

## 2007 DRAFTING REQUEST

### Bill

Received: 03/16/2007

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Roger Breske (608) 266-2509

By/Representing: adam

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Other - sales

Extra Copies:

Submit via email: YES

Requester's email: Sen.Breske@legis.wisconsin.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Sales and use tax exemption for smoking cessation aids and devices

---

### Instructions:

See Attached

---

### 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>
/P1	jkreye 03/16/2007	jdyer 03/21/2007	rschluet 03/21/2007	_____	sbasford 03/21/2007		S&L Tax
/1	jkreye 03/30/2007	kfollett 03/30/2007	pgreensl 03/30/2007	_____	cduerst 03/30/2007		S&L Tax
	jkreye 05/31/2007	jdyer 05/31/2007		_____			
/2			rschluet 05/31/2007	_____	sbasford 05/31/2007	cduerst 07/03/2007	S&L Tax

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For: 03/30/2007.

↳ "1" ↻

<END>

↳ "1/2" → At  
Intro

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FE Sent For: "/1" sent for 3-30-2007 per Adam  
25/31 jkd  
3/30/07 MN  
<END>

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FE Sent For:		1/16/f 3/30	3/30 P8	<END>			

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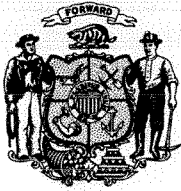
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/P1	jkreye	P1 3/21 jld		_____	_____	_____	_____

FE Sent For:

<END>



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-2262/P1

JK:A:...

jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 3-16-07

Gen

1 AN ACT ...; **relating to:** a sales and use tax exemption<sup>✓</sup> for smoking cessation  
2 products.

---

*Analysis by the Legislative Reference Bureau*

This bill creates a sales and use exemption<sup>✓</sup> for items used by an individual to help that individual stop smoking. \*

Because this bill relates to an exemption<sup>✓</sup> from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

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

3 SECTION 1. 77.54 (50)<sup>x</sup> of the statutes is created to read:

4 77.54 (50) The gross receipts from the sale of and the storage, use, or other  
5 consumption of tangible personal property that is used by an individual to help that  
6 individual stop smoking.<sup>✓</sup>

7 SECTION 2. **Effective date.**





STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

3-16-07

Adams — San Burke 6-2109

sales tax exempt for marketing promotion device/week



stays/RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 3-30-07  
Regen  
Today

1 AN ACT *to create* 77.54 (50) of the statutes; **relating to:** a sales and use tax  
2 exemption for smoking cessation products.

***Analysis by the Legislative Reference Bureau***

This bill creates a sales and use tax exemption for items used by an individual to help that individual stop smoking.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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4 77.54 (50) The gross receipts from the sale of and the storage, use, or other  
5 consumption of tangible personal property that is used by an individual to help that  
6 individual stop smoking.

7 SECTION 2. **Effective date.**



**Barman, Mike**

---

**From:** Piliouras, Elizabeth  
**Sent:** Thursday, May 31, 2007 10:47 AM  
**To:** Barman, Mike  
**Subject:** RE: FE for LRB2262

If you could resend it to me, I'd appreciate it.

Thank you!

---

**From:** Barman, Mike  
**Sent:** Thursday, May 31, 2007 10:43 AM  
**To:** Piliouras, Elizabeth  
**Subject:** RE: FE for LRB2262

Beth,

Adam in your office requested an early FE on 03/30/2007 (for "/1"). DOR prepared a FE and we sent an e-mail (PDF) to Sen.Breske and to Adam on April 19th. If you need it re-sent just let me know.

Mike Barman (Senior Program Assistant)

State of Wisconsin - Legislative Reference Bureau

Legal Section - Front Office

1 East Main Street, Suite 200, Madison, WI 53703

(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

---

**From:** Piliouras, Elizabeth  
**Sent:** Thursday, May 31, 2007 9:57 AM  
**To:** Barman, Mike  
**Subject:** FE for LRB2262

Hi Mike:

Did we ever put in a request for a FE for 2262? If it wasn't put in, we need one.

Thanks!  
Beth

*Beth Piliouras*

Senator Roger Breske  
608-266-2509

05/31/2007

# Memo

To: Senator **Breske**

(The Draft's Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2007 session draft.**

**LRB Number: 2007 LRB-2262**

**Version: "/1"**

**Fiscal Estimate Prepared By: (agency abbr.) DOR**

**If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.**

**Entered In Computer And Copy Sent To Requester Via E-Mail: 04 / 19 / 2007**

**\* \* \* \* \***

**To: LRB - Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Unintroduced Draft*

- > **If redrafted ...** please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.
- > **If introduced ...** and the version of the attached fiscal estimate is for a **previous version ...** please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Christina) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- > **If introduced ...** and the version of the attached fiscal estimate is for the **current version ...** please write the draft's introduction number below and give to Mike (or Christina) to process.

**THIS DRAFT WAS INTRODUCED AS: 2007 \_\_\_\_\_**

**Barman, Mike**

---

**From:** Barman, Mike  
**Sent:** Thursday, April 19, 2007 1:29 PM  
**To:** Sen.Breske  
**Cc:** Gallagher, Adam  
**Subject:** LRB 07-2262/1 (un-introduced) (FE by DOR - attached - for your review)

**Attachments:** FE\_Breske.PDF



FE\_Breske.PDF  
(415 KB)

**Mike Barman (Senior Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

**Barman, Mike**

---

**From:** Barman, Mike  
**Sent:** Thursday, May 31, 2007 11:22 AM  
**To:** Sen.Breske; Piliouras, Elizabeth  
**Subject:** LRB 07-2262/1 (un-introduced) (FE by DOR - attached - for your review) (re-send requested by Beth)

