

# Legislative Analysis



## **SALES TAX EXEMPTION: OVER-THE-COUNTER MEDICATIONS OBTAINED BY PRESCRIPTION**

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**House Bill 5678**

**Sponsor: Rep. Kenneth Horn**

**Committee: Tax Policy**

**Complete to 6-5-12**

### **A SUMMARY OF HOUSE BILL 5678 AS INTRODUCED 5-24-12**

The bill would amend the General Sales Tax Act to provide a tax exemption for over-the-counter drugs for human use obtained under a prescription.

The act currently exempts sales of "drugs for human use that can only be legally dispensed by prescription." Article IX, Section 8 of the State Constitution says, "No sales tax or use tax shall be charged or collected from and after January 1, 1975 on the sale or use of prescription drugs for human use."

House Bill 5678 would exempt, instead, the sale of a prescription drug for human use or an over-the-counter drug for human use pursuant to a prescription. Further, the bill would define the terms "prescription" and "prescription drug" to refer to those terms as defined in Section 17708 of the Public Health Code.

In the Public Health Code, "prescription drug" means 1 or more of the following: (1) a drug dispensed pursuant to a prescription; (2) a drug bearing the federal legend "CAUTION: federal law prohibits dispensing without prescription" or "Rx only"; or (3) a drug designated by the Board of Pharmacy as a drug that may only be dispensed pursuant to a prescription.

Generally speaking, the term "prescription" means an order for a drug or device written and signed or transmitted by facsimile, electronic transmission, or other means of communication by "a prescriber" to be filled, compounded, or dispensed. The term "prescriber" refers to a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

MCL 205.54g

### **FISCAL IMPACT:**

The fiscal impact of House Bill 5678 depends on the number of prescriptions issued for over-the-counter drugs and the retail sales price of these drugs. This bill would reduce

sales tax revenue by an estimated \$10 million on a full-year basis. Given the sales tax earmarking, the School Aid Fund would decline by \$7.3 million, the General Fund/General Purpose would decline by \$1.7 million, and constitutional revenue sharing would decline by \$1.0 million.

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