



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-4325/2

KP:skw

2025 BILL

1 **AN ACT** *to amend* 77.52 (13) and 77.53 (10); *to create* 20.835 (4) (a), 77.54 (76)
2 and 77.76 (3w) of the statutes; **relating to:** an annual back-to-school sales tax
3 holiday and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates an annual back-to-school sales tax holiday for the three-day period beginning on the first Friday in August and ending on the following Sunday. During that period, clothing having a sales price of no more than \$150 and school supplies having a sales price of no more than \$100 are exempt from the sales and use tax. The bill also requires the Department of Revenue to annually estimate the amount that sales and use tax receipts by counties and municipalities that impose a sales and use tax decrease due to the back-to-school sales tax holiday, and DOR must annually distribute those amounts to the counties and municipalities.

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.

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:

BILL**SECTION 1**

SECTION 1. 20.835 (4) (a) of the statutes is created to read:

20.835 (4) (a) *Back-to-school sales tax holiday reimbursement.* A sum sufficient to make payments to counties and municipalities under s. 77.76 (3w).

SECTION 2. 77.52 (13) of the statutes is amended to read:

77.52 (13) For the purpose of the proper administration of this section and to prevent evasion of the sales tax it shall be presumed that all receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services is not a taxable sale at retail is upon the person who makes the sale unless that person takes from the purchaser an electronic or a paper certificate, in a manner prescribed by the department, to the effect that the property, item, good, or service is purchased for resale or is otherwise exempt, except that no certificate is required for the sale of tangible personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), (64), (66), (67), (71), ~~and (72)~~, and (76).

SECTION 3. 77.53 (10) of the statutes is amended to read:

77.53 (10) For the purpose of the proper administration of this section and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless that person takes from the purchaser an electronic or paper certificate, in a manner

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1 prescribed by the department, to the effect that the property, or items, property, or
2 goods under s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or
3 otherwise exempt from the tax, except that no certificate is required for the sale of
4 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
5 (d), or services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17),
6 (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), (64), (66),
7 (67), (71), ~~and (72)~~, and (76).

8 **SECTION 4.** 77.54 (76) of the statutes is created to read:

9 77.54 **(76)** (a) In this subsection:

10 1. "Clothing" means any wearing apparel for humans that is suitable for
11 general use and does not include any of the following:

- 12 a. Belt buckles sold separately.
- 13 b. Costume masks sold separately.
- 14 c. Patches and emblems sold separately.
- 15 d. Sewing equipment and supplies, including knitting needles, patterns, pins,
16 scissors, sewing machines, sewing needles, tape measures, and thimbles.
- 17 e. Sewing materials that become part of clothing, including buttons, fabric,
18 lace, thread, yarn, and zippers.
- 19 f. Clothing accessories or equipment.
- 20 g. Protective equipment.
- 21 h. Sport or recreational equipment.

22 2. "Clothing accessories or equipment" means incidental items worn on the
23 person or in conjunction with clothing, not including clothing, protective equipment
24 or sport or recreational equipment, but including all of the following:

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1 a. Briefcases.

2 b. Cosmetics.

3 c. Hair notions, including barrettes, hair bows, and hair nets.

4 d. Handbags.

5 e. Handkerchiefs.

6 f. Jewelry.

7 g. Nonprescription sunglasses.

8 h. Umbrellas.

9 i. Wallets.

10 j. Watches.

11 k. Wigs.

12 L. Hairpieces.

13 3. "Eligible property" means an item that qualifies for exemption under par.

14 (b).

15 4. "Layaway sale" means a transaction in which property is set aside for
16 future delivery to a customer who makes a deposit, agrees to pay the balance of the
17 sales price of the property over time, and, at the end of the payment period, receives
18 the property. An order is accepted for layaway sale by a seller when the seller
19 removes the property from inventory or clearly identifies the property as sold to the
20 purchaser.

21 5. "Protective equipment" means items for human wear that are designed to
22 protect the wearer against injury or disease or to protect property or other persons
23 from damage or injury. "Protective equipment" does not include items suitable for

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1 general use, clothing, clothing accessories or equipment, or sport or recreational
2 equipment. "Protective equipment" includes all of the following:

- 3 a. Breathing masks.
- 4 b. Clean room apparel and equipment.
- 5 c. Ear and hearing protectors.
- 6 d. Face shields.
- 7 e. Hard hats.
- 8 f. Helmets.
- 9 g. Paint or dust respirators.
- 10 h. Protective gloves.
- 11 i. Safety glasses and goggles.
- 12 j. Safety belts.
- 13 k. Tool belts.
- 14 L. Welder's gloves and masks.

15 6. "Rain check" means a seller allowing a purchaser to purchase an item at a
16 certain price at a later time because the item is out of stock.

17 7. "School art supply" means any of the following items that are commonly
18 used by a student in a course of study for artwork, but not including a school
19 computer supply, school supply, or school instructional material:

- 20 a. Clay and glazes.
- 21 b. Acrylic, tempera, and oil paints.
- 22 c. Paintbrushes for artwork.
- 23 d. Sketch and drawing pads.
- 24 e. Watercolors.

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1 8. “School computer supply” means any of the following items that are
2 commonly used by a student in a course of study in which a computer is used, but
3 not including a school art supply, school supply, or school instructional material:

- 4 a. Computer storage media, diskettes, and compact discs.
- 5 b. Handheld electronic schedulers, not including cellular phones.
- 6 c. Personal digital assistants, not including cellular phones.
- 7 d. Computer printers.
- 8 e. Printer supplies for computers, printer paper, and printer ink.

9 9. “School instructional material” means any of the following that is
10 commonly used by a student in a course of study as a reference and to learn the
11 subject being taught, but not including a school art supply, school computer supply,
12 or school supply:

- 13 a. Reference books.
- 14 b. Reference maps and globes.
- 15 c. Textbooks.
- 16 d. Workbooks.

17 10. “School supply” means any of the following items that are commonly used
18 by a student in the course of study, but not including a school art supply, school
19 computer supply, or school instructional material:

- 20 a. Binders.
- 21 b. Book bags.
- 22 c. Calculators.
- 23 d. Cellophane tape.
- 24 e. Blackboard chalk.

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- 1 f. Compasses.
- 2 g. Composition books.
- 3 h. Crayons.
- 4 i. Erasers.
- 5 j. Folders.
- 6 k. Glue, paste, and paste sticks.
- 7 L. Highlighters.
- 8 m. Index cards.
- 9 n. Index card boxes.
- 10 o. Legal pads.
- 11 p. Lunch boxes.
- 12 q. Markers.
- 13 r. Notebooks.
- 14 s. Loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper,
- 15 manila paper, colored paper, poster board, and construction paper.
- 16 t. Pencil boxes and other school supply boxes.
- 17 u. Pencil sharpeners.
- 18 v. Pencils.
- 19 w. Pens.
- 20 x. Protractors.
- 21 y. Rulers.
- 22 z. Scissors.
- 23 za. Writing tablets.
- 24 11. "Sport or recreational equipment" means items designed for human use

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1 and worn in conjunction with an athletic or recreational activity. "Sport or
2 recreational equipment" does not include items suitable for general use, clothing,
3 clothing accessories or equipment, or protective equipment. "Sport or recreational
4 equipment" includes all of the following:

- 5 a. Ballet and tap shoes.
- 6 b. Athletic shoes with cleats or spikes.
- 7 c. Gloves.
- 8 d. Goggles.
- 9 e. Hand and elbow guards.
- 10 f. Life preservers and vests.
- 11 g. Mouth guards.
- 12 h. Roller skates.
- 13 i. Ice skates.
- 14 j. Shin guards.
- 15 k. Shoulder pads.
- 16 L. Ski boots.
- 17 m. Waders.
- 18 n. Wetsuits and fins.

19 (b) For the 3-day period beginning on the first Friday in August and ending on
20 the following Sunday, the sales price from the sale of and the storage, use, or other
21 consumption of the following:

- 22 1. Clothing, if the sales price of any single item is no more than \$150.
- 23 2. School supplies, if the sales price of any single item is no more than \$100.

24 (c) The exemption under this subsection shall be administered as follows:

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1 1. A sale of eligible property under a layaway sale qualifies for exemption if
2 any of the following applies:

3 a. Final payment on a layaway order is made by, and the property is given to,
4 the purchaser during the exemption period under this subsection.

5 b. The purchaser selects the property and the retailer accepts the layaway
6 order for the item during the exemption period under this subsection, for immediate
7 delivery upon full payment, even if delivery is made after the exemption period.

8 2. The bundled transaction provisions under subs. (51) and (52) and ss. 77.51
9 (1f) and (3pf) and 77.52 (20), (21), (22), and (23) apply in the same manner during
10 the exemption period under this subsection as they apply in other periods.

