



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-0969/1
JK&MDE:amn

2023 ASSEMBLY BILL 226

April 5, 2023 - Introduced by Representatives DITTRICH, GUSTAFSON, S. JOHNSON, BINSFELD, BODDEN, SAPIK, MYERS, SCHUTT, MURSAU, OHNSTAD, MURPHY, SUBECK, ORTIZ-VELEZ, O'CONNOR, BEHNKE, CABRERA and PALMERI, cosponsored by Senators CABRAL-GUEVARA, CARPENTER and LARSON. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 77.52 (13) and 77.53 (10); and *to create* 77.51 (3h), 77.51 (3pq),
2 77.51 (4f), 77.54 (70), 100.30 (2) (ci), 100.30 (2) (ck), 100.30 (2) (ckc) and 100.30
3 (6) (a) 10. of the statutes; **relating to:** exemptions to the sale of diapers and
4 feminine hygiene products.

Analysis by the Legislative Reference Bureau

This bill creates a sales and use tax exemption for the sale of diapers and feminine hygiene products. The bill also exempts diapers and feminine hygiene products from the Unfair Sales Act. The Unfair Sales Act prohibits retailers and wholesalers from selling merchandise for less than the cost of the merchandise to the seller. Under the bill, the prohibition on below-cost sales does not apply to diapers and feminine hygiene products.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 77.51 (3h) of the statutes is created to read:

ASSEMBLY BILL 226**SECTION 1**

1 77.51 **(3h)** “Diaper” means an absorbent garment worn by humans who are
2 incapable of or have difficulty controlling their bladder or bowel movements.

3 **SECTION 2.** 77.51 (3pq) of the statutes is created to read:

4 77.51 **(3pq)** “Feminine hygiene products” means tampons, panty liners,
5 menstrual cups, sanitary napkins, and other similar tangible personal property
6 designed for feminine hygiene in connection with the human menstrual cycle.
7 “Feminine hygiene products” does not include grooming and hygiene products.

8 **SECTION 3.** 77.51 (4f) of the statutes is created to read:

9 77.51 **(4f)** “Grooming and hygiene products” means soaps and cleaning
10 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions
11 and screens.

12 **SECTION 4.** 77.52 (13) of the statutes is amended to read:

13 77.52 **(13)** For the purpose of the proper administration of this section and to
14 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
15 the tax until the contrary is established. The burden of proving that a sale of tangible
16 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
17 is not a taxable sale at retail is upon the person who makes the sale unless that
18 person takes from the purchaser an electronic or a paper certificate, in a manner
19 prescribed by the department, to the effect that the property, item, good, or service
20 is purchased for resale or is otherwise exempt, except that no certificate is required
21 for the sale of tangible personal property, or items, property, or goods under sub. (1)
22 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
23 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
24 (51), (52), (66), and (67), and (70).

25 **SECTION 5.** 77.53 (10) of the statutes is amended to read:

ASSEMBLY BILL 226

1 **77.53 (10)** For the purpose of the proper administration of this section and to
2 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
3 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
4 (d), or taxable services sold by any person for delivery in this state is sold for storage,
5 use, or other consumption in this state until the contrary is established. The burden
6 of proving the contrary is upon the person who makes the sale unless that person
7 takes from the purchaser an electronic or paper certificate, in a manner prescribed
8 by the department, to the effect that the property, or items, property, or goods under
9 s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise
10 exempt from the tax, except that no certificate is required for the sale of tangible
11 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
12 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),
13 (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), ~~and (67),~~ and (70).

14 **SECTION 6.** 77.54 (70) of the statutes is created to read:

15 **77.54 (70)** The sales price from the sale of and the storage, use, or other
16 consumption of diapers and feminine hygiene products.

17 **SECTION 7.** 100.30 (2) (ci) of the statutes is created to read:

18 **100.30 (2) (ci)** “Diaper” means an absorbent garment worn by humans who are
19 incapable of or have difficulty controlling their bladder or bowel movements.

20 **SECTION 8.** 100.30 (2) (ck) of the statutes is created to read:

21 **100.30 (2) (ck)** “Feminine hygiene products” means tampons, panty liners,
22 menstrual cups, sanitary napkins, and other similar tangible personal property
23 designed for feminine hygiene in connection with the human menstrual cycle.
24 “Feminine hygiene products” does not include grooming and hygiene products.

25 **SECTION 9.** 100.30 (2) (ckc) of the statutes is created to read:

