

# Period Law

## RE: Support for HB2111 - Relating to Exemption on the Sale of Feminine Hygiene Products from the State Sales Tax

Tuesday, February 7, 2023, 3:30 pm, House Committee on Taxation

Dear Chair Smith, Vice Chair Bergkamp, and members of the Committee,

Period Law is a national legal and policy organization working to end the discriminatory tax on menstrual products. Since 2016, we have supported local advocacy organizations and activists around the country in ending the “tampon tax” in their states by providing legal research and, in some states, filing lawsuits. We are voicing our **strong support for HB2111**, which serves to exempt menstrual products from the state sales tax.

What we tax signals what we value. In every state where it exists, the taxation of menstrual products makes money off of women. Taxing medically-necessary products like tampons, while exempting items like Viagra (which has no approved uses for women) simply because it is a prescription drug, signals that the state does not recognize the health and dignity of women. The tampon tax is a symptom of widespread disregard for women's daily needs and experiences.

Menstrual products are medical products, essential to the menstruating population of Kansas. The U.S. Food and Drug Administration classifies menstrual tampons as Class II medical devices and pads as Class I medical devices. The 2020 CARES Act designated menstrual products as medical necessities for the purpose of HSA and FSA accounts. The American Medical Association deems menstrual products “essential for women’s health” and has called the tampon tax a “regressive” [penalty](#). After a comprehensive study, the American College of Obstetrics and Gynecology concluded that “research supports the repeal of this tax in consideration of its financial, social, and political implications” (Singh 2020).

A sales tax on menstrual products unfairly burdens the state’s lowest income group, women and children. Studies have [shown](#) that low-income citizens may be forced to choose between purchasing menstrual products and other necessities. Since women in Kansas make, on average, 80.8 cents on the dollar compared to their male counterparts, repealing the tax would be a huge help to the average woman, who uses on average more than 16,000 tampons or pads in a lifetime.

A 2018 [study](#) analyzing the 2005 elimination of menstrual hygiene products from the sales tax base in New Jersey found that removing the tampon tax provides a disproportionate economic benefit to poor women who, unlike wealthier women, cannot afford to buy period products more cheaply in bulk.

Furthermore, subjecting menstrual products to the state sales tax is sex discrimination prohibited by state and federal constitutions. HB2111 corrects a very serious problem. Constitutional law scholars from across the country, including Erwin Chemerinsky, Dean of UC Berkeley Law School, have argued that the tampon tax amounts to sex-based discrimination in violation of equal protection at both the state and federal levels. Period Law coordinated a class action lawsuit in New York in 2016 on behalf of women who paid the tax, prompting the state to end its tax within months. Four states – Connecticut, Florida, Illinois, and Nevada—followed suit. In 2020, we sued the state of Michigan with the same result. Forty states taxed menstrual products when our organization began in 2016, and 18 have now ended the practice, either voluntarily or under the pressure of a lawsuit. We are thrilled to see the Kansas legislature removing this discriminatory tax of its own accord and applaud the authors of HB2111.

We urge you to **support HB2111** and welcome you to contact us with any additional questions you may have. Thank you for your leadership and service.

Sincerely,  
Laura Strausfeld  
Executive Director of Period Law