



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0268/P2  
JK:kjf:jm

DOA:.....Ley, BB0068 – Changes to sales tax definitions

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT** ...; **relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

This bill makes technical corrections to state sales and use tax provisions.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 77.51 (10m) (a) 3. (intro.) of the statutes is amended to read:

77.51 (10m) (a) 3. (intro.) Food and food ingredients sold with eating utensils that are provided by the retailer of the food and food ingredients, including plates, bowls, knives, forks, spoons, glasses, cups, napkins, or straws. In this subdivision, “plate” does not include a container or packaging used to transport food and food ingredients. For purposes of this subdivision, a retailer provides utensils if any of the following applies:

**SECTION 2.** 77.51 (10m) (a) 3. b. of the statutes is amended to read:

77.51 (10m) (a) 3. b. For retailers not described under subd. 3. a., the retailer’s customary practice is to physically give or hand the utensils to the purchaser, except that plates, bowls, glasses, or cups that are necessary for the purchaser to receive the food and food ingredients need only be made available to the purchaser.

**SECTION 3.** 77.51 (11m) of the statutes is amended to read:

77.51 (11m) “Prosthetic device” means a replacement, corrective, or supportive device, including the repair parts and replacement parts for the device, that is placed in or worn on the body to artificially replace a missing portion of the body; to prevent or correct a physical deformity or malfunction; or to support a weak or deformed portion of the body.

**SECTION 4.** 77.522 (4) (a) 9. of the statutes is amended to read:

77.522 (4) (a) 9. “Place of primary use” means ~~place of primary use, as determined under 4 USC 116 to 126, as amended by P.L. 106-252~~ the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, “place of primary use” means a street address within the licensed service area of the home service provider.

**SECTION 5.** 77.53 (16) of the statutes is amended to read:

77.53 (16) If the purchase, rental or lease of tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or service subject to the tax imposed by this section was subject to a sales tax by another state in which the purchase was made, the amount of sales tax paid the other state shall be applied as a credit against and deducted from the tax, to the extent thereof, imposed by this section, except no credit may be applied against and deducted from a sales tax paid on the purchase of advertising and promotional direct mail, if the advertising and

promotional direct mail purchaser did not provide to the seller a direct pay permit, an exemption certificate claiming advertising and promotional direct mail, or other information that indicates the appropriate taxing jurisdiction to which the advertising and promotional direct mail is delivered to the ultimate recipients. In this subsection “sales tax” includes a use or excise tax imposed on the use of tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable service by the state to which the sale was sourced and “state” includes the District of Columbia and the commonwealth of Puerto Rico but does not include the several territories organized by congress.

**SECTION 6.** 77.54 (57) (b) 4. of the statutes is amended to read:

77.54 **(57)** (b) 4. The items listed in sub. (3m) (a) to (m), ~~medicines~~ drugs, semen for artificial insemination, fuel, and electricity that are used exclusively and directly in raising animals that are sold primarily to a biotechnology business, a public or private institution of higher education, or a governmental unit for exclusive and direct use by any such entity in qualified research or manufacturing.

(END)