

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 849

Introduced by Cavanaugh, J., 9.

Read first time January 08, 2026

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2704.09, Reissue Revised Statutes of Nebraska; to provide an
- 3 exemption from sales and use taxes for over-the-counter drugs; to
- 4 provide an operative date; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-2704.09, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
4 receipts from the sale, lease, or rental of and the storage, use, or
5 other consumption in this state of (a) insulin, (b) mobility enhancing
6 equipment and drugs ~~, not including over-the-counter drugs,~~ when sold for
7 a patient's use under a prescription, (c) over-the-counter drugs, and (d)
8 ~~(e)~~ the following when sold for a patient's use under a prescription and
9 which are of the type eligible for coverage under the medical assistance
10 program established pursuant to the Medical Assistance Act: Durable
11 medical equipment; home medical supplies; prosthetic devices; oxygen; and
12 oxygen equipment.

13 (2) For purposes of this section:

14 (a) Drug means a compound, substance, preparation, and component of
15 a compound, substance, or preparation, other than food and food
16 ingredients, dietary supplements, or alcoholic beverages:

17 (i) Recognized in the official United States Pharmacopoeia, official
18 Homeopathic Pharmacopoeia of the United States, or official National
19 Formulary, and any supplement to any of them;

20 (ii) Intended for use in the diagnosis, cure, mitigation, treatment,
21 or prevention of disease; or

22 (iii) Intended to affect the structure or any function of the body;

23 (b) Durable medical equipment means equipment which can withstand
24 repeated use, is primarily and customarily used to serve a medical
25 purpose, generally is not useful to a person in the absence of illness or
26 injury, is appropriate for use in the home, and is not worn in or on the
27 body. Durable medical equipment includes repair and replacement parts for
28 such equipment;

29 (c) Home medical supplies means supplies primarily and customarily
30 used to serve a medical purpose which are appropriate for use in the home
31 and are generally not useful to a person in the absence of illness or

1 injury;

2 (d) Mobility enhancing equipment means equipment which is primarily
3 and customarily used to provide or increase the ability to move from one
4 place to another, which is not generally used by persons with normal
5 mobility, and which is appropriate for use either in a home or a motor
6 vehicle. Mobility enhancing equipment includes repair and replacement
7 parts for such equipment. Mobility enhancing equipment does not include
8 any motor vehicle or equipment on a motor vehicle normally provided by a
9 motor vehicle manufacturer;

10 (e) Over-the-counter drug means a drug that contains a label that
11 identifies the product as a drug as required by 21 C.F.R. 201.66, as such
12 regulation existed on January 1, 2026 ~~2003~~. The over-the-counter drug
13 label includes a drug facts panel or a statement of the active
14 ingredients with a list of those ingredients contained in the compound,
15 substance, or preparation;

16 (f) Oxygen equipment means oxygen cylinders, cylinder transport
17 devices including sheaths and carts, cylinder studs and support devices,
18 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
19 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
20 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
21 accessories;

22 (g) Prescription means an order, formula, or recipe issued in any
23 form of oral, written, electronic, or other means of transmission by a
24 duly licensed practitioner authorized under the Uniform Credentialing
25 Act; and

26 (h) Prosthetic devices means a replacement, corrective, or
27 supportive device worn on or in the body to artificially replace a
28 missing portion of the body, prevent or correct physical deformity or
29 malfunction, or support a weak or deformed portion of the body, and
30 includes any supplies used with such device and repair and replacement
31 parts.

1 **Sec. 2.** This act becomes operative on October 1, 2026.

2 **Sec. 3.** Original section 77-2704.09, Reissue Revised Statutes of
3 Nebraska, is repealed.