

**2001 DRAFTING REQUEST**

**Bill**

Received: 11/20/2000

Received By: jkreye

Wanted: As time permits

Identical to LRB: 99-1377/2

For: Tom Sykora (608) 266-1194

By/Representing: martha

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Incontinent underpads and briefs

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 11/20/2000	gilfokm 11/22/2000		_____			S&L Tax
/1			martykr 11/28/2000	_____	lrb_docadmin 11/28/2000	lrb_docadmin 12/05/2000	

FE Sent For:

<END>

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1/?	jkreye	1-11/22 Km	km 11/27	pk km 11/28			

FE Sent For:

<END>

## Kreye, Joseph

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**From:** Hess, Martha  
**Sent:** Monday, November 20, 2000 11:35 AM  
**To:** Kreye, Joseph  
**Subject:** request for bill draft

Joe:

Rep. Sykora would like to reintroduce 1999-2000 AB 157 without revision. LRB No. ~~2377/2~~<sup>1</sup>.

Could you prepare this for me?

Thanks.

Martha Hess  
Rep. Sykora's Office  
266-1194

king

1141/1

M 11-20-00

# 1999 ASSEMBLY BILL 157

March 4, 1999 - Introduced by Representatives SYKORA, HANDRICK, F. LASEE, BOCK, RYBA, PLOUFF, OLSEN, KELSO, GROTHMAN, FREESE, MEYERHOFER, SERATTI, POWERS and MONTGOMERY. Referred to Joint survey committee on Tax Exemptions.

gm. Cat.

1 AN ACT to create 77.54 (40m) of the statutes; relating to: a sales and use tax  
2 exemption for incontinent underpads and briefs.

### *Analysis by the Legislative Reference Bureau*

This bill creates a sales and use tax exemption for the sale, use, or other consumption of prescribed reusable or disposable incontinent underpads and briefs.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

3 SECTION 1. 77.54 (40m) of the statutes is created to read:

4 77.54 (40m) The gross receipts from the sale, use, or other consumption of  
5 reusable or disposable incontinent underpads and briefs used by a person who has  
6 a prescription for incontinent underpads and briefs written by a person authorized  
7 to prescribe incontinent underpads and briefs.





STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

November 28, 2000

### MEMORANDUM

To: Representative Sykora

From: Joseph T. Kreye, Legislative Attorney

Re: LRB-1141 Incontinent underpads and briefs

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY     JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2263 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
REFERENCE SECTION: (608) 266-0341  
FAX: (608) 266-5648

STEPHEN R. MILLER  
CHIEF

May 29, 2001

## MEMORANDUM

**To:** Representative Sykora

**From:** Joseph T. Kreye, Legislative Attorney, (608) 266-2263

**Subject:** Technical Memorandum to **2001 AB-391** (LRB-1141/1)

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.



**MEMORANDUM**

May 29, 2001

**TO:** Joseph Kreye  
Legislative Reference Bureau

**FROM:** Dennis Collier  
Department of Revenue

**SUBJECT:** Technical Memorandum on AB 391 - Creating a Sales and Use Tax Exemption for Incontinent Underpads and Briefs

The Department has several concerns about the bill.

1. Section Tax 11.08(2)(b), Wis. Adm. Code (May 1993 Register), specifically excludes incontinent briefs, pads, shields and adult diapers from exemption. The bill exempts from sales and use tax only incontinent underpads and briefs; as a result, it is unclear how shields and adult diapers would be treated under the bill. In particular, it is unclear whether shields are considered "underpads". The term "underpad" is ambiguous. Some incontinent product lines sell "underpads" that are absorbent bed sheets, while other product lines sell "pads" that protect clothing, i.e. pads that are worn by the user. There are underwear products with built-in pads and underwear with disposable pads. Since both are worn under the clothing, one could interpret these pads to be "underpads" similar to shields. However, since the bill makes no reference to "shields", one could interpret "underpad" to include only absorbent bed sheets. Without a definition of "underpad", the bill may not accomplish the authors' intent.
2. Also, since the regulation lists adult diapers separately from briefs and pads, it is unclear if the bill intends to continue to tax the sale of disposable adult diapers.
3. The bill exempts incontinent underpads and briefs that are prescribed. The language used in the bill is similar to the language in sec. 77.54(14)(a), Wis. Stats. (1999-00), which provides an exemption for medicines "(p)rescribed...by a person authorized to prescribe medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law." Although it may be clear who is authorized to prescribe medicines that are dispensed by a registered pharmacist, it is not clear who is authorized to prescribe underpads and briefs since they tend to be over-the-counter products. Additionally, there is no provision relating to the dispensation of the items. Is it the intent of the bill to exempt incontinent underpads and briefs that are sold off the shelf or only items purchased at a pharmacy and/or dispensed by a pharmacist? If the products may be purchased off the shelf, is the store clerk required to see the prescription prior to allowing the items to be purchased exempt from sales tax?
4. The effective date language should reflect that the exemption is effective for sales and purchases made on or after the first day of the 2nd month beginning after publication.

If you have questions regarding this technical memorandum, please contact Rebecca Boldt at 266-6785.