

Proposed Substitute to Item #16-1942 issued 2/21/2016 (this version replaces all others)

Finance Committee Meeting of 3/23/2016

Sponsored by: RICHARD R. BOYKIN and DEBORAH SIMS, County Commissioners

PROPOSED ORDINANCE AMENDMENT

FEMININE HYGEINE EXEMPTION

WHEREAS, the 1970 Illinois Constitution, Article VII, Section 6 designates Cook County as a Home Rule Unit of Government; and

WHEREAS, Cook County may exercise powers and perform functions as they relate to government, including the authority to regulate for the protection of the public health, safety, morals and welfare; and including the power to tax; and

WHEREAS, the County has determined that feminine hygiene products, such as tampons and sanitary napkins are a genuine necessity for the women of Cook County and hereby classifies feminine hygiene products in such a manner as to exempt them from the Cook County Retailers' Occupation Tax; and

WHEREAS, the Illinois Supreme Court in *Geary v. Dominick's Finer Foods, Inc.*, 129 Ill. 2d 389, 544 N.E. 2d 344 (1989) has previously held that tampons and sanitary napkins are "medical appliances," thus exempting them from sales tax; and

WHEREAS, while the Illinois Department of Revenue currently classifies tampons and sanitary napkins as "grooming and hygiene" products which are subject to the County's current sales tax, the State's Use Tax Act [35 ILCS 105 / 1 *et. seq.*], the Counties Code, and the 1970 Illinois Constitution do not specifically limit the concurrent exercise of this power or provide that the State has exclusive authority in this area, such that the home rule unit may not classify a product in such a matter to exempt it from home rule sales tax; and

WHEREAS, the City Council of the City of Chicago currently has pending legislation to exempts these products from its own sales tax; and

WHEREAS, legislation is currently pending, or has already been adopted in several States to exempt such products from their respective State Sales Taxes;

NOW THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 - Taxation, Article IV - Retailers' Occupation Tax, Sec. 74-153 of the Cook County Code be amended as follows:

ARTICLE IV. - RETAILERS' OCCUPATION TAX

Sec. 74-153 - Items Used for Feminine Hygiene Exempted

The tax imposed in Section 74-151 shall not be imposed upon sales of the following items:

(a) Goods commonly sold at retail for the purpose of the collection and/or absorption, for disposal of menstrual fluid including, but not limited to: tampons; daily liners; sanitary napkins; and disposable and reusable menstruation cups.

Effective date: This ordinance shall ~~be in effect immediately~~, take effect January 1, 2017.