Date of Hearing: April 27, 2026

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 2522 (Jeff Gonzalez) – As Introduced February 20, 2026

SUSPENSE

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Sales and Use Tax Law: exemption: over-the-counter medication

SUMMARY: Provides a partial exemption under the Sales and Use Tax (SUT) Law for "over-the-counter medication" until January 1, 2032. Specifically, **this bill**:

1) Defines "over-the-counter medication" to mean a nonprescription drug regulated by the Food and Drug Administration (FDA) pursuant to the federal Food, Drug, and Cosmetic Act and federal regulations adopted pursuant to that act, including, but not limited to, Part 211 of Title 21 of the Code of Federal Regulations.

2) Provides that, notwithstanding any provision of the Bradley-Burns Uniform Local SUT Law or the Transactions and Use Tax Law, this bill's exemption shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

3) Provides that this bill's exemption does not apply with respect to any tax levied pursuant to:

   a) Revenue and Taxation Code (R&TC) Section 6051.2 or 6201.2;

   b) Section 35 of Article XIII of the California Constitution; or,

   c) R&TC Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to R&TC Section 6051.15 or 6201.15.

4) Provides that, for purposes of complying with R&TC Section 41, the Legislature finds and declares that the specific goal, purpose, and objective that the exemption will achieve is to create tax parity between prescription and over-the-counter medications.

5) Provides that the performance indicators for the Legislature to use when measuring whether the tax expenditure meets the goal, purpose, and objective shall be the number of transactions exempt from SUT pursuant to this bill, and the total dollar value of taxes forgone.

6) Provides that, no later than January 1, 2028, and each January 1 thereafter, the California Department of Tax and Fee Administration (CDTFA) shall submit a report to the Legislature, in compliance with Government Code Section 9795, detailing the number of transactions exempt from SUT pursuant to this bill, and the total dollar value of taxes foregone.

7) Takes immediate effect as a tax levy.

8) Provides that this bill's statutory provisions shall sunset on January 1, 2032.

EXISTING LAW:

1) Imposes a sales tax on retailers for the privilege of selling tangible personal property (TPP), absent a specific exemption. The tax is based upon the retailer's gross receipts from TPP sales in this state. (R&TC Section 6001 *et seq.*)

2) Imposes a complimentary use tax on the storage, use, or other consumption of TPP generally purchased out-of-state and brought into California. The use tax is imposed on the purchaser; and unless the purchaser pays the use tax to an entity registered to collect California's use tax, the purchaser remains liable for the tax. The use tax is set at the same rate as the state's sales tax and must generally be remitted to CDTFA. (R&TC Section 6001 *et seq.*)

3) Provides a SUT exemption for certain types of medicines, including those:

   a) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law;

   b) Furnished by a licensed physician and surgeon, dentist, or podiatrist to their own patient for treatment of the patient;

   c) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist;

   d) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being; or,

   e) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof. (R&TC Section 6369.)

4) Requires any bill introduced on or after January 1, 2020, that authorizes a SUT exemption, to contain all of the following:

   a) Specific goals, purposes, and objectives that the tax expenditure will achieve;

   b) Detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets the goals, purposes, and objectives stated in the bill; and,

   c) Specified data collection requirements to enable the Legislature to determine whether the tax expenditure is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. (R&TC Section 41(a).)

FISCAL EFFECT: The CDTFA estimates that this bill would reduce General Fund (GF) revenues by $242.7 million in fiscal year (FY) 2027-28 and by $254.9 million in FY 2028-29.

COMMENTS:

1) The author has provided the following statement in support of this bill:

   The state has a responsibility to provide the necessary relief for low income, disadvantaged and vulnerable families and communities that are already struggling. AB 2522 helps alleviate the financial burden facing millions of Californians and ensures that families are not placed in a predicament or forced to forgo providing potentially lifesaving and life changing medication for their families.

2) This bill is supported by the Greater Coachella Valley Chamber of Commerce, which notes:

   Over-the-counter medications are a basic necessity for California families, used to manage everyday health conditions, prevent minor illnesses from becoming more serious, and reduce reliance on more costly medical interventions. Yet California remains one of the few states in the country that continues to tax these essential health products, adding an unnecessary burden to consumers already managing rising health care costs.

3) This bill is opposed by the California Tax Reform Association, which notes:

   We see little benefit in terms of incentive effect or usage from enacting an exemption for over-the-counter medication. Our rough estimate is a revenue loss of over $300 million to the state and local governments. Such a large revenue loss, if desirable, should be made up for by other revenue, such as sales taxes on digital products, which are currently exempt.

4) Committee Staff Comments:

   a) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

      As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

   b) *An overview of the SUT Law*: The SUT represents the state's third largest source of GF revenues. Nevertheless, the past several decades have seen a dramatic reduction in the state's reliance on the SUT and a corresponding increase in its reliance on personal income tax revenues. In FY 2026-27, SUT revenues are estimated to comprise only 15.2% of the state's GF revenues, down from nearly 60% in FY 1950-51.

c) *What accounts for the state's reduced reliance on SUT revenues*? The SUT Law was enacted in a very different era. In the 1930s, California's economy was largely dominated by manufacturing, and residents mostly bought and sold tangible goods. Thus, in establishing the base for a new consumption tax, it made sense to impose the tax on sales of TPP, defined as personal property that may be "seen, weighed, measured, felt, or touched." Over the past 90 years, however, California's economy has seen dramatic growth in the service and information sectors, resulting in a significant erosion of the SUT base. For example, the Commission on the 21st Century Economy noted that spending on taxable goods represented 34.6% of personal income in 2008, down from 55.4% in 1980. As a result, tax experts and economists from across the political spectrum argue that California should expand its SUT base.

