

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 534

INTRODUCER: Senator Latvala

SUBJECT: Tax Exemptions

DATE: January 9, 2014

REVISED: \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Halley</u>	<u>AG</u>	<u><b>Pre-meeting</b></u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 534 creates an exemption from sales tax for medical products and supplies or medicine dispensed according to an individual prescription for treatment of animals whether sold by a veterinarian or by an authorized druggist. It further creates a sales tax exemption for special diet food items, which don't require a prescription, intended for treatment of a health disorder diagnosed by a licensed veterinarian.

**II. Present Situation:**

Presently the sale of drugs by a veterinarian in connection with medical treatment is exempt from sales tax.<sup>1</sup> The sales tax on an individual prescription written by an authorized prescriber is exempt if for human beings,<sup>2</sup> but it is not exempt if for animals. This bill would provide a sales tax exemption for prescription drugs for animals whether sold by a veterinarian or filled by an authorized druggist.

The above described exemption for the sale of drugs by a veterinarian was codified in 1998.<sup>3</sup> At the same time the Legislature created a sales tax exemption for the purchase by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder as prescribed by a veterinarian.<sup>4</sup> These exemptions were enacted into law as a result of a legislative review in 1998 of the rulemaking authority of the Florida Department of Revenue (DOR) with the objective being to provide specific statutory authority for rules or parts of rules that had been identified as subject

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<sup>1</sup> Section 212.08(2)(f), F.S.

<sup>2</sup> Section 212.08(2)(a), F.S.

<sup>3</sup> Chapter 98-143, s. 1, Laws of Fla. (creating s. 212.08(f), F.S., effective July 1, 1988.

<sup>4</sup> Chapter 98-143, s. 1, Laws of Fla. (creating s. 212.08(h), F.S., effective July 1, 1988.

to repeal under s. 120.536, F.S., because the rule exceeded statutory authority. If the authorizing language was not passed, these items would have become taxable.<sup>5</sup>

Therapeutic diet food is specially formulated for use in the treatment of animals with specific diagnosed illnesses. These foods are commonly referred to as “Prescription Diets,” although a prescription is not required. For more than 30 years, DOR treated these special diet foods as exempt from sales tax under s. 212.08(2)(h), F.S.<sup>6</sup> This exemption was no longer allowed after July 12, 2010, when DOR adopted a new rule defining “veterinary prescription drugs” as drugs intended solely for veterinary use for which the label of the drug bears the statement: “Caution: Federal law restricts this drug to sale by or on the order of a licensed veterinarian.”<sup>7</sup> After this rule was adopted, DOR took the position that prescription diet food was not exempt from sales tax because a prescription was not required and there was no label setting forth the preceding cautionary statement.<sup>8</sup> Since that time, the sale of special diet food items for animals has been subject to sales tax.

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.08(2), F.S., as follows:

- Subsection (a) is revised to create a sales tax exemption for prescription medications written by an authorized prescriber for treatment of animals; presently this exemption is available only if the treatment is for human beings.
- Subsection (i) creates a sales tax exemption on sales of special diet food items intended as treatment of a diagnosed health disorder by a licensed veterinarian without a prescription being required.
- It also makes technical changes which do not change its meaning.

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

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>5</sup> Information contained in this portion of the bill analysis is from the analysis for CS/SB 1694 by the Senate Committee on Ways and Means (April 21, 1998) <http://archive.flsenate.gov/data/Session/1998/Senate/Bills/Analysis/pdf/SB1694.wm.PDF>. (last visited Jan. 8, 2014).

<sup>6</sup> Information contained in this portion of the bill analysis is from FVMA Bill Position Brief provided by the Florida Veterinary Association Jan. 8, 2014. Copy available in committee files.

<sup>7</sup> Rule 12A-1.0215, F.A.C.

<sup>8</sup> Letter from Department of Revenue to Mr. Edwin A. Bayo (May 27, 2010) regarding Proposed Rule 12A-1.0215, F.A.C., Veterinary Sales and Services. Copy available in committee files.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Animal owners will be relieved of an unknown, but estimated to be insignificant, amount of sales tax on prescriptions and special diet food items 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.<sup>9</sup>

**VI. Technical Deficiencies:**

None.

**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 Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>9</sup> Department of Revenue Analysis SB 534, Jan. 2, 2014. Copy available in committee files.