



**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RH/CL

P.L. 2017, CHAPTER 276, *approved January 8, 2018*  
Assembly, No. 4670

1 AN ACT providing an exemption from the sales and use tax for sales  
2 of breast pumps, breast pump collection and storage supplies,  
3 and certain services to maintain and repair breast pumps,  
4 supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. a. Receipts from sales of a breast pump, repair and  
10 replacement parts therefor, and breast pump collection and storage  
11 supplies to an individual purchaser for home use are exempt from  
12 the tax imposed under the “Sales and Use Tax Act,” P.L.1966,  
13 c.30 (C.54:32B-1 et seq.).

14 b. Receipts from charges for installing repair and replacement  
15 parts in, maintaining, servicing, or repairing a breast pump that is  
16 exempt from tax pursuant to subsection a. of this section are exempt  
17 from the tax imposed under the “Sales and Use Tax Act,” P.L.1966,  
18 c.30 (C.54:32B-1 et seq.).

19 c. Receipts from sales of a breast pump kit to an individual  
20 purchaser for home use are exempt from the tax imposed under the  
21 “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.), if the  
22 breast pump kit is comprised entirely of a breast pump and breast  
23 pump collection and storage supplies, or is comprised entirely of  
24 breast pump collection and storage supplies, that are exempt from  
25 tax pursuant to subsection a. of this section. If the breast pump kit  
26 is comprised of a breast pump, breast pump collection and storage  
27 supplies, and other taxable items of tangible personal property, or is  
28 comprised of breast pump collection and storage supplies and other  
29 taxable items of tangible personal property, the receipts from the  
30 sale of the breast pump kit are subject to tax unless the sales price  
31 of the other taxable items of tangible personal property packaged  
32 and sold with the breast pump kit at the time of sale is 10% or less  
33 of the total sales price of the breast pump kit.

34 d. For purposes of this section:

35 “Breast pump” means an electrically or manually controlled  
36 pump device used to express milk from a human breast during  
37 lactation. “Breast pump” includes the electrically or manually  
38 controlled pump device and any AC adapter or other external power  
39 supply unit packaged and sold with the pump device at the time of  
40 sale to power the pump device.

41 “Breast pump collection and storage supplies” means items of  
42 tangible personal property used in conjunction with a breast pump

1 to collect milk expressed from a human breast and to store collected  
2 milk until it is ready for consumption. “Breast pump collection and  
3 storage supplies” include, but are not limited to: breast shields and  
4 breast shield connectors; breast pump tubes and tubing adapters;  
5 breast pump valves and membranes; backflow protectors and  
6 backflow protector adaptors; bottles and bottle caps specific to the  
7 operation of the breast pump; breast milk storage bags; and related  
8 items sold as part of a breast pump kit pre-packaged by the breast  
9 pump manufacturer. “Breast pump collection and storage supplies”  
10 does not include: bottles and bottle caps not specific to the  
11 operation of the breast pump; breast pump travel bags and other  
12 similar carrying accessories, including ice packs, labels, and other  
13 similar products, unless sold as part of a breast pump kit pre-packed  
14 by the breast pump manufacturer; breast pump cleaning supplies,  
15 unless sold as part of a breast pump kit pre-packaged by the breast  
16 pump manufacturer; nursing bras, bra pads, breast shells, and other  
17 similar products; and creams, ointments, and other similar products  
18 that relieve breastfeeding-related symptoms or conditions of the  
19 breasts or nipples.

20 “Breast pump kit” means a pre-packaged set that contains one or  
21 more of the following items: a breast pump; breast pump collection  
22 and storage supplies; and other taxable items of tangible personal  
23 property that may be useful to initiate, support, or sustain breast-  
24 feeding using a breast pump during lactation.

25  
26 2. This act shall take effect immediately; provided, however,  
27 that section 1 shall apply to receipts received from all sales made  
28 and services rendered on or after the first day of the fourth month  
29 next following the date of enactment.

30  
31

## 32 STATEMENT

33  
34 This bill provides an exemption from the sales and use tax for  
35 sales of breast pumps, breast pump collection and storage supplies,  
36 and certain services to breast pumps to eliminate the tax currently  
37 imposed on purchases of and charges to repair and maintain the  
38 devices and supplies necessary to initiate and support breastfeeding  
39 using a breast pump during lactation.

40 Under current law, sales of breast pumps, pump supplies, and  
41 services are generally subject to the sales and use tax. The Division  
42 of Taxation in the Department of the Treasury has previously  
43 determined through a formal letter ruling that breast pumps are not  
44 eligible for an existing exemption for durable medical equipment,  
45 and sellers must therefore charge and collect tax when making sales  
46 of pumps to purchasers unless another exemption or exclusion from  
47 tax applies.

1       However, breast pumps and pump supplies are basic necessities  
2 that should not be subject to tax even if they do not fall within the  
3 overly rigid definition of durable medical equipment. These pumps  
4 and supplies are used to express and collect breast milk for a variety  
5 of reasons, including: when infants are premature and unable to  
6 latch, when infants have severe feeding problems, when mothers  
7 have difficulty establishing or maintaining an adequate milk supply,  
8 when mothers have temporary breastfeeding problems, and when  
9 mothers and infants are separated for prolonged periods due to  
10 hospitalization. The pumps and supplies also empower an  
11 increasing number of mothers to continue to feed breast milk to  
12 newborns for longer periods when they return to work following the  
13 birth of their infants.

14       This bill provides a stand-alone exemption from the sales and use  
15 tax for sales of breast pumps and breast pump collection and storage  
16 supplies to an individual purchaser for home use so that these  
17 pumps and supplies receive the same tax-exempt treatment as other  
18 basic necessities. In addition, the bill exempts sales of repair and  
19 replacement parts for breast pumps and any charges that may be  
20 rendered to a customer to install those repair and replacement parts  
21 or to maintain, service, or repair a breast pump that is exempt from  
22 tax as a result of the bill.

23       The bill is scheduled to take effect immediately upon enactment,  
24 but provides for a delay of at least 90 days before the exemption  
25 provided by the bill applies to receipts from eligible sales and  
26 charges.

27

28

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30

31       Provides sales and use tax exemption for sales of breast pumps,  
32 breast pump collection and storage supplies, and certain services to  
33 maintain and repair breast pumps.

# ASSEMBLY, No. 4670

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MARCH 6, 2016

**Sponsored by:**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblywoman GABRIELA M. MOSQUERA**

**District 4 (Camden and Gloucester)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

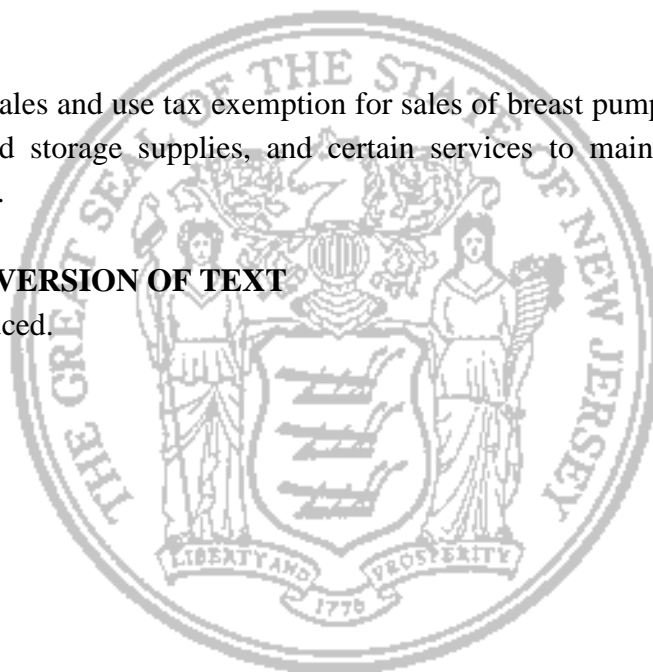
**Assemblywomen Pinkin, Muoio and Assemblyman Andrzejczak**

**SYNOPSIS**

Provides sales and use tax exemption for sales of breast pumps, breast pump collection and storage supplies, and certain services to maintain and repair breast pumps.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/8/2017)**

1 AN ACT providing an exemption from the sales and use tax for sales  
2 of breast pumps, breast pump collection and storage supplies,  
3 and certain services to maintain and repair breast pumps,  
4 supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).  
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46 breast shield connectors; breast pump tubes and tubing adapters;  
47 breast pump valves and membranes; backflow protectors and  
48 backflow protector adaptors; bottles and bottle caps specific to the

1 operation of the breast pump; breast milk storage bags; and related  
2 items sold as part of a breast pump kit pre-packaged by the breast  
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6 similar carrying accessories, including ice packs, labels, and other  
7 similar products, unless sold as part of a breast pump kit pre-packed  
8 by the breast pump manufacturer; breast pump cleaning supplies,  
9 unless sold as part of a breast pump kit pre-packaged by the breast  
10 pump manufacturer; nursing bras, bra pads, breast shells, and other  
11 similar products; and creams, ointments, and other similar products  
12 that relieve breastfeeding-related symptoms or conditions of the  
13 breasts or nipples.

14 “Breast pump kit” means a pre-packaged set that contains one or  
15 more of the following items: a breast pump; breast pump collection  
16 and storage supplies; and other taxable items of tangible personal  
17 property that may be useful to initiate, support, or sustain breast-  
18 feeding using a breast pump during lactation.

19

20 2. This act shall take effect immediately; provided, however,  
21 that section 1 shall apply to receipts received from all sales made  
22 and services rendered on or after the first day of the fourth month  
23 next following the date of enactment.

24

25

26

#### STATEMENT

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29 sales of breast pumps, breast pump collection and storage supplies,  
30 and certain services to breast pumps to eliminate the tax currently  
31 imposed on purchases of and charges to repair and maintain the  
32 devices and supplies necessary to initiate and support breastfeeding  
33 using a breast pump during lactation.

34 Under current law, sales of breast pumps, pump supplies, and  
35 services are generally subject to the sales and use tax. The Division  
36 of Taxation in the Department of the Treasury has previously  
37 determined through a formal letter ruling that breast pumps are not  
38 eligible for an existing exemption for durable medical equipment,  
39 and sellers must therefore charge and collect tax when making sales  
40 of pumps to purchasers unless another exemption or exclusion from  
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42 However, breast pumps and pump supplies are basic necessities  
43 that should not be subject to tax even if they do not fall within the  
44 overly rigid definition of durable medical equipment. These pumps  
45 and supplies are used to express and collect breast milk for a variety  
46 of reasons, including: when infants are premature and unable to  
47 latch, when infants have severe feeding problems, when mothers  
48 have difficulty establishing or maintaining an adequate milk supply,



1 when mothers have temporary breastfeeding problems, and when  
2 mothers and infants are separated for prolonged periods due to  
3 hospitalization. The pumps and supplies also empower an  
4 increasing number of mothers to continue to feed breast milk to  
5 newborns for longer periods when they return to work following the  
6 birth of their infants.

7 This bill provides a stand-alone exemption from the sales and use  
8 tax for sales of breast pumps and breast pump collection and storage  
9 supplies to an individual purchaser for home use so that these  
10 pumps and supplies receive the same tax-exempt treatment as other  
11 basic necessities. In addition, the bill exempts sales of repair and  
12 replacement parts for breast pumps and any charges that may be  
13 rendered to a customer to install those repair and replacement parts  
14 or to maintain, service, or repair a breast pump that is exempt from  
15 tax as a result of the bill.

16 The bill is scheduled to take effect immediately upon enactment,  
17 but provides for a delay of at least 90 days before the exemption  
18 provided by the bill applies to receipts from eligible sales and  
19 charges.

ASSEMBLY WOMEN AND CHILDREN COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4670**

**STATE OF NEW JERSEY**

DATED: MARCH 6, 2017

The Assembly Women and Children Committee reports favorably Assembly Bill No. 4670.

This bill provides an exemption from the sales and use tax for sales of breast pumps, breast pump collection and storage supplies, and certain services to breast pumps to eliminate the tax currently imposed on purchases of and charges to repair and maintain the devices and supplies necessary to initiate and support breastfeeding using a breast pump during lactation.

Under current law, sales of breast pumps, pump supplies, and services are generally subject to the sales and use tax. The Division of Taxation in the Department of the Treasury has previously determined through a formal letter ruling that breast pumps are not eligible for an existing exemption for durable medical equipment, and sellers must therefore charge and collect tax when making sales of pumps to purchasers unless another exemption or exclusion from tax applies.

However, breast pumps and pump supplies are basic necessities that should not be subject to tax even if they do not fall within the overly rigid definition of durable medical equipment. These pumps and supplies are used to express and collect breast milk for a variety of reasons, including: when infants are premature and unable to latch, when infants have severe feeding problems, when mothers have difficulty establishing or maintaining an adequate milk supply, when mothers have temporary breastfeeding problems, and when mothers and infants are separated for prolonged periods due to hospitalization. The pumps and supplies also empower an increasing number of mothers to continue to feed breast milk to newborns for longer periods when they return to work following the birth of their infants.

This bill provides a stand-alone exemption from the sales and use tax for sales of breast pumps and breast pump collection and storage supplies to an individual purchaser for home use so that these pumps and supplies receive the same tax-exempt treatment as other basic necessities. In addition, the bill exempts sales of repair and replacement parts for breast pumps and any charges that may be rendered to a customer to install those repair and replacement parts or to maintain, service, or repair a breast pump that is exempt from tax as a result of the bill.

The bill is scheduled to take effect immediately upon enactment, but provides for a delay of at least 90 days before the exemption provided by the bill applies to receipts from eligible sales and charges.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4670

# STATE OF NEW JERSEY

DATED: JUNE 19, 2017

The Assembly Budget Committee reports favorably Assembly Bill No. 4670.

This bill provides an exemption from the sales and use tax for sales of breast pumps, breast pump collection and storage supplies, and certain services to breast pumps to eliminate the tax currently imposed on purchases of and charges to repair and maintain the devices and supplies necessary to initiate and support breastfeeding using a breast pump during lactation.

Under current law, sales of breast pumps, pump supplies, and services are generally subject to the sales and use tax. The Division of Taxation in the Department of the Treasury has previously determined through a formal letter ruling that breast pumps are not eligible for an existing exemption for durable medical equipment, and sellers must therefore charge and collect tax when making sales of pumps to purchasers unless another exemption or exclusion from tax applies.

This bill provides a stand-alone exemption from the sales and use tax for sales of breast pumps and breast pump collection and storage supplies to an individual purchaser for home use so that these pumps and supplies receive the same tax-exempt treatment as other basic necessities. In addition, the bill exempts sales of repair and replacement parts for breast pumps and any charges that may be rendered to a customer to install those repair and replacement parts or to maintain, service, or repair a breast pump that is exempt from tax as a result of the bill.

The bill is scheduled to take effect immediately upon enactment, but provides for a delay of at least 90 days before the exemption provided by the bill applies to receipts from eligible sales and charges.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) projects State General Fund revenues will be reduced by approximately \$1.36 million annually as a result of the sales and use tax exemption provided for breast pumps and qualifying parts and services pursuant to the provisions of the bill.

The OLS notes that any particular set of assumptions in its analysis depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projected amount.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4670

# STATE OF NEW JERSEY

DATED: NOVEMBER 20, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 4670.

This bill provides an exemption from the sales and use tax for sales of breast pumps, breast pump collection and storage supplies, and certain services to breast pumps to eliminate the tax currently imposed on purchases of and charges to repair and maintain the devices and supplies necessary to initiate and support breastfeeding using a breast pump during lactation.

Under current law, sales of breast pumps, pump supplies, and services to maintain or repair pump devices are generally subject to the sales and use tax. The Division of Taxation in the Department of the Treasury has previously determined through a formal letter ruling that breast pumps are not eligible for an existing exemption for qualifying medical equipment because the devices are neither a prosthetic device nor constitute durable medical equipment, and sellers must therefore charge and collect the tax when making sales of pumps to purchasers unless another exemption or exclusion applies.

However, breast pumps and pump supplies are basic necessities that should not be subject to tax even if they fail to fall within the current administrative understanding of a prosthetic device or do not constitute durable medical equipment. These pumps and supplies allow an increasing number of new mothers to engage in an activity that has proven long-term and short-term benefits to the emotional health and physical well-being of both mother and child, and empower an increasing number of mothers to continue to feed breast milk to newborns for longer periods when they return to work following the birth of their infants.

This bill provides a stand-alone exemption from the sales and use tax for sales of breast pumps and breast pump collection and storage supplies to an individual purchaser for home use so that these pumps and supplies receive the same tax-exempt treatment as other basic necessities. The bill also exempts sales of repair and replacement parts for breast pumps and any charges that may be rendered to a customer to install those repair and replacement parts or to maintain, service, or repair a breast pump that is exempt from tax as a result of the bill.

The bill takes effect immediately upon enactment, and provides for the exemption to apply to receipts received from sales made and

services rendered on or after the first day of the fourth month next following the date of enactment.

As reported, this bill is identical to Senate Bill No. 3112, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the exemption provided by the bill will reduce State revenues by approximately \$1.36 million annually. This estimate is based on data which suggest there may be 74,552 taxable breast pump sales or uses occurring in New Jersey each year, and assumes that spending in New Jersey related to sales of taxable pumps (and ancillary supplies) may total \$20.50 million annually, based on an average cost of \$275 per purchaser.

The OLS notes that actual revenue losses to the State may be more or less than \$1.36 million in fiscal years following enactment, dependent on certain consumer behaviors which it cannot accurately predict.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4670**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: JUNE 21, 2017

**SUMMARY**

- Synopsis:** Provides sales and use tax exemption for sales of breast pumps, breast pump collection and storage supplies, and certain services to maintain and repair breast pumps.
- Type of Impact:** Recurring State sales and use tax revenue loss of approximately \$1.36 million annually to State General Fund.
- Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2018 and Thereafter</u></b>
<b>Recurring State Revenue Loss</b>	Approximately \$1.36 million annually

- The Office of Legislative Services (OLS) projects State General Fund revenues will be reduced by approximately \$1.36 million annually as a result of the sales and use tax exemption provided for breast pumps and qualifying parts and services pursuant to the provisions of the bill.
- The OLS notes that any particular set of assumptions in its analysis depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projected amount.

**BILL DESCRIPTION**

Assembly Bill No. 4670 of 2016 provides an exemption from the sales and use tax for sales of breast pumps, breast pump collection and storage supplies, and certain services to breast pumps to eliminate the tax currently imposed on purchases of and charges to repair and maintain the devices and supplies necessary to initiate and support breastfeeding using a breast pump during lactation.

The bill is scheduled to take effect immediately upon enactment, but provides for a delay of at least 90 days before the exemption provided by the bill applies to receipts from eligible sales and charges.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects State General Fund revenues will be reduced by approximately \$1.36 million annually from the sales and use tax exemption provided for breast pumps and qualifying parts and services pursuant to the provisions of the bill. The OLS notes that any particular set of assumptions depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projection above.