   It could be argued that, while well-intentioned, additional SUT exemptions further erode an already shrinking SUT base. This, in turn, increases fiscal pressures to maintain or even increase California's relatively high SUT rate. High rates arguably promote non-compliance and encourage out-of-state purchases, placing California retailers at a competitive disadvantage. High rates also risk impacting consumer decision-making, which runs counter to widely accepted principles of sound tax policy.

d) *What would this bill do*? This bill provides a SUT exemption for over-the-counter medications, which this bill defines as nonprescription drugs that the FDA regulates under the federal Food, Drug, and Cosmetic Act. The proposed exemption is partial and, as such, would only apply to the GF portion of the SUT rate (i.e., 3.9375%). This partial exemption would apply from the date of this bill's enactment until January 1, 2032.

   The author argues that the exemption for over-the-counter medications would help alleviate the financial pressures facing many families throughout California. The author also notes:

   > Over the counter medications are often a low-cost alternative to branded medications […] which are used primarily by those families facing financial hardship. Therefore, AB 2522, which seeks to provide [a] state sales tax exemption for [non-prescription] medications, will provide financial relief for low income, disadvantaged and vulnerable communities.

e) *An inherently regressive tax*: The SUT has been widely criticized as a regressive exaction that most heavily impacts those least able to pay. For example, a survey by the Nevada Legislative Counsel Bureau long ago concluded that in the case of a retail sales tax with food exempt, "the lowest income group would experience the highest ratio of tax to income . . . ." (Survey of Sales Taxes Applicable to Nevada 59 (Bull. No. 3, May 1948).) Others, however, contend that a degree of progressivity is provided via the various exemptions built into most state SUT laws (i.e., for certain necessities of life such as food, housing, and medical care).

   Proponents of this bill might argue that an exemption for over-the-counter medicines would further promote a degree of progressivity in an already regressive tax regime. Proponents might also note that, to reduce the regressive nature of the SUT, exemptions have been enacted for numerous necessities of life, including food and *prescription* medications. Critics, however, might contend that SUT exemptions are a blunt instrument for affecting social policy. While this bill would offer financial relief to low-income individuals struggling to make ends meet, this bill also provides relief indiscriminately to wealthy consumers who might not even notice the partial exemption.[1]

f) *Partial SUT exemptions are complicated to administer*: Most exemptions are applied to the total applicable state and local SUT. However, California provides a few partial SUT exemptions: specifically, those for manufacturing and research and development equipment, farm equipment and machinery, diesel fuel used for farming and food processing, teleproduction and postproduction equipment, timber harvesting equipment and machinery, and racehorse breeding stock. These partial exemptions are difficult to process and frequently contain errors. Providing an additional incentive, in the form of a partial SUT exemption, may further complicate administration for taxpayers and CDTFA alike.

g) *CDTFA should be provided additional lead-time*: As currently drafted, this bill's exemption would become effective immediately upon enactment. CDTFA, however, requires a certain amount of lead time to inform impacted retailers, modify SUT returns, and reprogram impacted computer systems. The author may wish to amend this bill to delay the exemption's operative date.

h) *This bill's definition of over-the-counter medicine*: This bill provides a very broad definition for over-the-counter medicine. Specifically, this bill defines such medicines to mean any nonprescription drug regulated by the FDA pursuant to the Food, Drug, and Cosmetic Act, and the federal regulations adopted thereunder. Although the FDA publishes a list of over-the-counter drug products in its "Orange Book", these products are not always identified by the common names that appear on store shelves. In addition, the FDA's list is updated regularly. As such, it may be difficult for both retailers and the CDTFA to ensure that only appropriately regulated products receive the exemption.

i) *CDTFA reporting requirements*: This bill requires the CDTFA to annually submit a report to the Legislature that, among other things, details the number of transactions exempt from SUT pursuant to this bill. CDTFA, however, does not currently collect transaction data on SUT returns and can only provide GF revenue loss estimates in its report.

j) *Policy on tax expenditures*: Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements. This bill currently complies with R&TC Section 41.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible

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[1] According to the author's office, U.S. households spend roughly $645 annually on over-the-counter products. Assuming this figure to be accurate, Committee Staff notes that this bill's partial exemption would result in annual savings of roughly $25 per household.

for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means 10 years. This bill includes a five-year sunset date in compliance with Committee policy.

k) *Suggested technical amendment*: For ease of reference, and to ensure consistency with other SUT exemption statutes, Committee staff suggests placing the general exemption language currently contained in subdivision (b) in subdivision (a). Conversely, the definitional provisions currently contained in subdivision (a) should be placed in subdivision (b).

l) *Prior legislation*: AB 2006 (Mathis), of the 2023-24 Legislative Session, contained provisions nearly identical to this bill. AB 2006 was held on this Committee's Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

California Chapter of the American College of Emergency Physicians
Consumer Healthcare Products Association
Greater Coachella Valley Chamber of Commerce
Haleon
Retired Public Employees Association

Opposition

California Tax Reform Association
California Teachers Association

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