

JAN 21 2022

A BILL FOR AN ACT

RELATING TO FEMININE HYGIENE PRODUCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that women's health has
2 been misunderstood and neglected throughout history. In Hawaii,
3 the general excise tax is levied on nearly all economic
4 activity, but it is a highly regressive tax system that
5 disproportionately affects women through the taxation of certain
6 necessities such as feminine hygiene products. Feminine hygiene
7 products have historically carried an additional cost burden by
8 unfairly penalizing women compared to other state's untaxed
9 luxury items for men.

10 The legislature further finds that 288,348 women and girls
11 between the ages of twelve and forty-four reside in the State
12 and one in eight of that number live below the federal poverty
13 line. The cost disparity causes physical, mental, and emotional
14 challenges that make people feel ashamed for being a woman and
15 the stigma surrounding a woman's reproductive system prevents
16 people from discussing it. Exempting feminine hygiene products
17 from the general excise tax would remove the unequal tax burden



1 on women and make these products more accessible for low-income
2 consumers.

3 The purpose of this Act is to exempt feminine hygiene
4 products from the general excise tax.

5 SECTION 2. Section 237-24.3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§237-24.3 Additional amounts not taxable.** In addition to
8 the amounts not taxable under section 237-24, this chapter shall
9 not apply to:

10 (1) Amounts received from the loading, transportation, and
11 unloading of agricultural commodities shipped for a
12 producer or produce dealer on one island of this State
13 to a person, firm, or organization on another island
14 of this State. The terms "agricultural commodity",
15 "producer", and "produce dealer" shall be defined in
16 the same manner as they are defined in section 147-1;
17 provided that agricultural commodities need not have
18 been produced in the State;

19 (2) Amounts received by the manager, submanager, or board
20 of directors of:



(A) An association of a condominium property regime established in accordance with chapter 514B or any predecessor thereto; or

(B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D or any predecessor thereto and existing pursuant to covenants running with the land,

in reimbursement of sums paid for common expenses;

(3) Amounts received or accrued from:

(A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;

(B) Tugboat services including pilotage fees performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and

(C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar



services; standby charges; and use of moorings
and running mooring lines;

(4) Amounts received by an employee benefit plan by way of
contributions, dividends, interest, and other income;
and amounts received by a nonprofit organization or
office, as payments for costs and expenses incurred
for the administration of an employee benefit plan;
provided that this exemption shall not apply to any
gross rental income or gross rental proceeds received
after June 30, 1994, as income from investments in
real property in this State; and provided further that
gross rental income or gross rental proceeds from
investments in real property received by an employee
benefit plan after June 30, 1994, under written
contracts executed prior to July 1, 1994, shall not be
taxed until the contracts are renegotiated, renewed,
or extended, or until after December 31, 1998,
whichever is earlier. For the purposes of this
paragraph, "employee benefit plan" means any plan as
defined in title 29 United States Code section
1002(3), as amended;



1 (5) Amounts received for purchases made with United States
2 Department of Agriculture food coupons under the
3 federal food stamp program, and amounts received for
4 purchases made with United States Department of
5 Agriculture food vouchers under the Special
6 Supplemental Foods Program for Women, Infants and
7 Children;

8 (6) Amounts received by a hospital, infirmary, medical
9 clinic, health care facility, pharmacy, or a
10 practitioner licensed to administer the drug to an
11 individual for selling prescription drugs or
12 prosthetic devices to an individual; provided that
13 this paragraph shall not apply to any amounts received
14 for services provided in selling prescription drugs or
15 prosthetic devices. As used in this paragraph:

16 "Prescription drugs" are those drugs defined
17 under section 328-1 and dispensed by filling or
18 refilling a written or oral prescription by a
19 practitioner licensed under law to administer the drug
20 and sold by a licensed pharmacist under section 328-16
21 or practitioners licensed to administer drugs;



1 provided that "prescription drugs" shall not include
2 cannabis or manufactured cannabis products authorized
3 pursuant to chapters 329 and 329D; and

4 "Prosthetic device" means any artificial device
5 or appliance, instrument, apparatus, or contrivance,
6 including their components, parts, accessories, and
7 replacements thereof, used to replace a missing or
8 surgically removed part of the human body, which is
9 prescribed by a licensed practitioner of medicine,
10 osteopathy, or podiatry and that is sold by the
11 practitioner or that is dispensed and sold by a dealer
12 of prosthetic devices; provided that "prosthetic
13 device" shall not mean any auditory, ophthalmic,
14 dental, or ocular device or appliance, instrument,
15 apparatus, or contrivance;

16 (7) Taxes on transient accommodations imposed by chapter
17 237D and passed on and collected by operators holding
18 certificates of registration under that chapter;

19 (8) Amounts received as dues by an unincorporated
20 merchants association from its membership for
21 advertising media, promotional, and advertising costs



1 for the promotion of the association for the benefit
2 of its members as a whole and not for the benefit of
3 an individual member or group of members less than the
4 entire membership;

5 (9) Amounts received by a labor organization for real
6 property leased to:

7 (A) A labor organization; or

8 (B) A trust fund established by a labor organization
9 for the benefit of its members, families, and
10 dependents for medical or hospital care, pensions
11 on retirement or death of employees,
12 apprenticeship and training, and other membership
13 service programs.

14 As used in this paragraph, "labor organization" means
15 a labor organization exempt from federal income tax
16 under section 501(c)(5) of the Internal Revenue Code,
17 as amended;

18 (10) Amounts received from foreign diplomats and consular
19 officials who are holding cards issued or authorized
20 by the United States Department of State granting them
21 an exemption from state taxes; ~~and~~



1 (11) Amounts received as rent for the rental or leasing of
2 aircraft or aircraft engines used by the lessees or
3 renters for interstate air transportation of
4 passengers and goods. For purposes of this paragraph,
5 payments made pursuant to a lease shall be considered
6 rent regardless of whether the lease is an operating
7 lease or a financing lease. The definition of
8 "interstate air transportation" is the same as in
9 title 49 [U.S.C.] United States Code section 40102[-];
10 and

11 (12) Amounts received from the sale of feminine hygiene
12 products. As used in this paragraph, "feminine
13 hygiene product" means a sanitary napkin, sanitary
14 towel, tampon, panty liner, douche, feminine hygiene
15 syringe, menstrual cup, sanitary pad, or vaginal
16 creams, foams, ointments, jellies, powders, and
17 sprays."

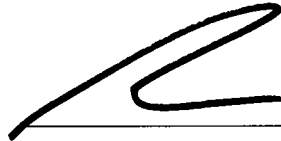
18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2022.

2

INTRODUCED BY:





S.B. NO. 2863

Report Title:

General Excise Tax; Exemption; Feminine Hygiene Products

Description:

Exempts the sale of feminine hygiene products from the general excise tax.

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