



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 1026 and 1027 (as reported without amendment)

Sponsor: Senator Dale W. Zorn (S.B. 1026)

Senator Jack Brandenburg (S.B. 1027)

Committee: Finance

Date Completed: 6-28-18

RATIONALE

Currently, Michigan exempts prosthetic devices from taxation under the General Sales Tax Act and the Use Tax Act, but explicitly excludes contact lenses from the "prosthetic device" definition. Some believe that this is unfair and contact lenses should be exempt from taxation. Evidently, taxing contact lenses is an administrative burden for those medical practices and other providers that sell contact lenses, and is confusing for customers who must pay taxes on the contact lenses when they believe insurance covers the entire cost. To address these concerns, it has been suggested that contact lenses should be exempt from the sales and use taxes.

CONTENT

Senate Bills 1026 and 1027 would amend the General Sales Tax Act and the Use Tax Act, respectively, to exempt from taxation under those Acts the sale or purchase of contact lenses.

The Acts impose a tax of 6% on the purchase price or sales price of nonexempt personal property and services.

The Acts exempt from the taxes the sale of a prosthetic device, durable medical equipment, or mobility enhancing equipment. The term "prosthetic device" is defined as a replacement, corrective, or supportive device, other than contact lenses and dental prosthesis, dispensed under a prescription, including repair or replacement parts for that device, worn on or in the body to do one or more of the following:

- Artificially replace a missing portion of the body.
- Prevent or correct a physical deformity or malfunction of the body.
- Support a weak or deformed portion of the body.

The bills would remove the exception for contact lenses from the definition.

The bills would take effect 90 days after they were enacted.

MCL 205.51a (S.B. 1026)

205.92b (S.B. 1027)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the Centers for Disease Control and Prevention, more than 30.0 million people in the United States wear contact lenses. Contact lenses are medical devices and are regulated by the U.S. Food and Drug Administration. However, Michigan does not classify contact lenses as medical prosthetic devices for taxation purposes, which is unfair and creates an inconsistent tax policy that otherwise exempts medical devices used to enhance a person's mobility or health. The bills would ensure that contact lenses were appropriately classified as tax-exempt medical prosthetic devices.

Supporting Argument

According to Senate Finance Committee testimony, contact lens providers can have trouble separating the amount of sales tax due on a purchase of contact lenses when using certain commercial software. Moreover, it can be difficult to explain to customers why they are responsible for paying the sales tax, particularly when traditional eyeglasses are already exempt from taxation. This may discourage consumers from purchasing contact lenses. The bills would alleviate this administrative burden and ensure that traditional eyeglasses and contact lenses were treated equally for taxation purposes.

Supporting Argument

Currently, 23 states, including Michigan, are full members of the Streamlined Sales and Use Tax Agreement. According to Committee testimony, 15 of those member states have exempted contact lenses from taxation. By making Michigan the 16th state in the Agreement to exempt contact lenses from taxation, the bills would ensure a competitive marketplace for consumers in Michigan, who pay what can be a significant amount for lenses. Reportedly, an annual supply of contact lenses costs around \$280, with some specialized lenses costing as much as \$2,000.

Opposing Argument

The bills' fiscal impact would be substantial. The State should address the cost through the budget process before enacting the bills.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would reduce State and local revenue by approximately \$12.7 million per year. The distribution of the impact would depend on the relative shares of sales and use taxes affected by the bills, because approximately 73.3% of sales tax revenue is distributed to the School Aid Fund, local units of government receive 10.0% through constitutional revenue sharing, and the rest is directed to the General Fund; while out of the State's share of the use tax, the School Aid Fund receives approximately 48%, and the General Fund receives the remaining 52%. It is expected that most of the reduction would affect sales tax revenue. If 100% of the impact occurred under the sales tax, the bills would reduce School Aid Fund revenue by approximately \$9.3 million per year, local unit revenue by \$1.3 million per year, and General Fund revenue by approximately \$2.1 million per year.

The limited and poor quality of available data suggests that significantly different estimates are possible for the impact of the bills. Data for the national market are more reliable than the data for Michigan, but even the national data provide materially divergent estimates on the size of the U.S. contact lens market across different sources. Trade publications indicate that it is difficult to obtain accurate figures regarding the size of the U.S. market. As a result, several states considering similar tax exemption measures have estimated widely varying impacts, some of which are not consistent with each other given the size of their respective state populations. The estimate above averages the impacts using several different data sources and methodologies.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.