According to the Centers for Disease Control and Prevention's (CDC) National Vital Statistics Report (Final Data for 2015), there were 103,127 births in New Jersey, in the most recent year for which data are available. Of the 103,127 births, approximately 4,169 were multiple births: 4,031 twins; 129 triplets; and 8 quadruplets. Accounting for multiple births, approximately 101,020 New Jersey mothers gave birth in 2015. The CDC's Breastfeeding Report Card, 2016, states that 82 percent (based on 2013 data) of infants in New Jersey were breastfed at least one time. Applying this ratio to the number of New Jersey mothers who gave birth suggests that approximately 82,835 mothers breastfed at least once during this time frame.

The OLS assumes that not all mothers will purchase or rent breast pumps from a store or submit claims through their insurance provider, the most common methods of obtaining breast pumps and accessories that are subject to sales and use tax. Eligible mothers may utilize the State's Women, Infants, and Children (WIC) Breastfeeding Service or similar programs through non-profit organizations, which are exempt from paying sales and use tax and provide these breast pumps and other services to mothers likely at no charge. Additionally, the OLS notes that some mothers may receive certain breast pumps as secondhand items, which reduces the total number of breast pumps subject to taxation. Thus, the OLS assumes that approximately ten percent of mothers will receive breast pumps from either the State, non-profit groups, or secondhand methods which are not subject to taxation, resulting in an estimated total number of taxable breast pumps of approximately 74,552.

Utilizing the 74,552 taxable breast pumps, the projected amount of spending related to purchases or rentals of breast pumps and eligible accessories (pursuant to the bill) is estimated at \$20.50 million, based on an average cost of \$275 per New Jersey mother. At a 6.625 percent State sales tax rate (the rate in effect beginning on January 1, 2018), the estimated amount of State General Fund revenue which may be forgone as a result of the bill's enactment is projected to be about \$1.36 million annually, subject to growth or decline based on breast pump and qualified accessory purchases.

The OLS notes that any particular set of assumptions depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projection above. The true extent of breast pump purchases by New Jersey mothers is unknown, as are the methods these mothers are using to acquire their breast pumps, such as the percentage of those mothers who purchase a breast pump in comparison to those mothers who rent or partake in the secondhand marketplace.



*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Associate Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 3112**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED MAY 1, 2017

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Provides sales and use tax exemption for sales of breast pumps, breast pump collection and storage supplies, and certain services to maintain and repair breast pumps.

**CURRENT VERSION OF TEXT**

As introduced.



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13 breasts or nipples.

14 “Breast pump kit” means a pre-packaged set that contains one or  
15 more of the following items: a breast pump; breast pump collection  
16 and storage supplies; and other taxable items of tangible personal  
17 property that may be useful to initiate, support, or sustain breast-  
18 feeding using a breast pump during lactation.

19

20 2. This act shall take effect immediately; provided, however,  
21 that section 1 shall apply to receipts received from all sales made  
22 and services rendered on or after the first day of the fourth month  
23 next following the date of enactment.

24

25

26

#### STATEMENT

27

28 This bill provides an exemption from the sales and use tax for  
29 sales of breast pumps, breast pump collection and storage supplies,  
30 and certain services to breast pumps to eliminate the tax currently  
31 imposed on purchases of and charges to repair and maintain the  
32 devices and supplies necessary to initiate and support breastfeeding  
33 using a breast pump during lactation.

34 Under current law, sales of breast pumps, pump supplies, and  
35 services are generally subject to the sales and use tax. The Division  
36 of Taxation in the Department of the Treasury has previously  
37 determined through a formal letter ruling that breast pumps are not  
38 eligible for an existing exemption for durable medical equipment,  
39 and sellers must therefore charge and collect tax when making sales  
40 of pumps to purchasers unless another exemption or exclusion from  
41 tax applies.