11 3. A discount by a seller reduces the sales price of the property and the
12 discounted sales price determines whether the sales price is within the price
13 threshold in par. (b). A coupon that reduces the sales price is treated as a discount
14 if the seller is not reimbursed for the coupon amount by a 3rd party. If a discount
15 applies to the total amount paid by a purchaser rather than to the sales price of a
16 particular item and the purchaser has purchased both eligible property and taxable
17 property, the seller shall allocate the discount based on the total sales prices of the
18 taxable property compared to the total sales prices of all property sold in that same
19 transaction.

20 4. Products that are normally sold as a single unit shall be sold in that
21 manner and may not be divided into multiple units and sold as individual items in
22 order to obtain the exemption under this subsection.

23 5. Eligible property that is purchased during the exemption period under this
24 subsection with the use of a rain check qualifies for the exemption regardless of

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1 when the rain check was issued. Items purchased after the exemption period with
2 the use of a rain check are not eligible property under this subsection even if the
3 rain check was issued during the exemption period.

4 6. The procedure for an exchange with regard to the exemption under this
5 subsection is as follows:

6 a. If a purchaser purchases an item of eligible property during the exemption
7 period under this subsection but later exchanges the item for a similar item of
8 eligible property, even if different in size, color, or another feature, no additional tax
9 is due even if the exchange is made after the exemption period.

10 b. If a purchaser purchases an item of eligible property during the exemption
11 period under this subsection, but after the exemption period has ended, the
12 purchaser returns the item and receives credit on the purchase of a different item,
13 the appropriate sales tax is due on the sale of the different item.

14 c. If a purchaser purchases an item of eligible property before the exemption
15 period under this subsection, but during the exemption period the purchaser
16 returns the item and receives credit on the purchase of a different item of eligible
17 property, no sales tax is due on the sale of the new item if the new item is purchased
18 during the exemption period.

19 7. Delivery charges, including shipping, handling, and service charges, are
20 part of the sales price of eligible property. For the purpose of determining the price
21 threshold under par. (b), if all the property in a shipment qualifies as eligible
22 property and the sales price for each item in the shipment is within the price
23 threshold under par. (b), the shipment is considered a sale of eligible property and
24 the seller is not required to allocate the delivery, handling, or service charge to

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1 determine if the price threshold under par. (b) is exceeded. If the shipment includes
2 eligible property and taxable property, including an item of eligible property with a
3 sales price in excess of the price threshold under par. (b), the seller allocates the
4 delivery, handling, and service charge by using one of the following methods and
5 applies the tax to the percentage of the delivery, handling, and service charge
6 allocated to the taxable property:

7 a. A percentage based on the total sales price of the taxable property
8 compared to the total sales price of all property in the shipment.

9 b. A percentage based on the total weight of the taxable property compared to
10 the total weight of all property in the shipment.

11 8. Eligible property qualifies for exemption under this subsection if any of the
12 following applies:

13 a. The eligible property is both delivered to and paid for by the customer
14 during the exemption period.

15 b. The purchaser orders and pays for the eligible property and the seller
16 accepts the order during the exemption period under this subsection for immediate
17 shipment, even if delivery is made after the exemption period. For purposes of this
18 subd. 8. b., the seller accepts an order when the seller has taken action to fill the
19 order for immediate shipment. Actions to fill an order include placement of an in-
20 date stamp on a mail order or assignment of an order number to a telephone order.
21 For purposes of this subd. 8. b., an order is for immediate shipment when the
22 customer does not request delayed shipment and regardless of whether the
23 shipment is delayed because of a backlog of orders or because stock is currently
24 unavailable or on back order by the seller.

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9. For a 60-day period immediately after the exemption period under this subsection, when a purchaser returns an item that would qualify for the exemption, no credit for or refund of sales tax is given unless the purchaser provides a receipt or invoice that shows tax was paid or the seller has sufficient documentation to show that tax was paid on the specific item.

10. The time zone of the seller's location determines the authorized period for the exemption under this subsection when the retailer and purchaser are located in different time zones.

SECTION 5. 77.76 (3w) of the statutes is created to read:

77.76 (3w) (a) Annually, the department shall estimate the amount that the taxes distributed to each county and municipality under subs. (3) and (3r) is decreased due to the exemption under s. 77.54 (76).

(b) From the appropriation under s. 20.835 (4) (a), the department shall annually distribute to counties and municipalities the amount estimated under par. (a).

(END)