HB131 ENROLLED



- 1 HB131
- 2 IL9AWZW-3
- 3 By Representatives Butler, Gidley
- 4 RFD: State Government
- 5 First Read: 07-Feb-24



- 1 Enrolled, An Act,
- To amend Sections 40-9-30 and 40-9-60, Code of
- 3 Alabama, 1975, to require certain health care providers to
- 4 obtain a certificate of exemption from the Department of
- 5 Revenue to make sales tax exempt purchases of certain durable
- 6 medical equipment and medical supplies; and to provide further
- 7 for the issuance of certificates of exemption.
- 8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
- 9 Section 1. Sections 40-9-30 and 40-9-60, Code of
- 10 Alabama 1975, are amended to read as follows:
- 11 "\$40-9-30
- 12 (a) As used in this section, the term "durable medical
- 13 equipment" means equipment which can stand repeated use, is
- 14 used to serve a purpose for medical reasons, and is
- appropriate and suitable for use in the home.
- 16 (b) Oxygen or durable medical equipment dispensed under
- 17 orders from a duly licensed physician by a participating
- 18 provider to a recipient of benefits under the Medicare program
- 19 shall be exempt from state and local sales and use taxes.
- 20 (c) A provider who rents or leases oxygen or durable
- 21 medical equipment to a recipient of benefits under the
- 22 Medicare or Medicaid program under orders from a duly licensed
- 23 physician shall be exempt from all state and local rental and
- 24 leasing taxes.
- (d) (1) In addition to any other exemptions provided in
- 26 subsection (b) or (c), any items used for the treatment of
- 27 illness or injury or to replace all or part of a limb or
- internal body part purchased by or on behalf of an individual



29 pursuant to a valid prescription and covered by and billed to 30 Medicare, Medicaid, or a health benefit plan shall be exempt 31 from state, county, and municipal sales, use, and rental and 32 leasing taxes, including, but not limited to, any of the 33 following: Durable medical equipment, including repair parts and the disposable or single patient use supplies required for 34 35 the use of the equipment; medical oxygen and related equipment 36 and supplies; prosthetic and orthotic devices; and medical 37 supplies, as defined and covered under the Medicare program, including, but not limited to, items such as catheters, 38 39 catheter supplies, ostomy bags and supplies related to ostomy care, specialized wound care products, and similar items that 40 are covered by and billed to Medicare, Medicaid, or a health 41 42 benefit plan.

(2) Beginning September 1, 2024, any health care provider claiming an exemption pursuant to this subsection shall obtain and maintain a certificate of exemption from the Department of Revenue, in accordance with the provisions of Section 40-9-60, prior to the purchase and shall provide the certificate to the seller at the time of the purchase."

"\$40-9-60

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(a) All persons or companies, including, but not limited to, those cited in this chapter, other than governmental entities, which have statutory exemption from the payment of Alabama sales and use taxes levied in, including, but not limited to, Chapter 23, or lodgings taxes levied in Chapter 26, regardless of the type of transaction or whether the tangible personal property is subject to sales and use tax



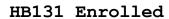
- or whether the accommodations are subject to lodgings tax,
- 58 shall be required to annually obtain a certificate of
- 59 exemption from the Department of Revenue. This requirement
- does not supersede or replace the provisions of Section
- 61 40-9-14.1 or any other provision of statute requiring an
- entity to obtain a certificate of exemption.
- Except as otherwise provided in this title, this This
- 64 article only applies to entities that have been granted a
- 65 general exemption from sales, use, or lodging taxes. Except as
- otherwise provided in this title, the The requirements of this
- article are not triggered by the purchase of tangible personal
- 68 property that is exempt from sales and use tax.
- (1) For purposes of this article, the term governmental
- 70 entity means the Federal Government, the State of Alabama,
- 71 Alabama public schools, Alabama public universities,
- 72 healthcare authorities, airport authorities, Alabama counties
- and municipalities, and public corporations incorporated under
- any of the provisions of Chapter 50 of Title 11, Chapter 50A
- 75 of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39.
- 76 (2) The term governmental entity does not include
- 77 public corporations, other than those public corporations
- 78 described in subdivision (1), private schools, or private
- 79 universities.
- 80 (3) For purposes of this article, the term lodgings tax
- 81 means Transient Occupancy Tax, levied in Chapter 26.
- 82 (4) For the purposes of this article, the terms person
- 83 or company shall have the same meaning as prescribed in
- 84 Section 40-23-1.



- 85 (b) Certificates of exemption shall be valid for one 86 year from the date of issuance and shall be renewed annually 87 each subsequent year. Any person or company that fails to 88 obtain or renew a certificate of exemption prior to its 89 expiration may not make tax exempt purchases or rent tax exempt accommodations after the expiration. The Department of 90 91 Revenue may assess any person or company with state and local 92 sales, use, and lodgings tax for any transaction conducted 93 with a certificate of exemption not properly accounted for and reported as required in Section 40-9-61. Any reports required 94 95 by the Department of Revenue shall be filed as a prerequisite to the renewal of a certificate of exemption. 96
- 97 (c) Any person or company that intentionally uses a 98 certificate of exemption in violation of its intended purpose, 99 in addition to the actual sales, use, and lodgings tax liability due, shall be subject to a civil penalty levied by 100 the Department of Revenue in an amount of not less than 101 102 two-thousand dollars (\$2,000) or two times any state and local 103 sales, use, and lodgings tax due for the transactions, 104 whichever is greater, and based on the person or company's 105 willful misuse of the certificate of exemption, may be barred 106 from the use of any certificate of exemption for up to two 107 years.
- 108 (d) Except as otherwise provided in this title, this
 109 This—section shall be operative for all applicable exempt
 110 persons or companies on January 1, 2016.
- 111 (e) The Department of Revenue may adopt rules to
 112 administer and implement this section and may adopt rules



113	requiring an annual exemption certificate for persons or
114	companies not subject to subsection (a), other than government
115	entities, providing for an annual information report from such
116	persons or companies, and imposing penalties equivalent to the
117	penalties provided for in subsection (c) for noncompliance by
118	such persons or companies in order to verify exemptions and
119	make reports to the Legislature."
120	Section 2. This act shall become effective immediately.





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128		Speaker of the House of Representatives	
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133		President and Presiding Officer of the Senate	
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136		House of Representatives	
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138	I 1	hereby certify that the within Act originated i	n and
139	was passe	d by the House 22-Feb-24, as amended.	
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141		John Treadwell	
142		Clerk	
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148	Senate	08-May-24	Passed
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