42 However, breast pumps and pump supplies are basic necessities  
43 that should not be subject to tax even if they do not fall within the  
44 overly rigid definition of durable medical equipment. These pumps  
45 and supplies are used to express and collect breast milk for a variety  
46 of reasons, including: when infants are premature and unable to  
47 latch, when infants have severe feeding problems, when mothers  
48 have difficulty establishing or maintaining an adequate milk supply,

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 3112

# STATE OF NEW JERSEY

DATED: NOVEMBER 20, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3112.

This bill provides an exemption from the sales and use tax for sales of breast pumps, breast pump collection and storage supplies, and certain services to breast pumps to eliminate the tax currently imposed on purchases of and charges to repair and maintain the devices and supplies necessary to initiate and support breastfeeding using a breast pump during lactation.

Under current law, sales of breast pumps, pump supplies, and services to maintain or repair pump devices are generally subject to the sales and use tax. The Division of Taxation in the Department of the Treasury has previously determined through a formal letter ruling that breast pumps are not eligible for an existing exemption for qualifying medical equipment because the devices are neither a prosthetic device nor constitute durable medical equipment, and sellers must therefore charge and collect the tax when making sales of pumps to purchasers unless another exemption or exclusion applies.

However, breast pumps and pump supplies are basic necessities that should not be subject to tax even if they fail to fall within the current administrative understanding of a prosthetic device or do not constitute durable medical equipment. These pumps and supplies allow an increasing number of new mothers to engage in an activity that has proven long-term and short-term benefits to the emotional health and physical well-being of both mother and child, and empower an increasing number of mothers to continue to feed breast milk to newborns for longer periods when they return to work following the birth of their infants.

This bill provides a stand-alone exemption from the sales and use tax for sales of breast pumps and breast pump collection and storage supplies to an individual purchaser for home use so that these pumps and supplies receive the same tax-exempt treatment as other basic necessities. The bill also exempts sales of repair and replacement parts for breast pumps and any charges that may be rendered to a customer to install those repair and replacement parts or to maintain, service, or repair a breast pump that is exempt from tax as a result of the bill.

The bill takes effect immediately upon enactment, and provides for the exemption to apply to receipts received from sales made and

services rendered on or after the first day of the fourth month next following the date of enactment.

As reported, this bill is identical to Assembly Bill No. 4670, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the exemption provided by the bill will reduce State revenues by approximately \$1.36 million annually. This estimate is based on data which suggest there may be 74,552 taxable breast pump sales or uses occurring in New Jersey each year, and assumes that spending in New Jersey related to sales of taxable pumps (and ancillary supplies) may total \$20.50 million annually, based on an average cost of \$275 per purchaser.

The OLS notes that actual revenue losses to the State may be more or less than \$1.36 million in fiscal years following enactment, dependent on certain consumer behaviors which it cannot accurately predict.

**S3112 RUIZ, CRUZ-PEREZ**

1 when mothers have temporary breastfeeding problems, and when  
2 mothers and infants are separated for prolonged periods due to  
3 hospitalization. The pumps and supplies also empower an  
4 increasing number of mothers to continue to feed breast milk to  
5 newborns for longer periods when they return to work following the  
6 birth of their infants.

7 This bill provides a stand-alone exemption from the sales and use  
8 tax for sales of breast pumps and breast pump collection and storage  
9 supplies to an individual purchaser for home use so that these  
10 pumps and supplies receive the same tax-exempt treatment as other  
11 basic necessities. In addition, the bill exempts sales of repair and  
12 replacement parts for breast pumps and any charges that may be  
13 rendered to a customer to install those repair and replacement parts  
14 or to maintain, service, or repair a breast pump that is exempt from  
15 tax as a result of the bill.

