

BILL ANALYSIS

Senate Research Center

S.B. 571
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 1987, health care facilities and providers have enjoyed a sales tax exemption on intravenous (IV) systems and supplies used to administer nourishment. In 1999, in an effort to simplify the exemption, the comptroller of public accounts of the State of Texas (comptroller) determined that all IV systems and supplies qualify for the exemption as prosthetic devices and published a list of qualifying items. In 2003, the comptroller included the exemption for IV systems and supplies in the agency's technical clean-up bill, H.B. 2424 by McCall.

For years after the passage of H.B. 2424, the agency issued numerous policy letters on IV systems without limiting the exemption based on delivery of fluids into veins and without imposing enormous administrative burdens on providers. Five years later, the comptroller changed its administration of the exemption by limiting the exemption to IV systems and supplies used in veins only. IV systems and supplies that perform the same function but are inserted into body cavities or arteries were declared taxable. Current law creates confusion among auditors. Auditors do not know which "systems" and "supplies" qualify.

S.B. 571 clarifies that the insertion point (e.g., vein, artery, cavity, muscle, et cetera) is irrelevant. It also clarifies the exempt systems and supplies by adding examples to the statute.

Currently, the comptroller requires a health care provider to provide detailed records proving the insertion point and type of procedure performed by each IV system. In reality, it would be difficult to create or maintain records at this level of detail. Even if such information did exist, it would be heavily protected by patient privacy laws.

S.B. 571 clarifies that the IV system is exempt if it is designed or intended for the exempt purpose, so providers do not have to document actual use to claim the exemption; all medical procedures (both diagnosis and treatment) qualify.

As proposed, S.B. 571 amends current law relating to the exemption from sales and use taxes of certain health care supplies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 151.313, Tax Code, by amending Subsection (a) and adding Subsections (e) and (f), as follows:

(a) Provides that certain items are exempted from the taxes imposed by this chapter (Limited Sales, Excise, and Use Tax):

(1)-(10) Makes no change to these subdivisions;

(11) hospital beds, including mattresses;

(12)-(14) Makes no change to these subdivisions; and

(15) intravenous systems, supplies, and replacement parts designed or intended to be used in the diagnosis or treatment of humans.

(e) Provides that, for purposes of this section (Health Care Supplies), a product is an intravenous system if the product is designed or intended to be used to administer fluids, electrolytes, blood and blood products, or drugs to patients, or to withdraw tissue samples, blood, or fluids from patients, without regard to whether the product is designed or intended to be inserted subcutaneously or into a vein, artery, cavity, muscle, organ, or other part of the body. Provides that the term includes access ports, adapters, bags and bottles, cannulae, cassettes, catheters, clamps, connectors, drip chambers, extension sets, filters, in-line ports, luer locks, needles, poles, pumps and batteries, spikes, tubing, valves, volumetric chambers, and items designed or intended to connect qualifying products to one another or to secure qualifying products to a patient.

(f) Defines "hospital bed" in this section.

SECTION 2. Provides that the change in law made by this Act is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act.

SECTION 3. Effective date: September 1, 2013.