. FLA. CONST. art. VII, s. 18(d).

¹⁰ Revenue Estimating Conference, *Therapeutic Pet Foods Analysis* (Jan. 17, 2014).

¹¹ Department of Revenue, *Senate Bill 534 Analysis* (Jan. 2, 2014).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 11, 2014:

Removes the provision that would have extended sales tax exemptions on common household remedies to animals; and clarifies that the proposed sales tax exemption on diet foods for animals applies to therapeutic diets that are only available from a licensed veterinarian.

- B. **Amendments:**

None.