**Attachments:** FE\_Breske.PDF



FE\_Breske.PDF  
(434 KB)

**Mike Barman (Senior Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)



### Fiscal Estimate - 2007 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> 07-2262/1	<b>Introduction Number</b>
<b>Description</b> A sales and use tax exemption for smoking cessation products	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriations	
<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
<b>Local:</b>	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs      4. <input checked="" type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	
<b>5. Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input checked="" type="checkbox"/> Others      Stadium districts <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
<b>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>
DOR/ Blair Kruger (608) 266-1310	Paul Ziegler (608) 266-5773
	<b>Date</b>
	4/19/2007

## Fiscal Estimate Narratives

DOR 4/19/2007

LRB Number 07-2262/1	Introduction Number	Estimate Type	Original
<b>Description</b> A sales and use tax exemption for smoking cessation products			

### Assumptions Used in Arriving at Fiscal Estimate

Under current law, goods sold by prescription only (including nicotine nasal sprays and inhalers and certain non-nicotine drugs that help individuals stop smoking) are exempt from sales tax.

The bill exempts from sales tax the gross receipts from sales of tangible personal property that is used by an individual to help that individual stop smoking. Over-the-counter products, such as nicotine patches, nicotine gum, and nicotine lozenges, would be exempt under the bill.

According to Tobacco Free Kids, 881,900 Wisconsin adults smoke. Based on price and treatment information from the American Lung Association, the estimated average cost of nicotine replacement therapy (NRT) is \$186 for 6-week course. According to the Center for Disease Control, 41% of smokers quit for at least 1-day over the past 12 months. Assuming 33% of these 1-day quitters used a NRT, estimated annual sales of NRT were \$22 million ( $881,900 \times \$186 \times 41\% \times 33\%$ ). Thus, state sales taxes would decrease by an estimated \$1 million ( $\$22 \text{ mil.} \times 5\%$ ) per year under the bill.

County and stadium districts sales taxes were 7.6% of state sales taxes in FY06. Assuming this percentage does not change, county and stadium sales taxes would decrease by \$75,000 annually under the bill.

Administrative costs would be absorbed.

### Long-Range Fiscal Implications

## Fiscal Estimate Worksheet - 2007 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 07-2262/1		<b>Introduction Number</b>	
<b>Description</b> A sales and use tax exemption for smoking cessation products			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
	State Operations - Salaries and Fringes	\$	\$
	(FTE Position Changes)		
	State Operations - Other Costs		
	Local Assistance		
	Aids to Individuals or Organizations		
	<b>TOTAL State Costs by Category</b>	<b>\$</b>	<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
	GPR		
	FED		
	PRO/PRS		
	SEG/SEG-S		
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$-1,000,000
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$-1,000,000</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
		State	Local
	NET CHANGE IN COSTS	\$	\$
	NET CHANGE IN REVENUE	\$-1,000,000	\$-75,000
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	
DOR/ Blair Kruger (608) 266-1310		Paul Ziegler (608) 266-5773	
		<b>Date</b>	
		4/19/2007	



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
REFERENCE SECTION: (608) 266-0341  
FAX: (608) 264-6948

STEPHEN R. MILLER  
CHIEF

April 19, 2007

## MEMORANDUM

**To:** Representative Breske

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

**Subject:** Technical Memorandum to **2007 un-introduced** (LRB-2262/1) by **DOR**

---

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

April 18, 2007

**TO:** Joe Kreye  
Legislative Reference Bureau

**FROM:** Paul Ziegler  
Department of Revenue

**SUBJECT:** Technical Memorandum on LRB 2262/1 Exempting Smoking Cessation Products from Sales Tax

The bill exempts *all* "tangible personal property that is used by an individual to help that individual stop smoking" rather than only smoking cessation products. The term may include regular gum and candy as well as more esoteric purchases a smoker might make as an incentive to himself or herself to quit smoking. Exempting "nicotine replacement therapies, including gum, patches and lozenges" or a broader "smoking cessation products" would identify products to help individuals quit smoking.

The Main Street Equity Act (Streamlined Sales and Use Tax Agreement (SSUTA)) has been introduced as part of the Governor's 2007 Budget Bill. In general, to be in compliance with the SSUTA, the tax treatment of all products that fall within a defined term must be the same, unless a specific exception is provided in the SSUTA. Because some of the smoking cessation products that may qualify for this exemption fall within the definitions of "over-the-counter drug" and "candy" contained in the SSUTA, Wisconsin will not be in compliance with Section 316(C)(4) of the SSUTA if this exemption is enacted in its current form.

As a broader alternative, an exemption could be created for "over-the-counter drugs, except grooming and hygiene products, and candy," which would include smoking cessation products such as nicotine gum and lozenges.

If you have any questions regarding this technical memorandum, please contact Blair Kruger at (608) 266-1310 or [bkruger@dor.state.wi.us](mailto:bkruger@dor.state.wi.us).

## Barman, Mike

---

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**Subject:** LRB 07-2262/1 (un-introduced) (Tech. Memo by DOR - attached - for your review)

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Tech\_Memo\_Breske  
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PM mth

2007 BILL

in 5-31-07  
due Mon. 6-4

Regen

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*Analysis by the Legislative Reference Bureau*

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6 individual stop smoking. ✓  
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7 SECTION 2. **Effective date.**

nicotine replacement  
therapies

**BILL**

1 (1) This act takes effect on the first day of the 2nd month beginning after  
2 publication.

3 (END)



**Duerst, Christina**

---

**From:** Piliouras, Elizabeth

**Sent:** Tuesday, July 03, 2007 1:29 PM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 07-2262/2 Topic: Sales and use tax exemption for smoking cessation aids and devices

*Please Jacket LRB 07-2262/2 for the SENATE.*