16 The bill is scheduled to take effect immediately upon enactment,  
17 but provides for a delay of at least 90 days before the exemption  
18 provided by the bill applies to receipts from eligible sales and  
19 charges.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3112**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: NOVEMBER 20, 2017

**SUMMARY**

**Synopsis:** Provides sales and use tax exemption for sales of breast pumps, breast pump collection and storage supplies, and certain services to maintain and repair breast pumps.

**Type of Impact:** Annual State revenue loss.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2018 and Thereafter</u></b>
<b>State Revenue Loss</b>	Approximately \$1.36 million annually

- The Office of Legislative Services (OLS) projects State revenues will be reduced by approximately \$1.36 million annually as a result of the sales and use tax exemption provided for breast pumps and qualifying parts and services pursuant to the provisions of the bill.
- The OLS notes that any particular set of assumptions in its analysis depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projected amount.

**BILL DESCRIPTION**

Senate Bill No. 3112 of 2017 exempts from the sales and use tax sales of breast pumps, breast pump collection and storage supplies, breast pump repair and replacement parts, and services to repair and maintain the breast pumps and supplies.

The exemption applies to receipts from eligible sales and charges starting on the first day of the fourth month next following the bill's date of enactment.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.



**OFFICE OF LEGISLATIVE SERVICES**

The OLS projects State revenues will be reduced by approximately \$1.36 million annually from the bill's sales and use tax exemption for breast pumps and qualifying parts and services. The OLS notes that any particular set of assumptions depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projection above.

According to the Centers for Disease Control and Prevention's (CDC) National Vital Statistics Report (Final Data for 2015), there were 103,127 births in New Jersey in the most recent year for which data are available. Of the 103,127 births, approximately 4,169 were multiple births: 4,031 twins; 129 triplets; and 8 quadruplets. Accounting for multiple births, approximately 101,020 New Jersey mothers gave birth in 2015. The CDC's Breastfeeding Report Card, 2016, states that 82 percent (based on 2013 data) of infants in New Jersey were breastfed at least one time. Applying this ratio to the number of New Jersey mothers who gave birth suggests that approximately 82,835 mothers breastfed at least once during this time frame.

The OLS assumes that not all mothers will purchase or rent breast pumps from a store or submit claims through their insurance provider, the most common methods of obtaining breast pumps and accessories that are subject to sales and use tax. Eligible mothers may utilize the State's Women, Infants, and Children (WIC) Breastfeeding Service or similar programs through non-profit organizations, which are exempt from paying sales and use tax and provide these breast pumps and other services to mothers likely at no charge. Additionally, the OLS notes that some mothers may receive certain breast pumps as secondhand items, which reduces the total number of breast pumps subject to taxation. Thus, the OLS assumes that approximately ten percent of mothers will receive breast pumps from either the State, non-profit groups, or secondhand methods which are not subject to taxation, resulting in an estimated total number of taxable breast pumps of approximately 74,552.

Utilizing the 74,552 taxable breast pumps, the projected amount of spending related to purchases or rentals of breast pumps and eligible accessories (pursuant to the bill) is \$20.50 million, based on an average cost of \$275 per New Jersey mother. At a 6.625 percent State sales tax rate (the rate in effect beginning on January 1, 2018), the estimated amount of State revenue which may be forgone is about \$1.36 million annually, subject to growth or decline based on breast pump and qualified accessory purchases.

The OLS notes that any particular set of assumptions depends on certain consumer behaviors which it cannot accurately predict. Thus, the revenue loss may be more or less than the projection above. The true extent of breast pump purchases by New Jersey mothers is unknown, as are the methods these mothers are using to acquire their breast pumps, such as the percentage of those mothers who purchase a breast pump in comparison to those mothers who rent or partake in the secondhand marketplace. Lastly, while the full annual impact is estimated to be approximately \$1.36 million, the date of enactment is uncertain. Thus, the revenue loss in the first year may only be a portion of the full 12-month impact.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Associate Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).