

RE: Support for SB 377 – As it Relates to the Exemption on the Sale of Feminine Hygiene Products from the State Sales Tax

Wednesday, January 31, 2024, 9:30 am, Senate Committee on Assessment and Taxation

Dear Chair Tyson, Vice Chair Peck, and members of the Committee,

Period Law is a national legal organization dedicated to ending the discriminatory tax on menstrual discharge collection devices. Since 2016, we have supported local advocacy efforts across the country, providing legal research and, in some cases, filing lawsuits to eliminate the "tampon tax."

As one of 24 Streamlined Sales Tax (SST) member states, Kansas has adopted a uniform definition of these items and, until recently, referred to them as "feminine hygiene products." At Period Law's request, but with widespread industry and state support, the SST changed the name of this tax category this past November to "menstrual discharge collection devices"—to provide clarity and end the use of a deceptive, euphemistic term.

We strongly endorse SB 377, advocating for the removal of the state sales tax on menstrual discharge collection devices. Taxing essential medical devices while exempting items like Viagra underscores a lack of recognition for women's health and dignity.

The FDA classifies menstrual discharge collection devices as Class I and Class II medical devices. As a result of the 2020 CARES Act, the IRS deems them tax deductible as "qualified medical expenses." Removing the "tampon tax" is the American College of Obstetrics and Gynecology's number one legislative priority this year. The American Medical Association has issued statements decrying the unfairness of this tax since 2016.

Furthermore, a sales tax on these items disproportionately burdens low-income women and children. Studies show that such a tax forces difficult choices between managing one's menstrual flow and buying food. Repealing the tax would immediately benefit Kansas women, who still earn 78 cents on the dollar compared to men.

Finally, taxing menstrual discharge menstrual devices constitutes sex discrimination, violating state and federal constitutions. Since 2016, Period Law has been involved in lawsuits leading to the elimination of the tampon tax in multiple states. We commend the Kansas legislature for considering SB 377 and urge your support in removing this discriminatory tax.

Feel free to contact us with any questions. Thank you for your leadership and service.

Sincerely,
Laura Strausfeld
Executive Director of Period Law