

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-0916.01 Esther van Mourik x4215

SENATE BILL 20-099

SENATE SPONSORSHIP

Rankin,

HOUSE SPONSORSHIP

Will,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE DOLLAR THRESHOLDS IN PLACE FOR CERTAIN**
102 **RETAILERS' SALES TAX COLLECTION REQUIREMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill changes the dollar threshold for economic nexus for purposes of retail sales made by retailers without physical presence in the state from \$100,000 to \$200,000.

Current law temporarily allows small retailers with physical presence in the state that have retail sales of \$100,000 or less to source sales to the business' location regardless of where the purchaser receives

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the tangible personal property or service, thus providing an exception to the sales tax sourcing rule. The bill changes this threshold to \$200,000 or less in retail sales and makes the exception permanent.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-102, **amend**
3 (3)(c)(I) as follows:

4 **39-26-102. Definitions.** As used in this article 26, unless the
5 context otherwise requires:

6 (3) "Doing business in this state" means the selling, leasing, or
7 delivering in this state, or any activity in this state in connection with the
8 selling, leasing, or delivering in this state, of tangible personal property
9 or taxable services by a retail sale as defined in this section, for use,
10 storage, distribution, or consumption within this state. This subsection (3)
11 affects the imposition, application, or collection of sales and use taxes
12 only. "Doing business in this state" includes, but shall not be limited to,
13 the following acts or methods of transacting business:

14 (c) **Economic nexus.** (I) Except as provided in subsection
15 (3)(c)(II) of this section, a person is doing business in this state in a
16 calendar year:

17 (A) If in the previous calendar year the person has made retail
18 sales of tangible personal property, commodities, or services in the state
19 as specified in section 39-26-104 (3), exceeding ~~one hundred thousand~~
20 ~~dollars~~ TWO HUNDRED THOUSAND DOLLARS; or

21 (B) On and after the first day of the month after the ninetieth day
22 after the person has made retail sales of tangible personal property,
23 commodities, or services in the state as specified in section 39-26-104 (3),
24 in the current calendar year that exceed ~~one hundred thousand dollars~~

1 TWO HUNDRED THOUSAND DOLLARS.

2 **SECTION 2.** In Colorado Revised Statutes, 39-26-104, **amend**
3 (3)(c)(I); and **repeal** (3)(c)(III) as follows:

4 **39-26-104. Property and services taxed - definitions - repeal.**

5 (3) (c) (I) A retailer shall source its sales to the business location of the
6 retailer regardless of where the purchaser receives the tangible personal
7 property or service in a calendar year:

8 (A) If in the previous calendar year the retailer has made retail
9 sales of tangible personal property, commodities, or services in the state
10 totaling ~~one hundred thousand dollars~~ TWO HUNDRED THOUSAND DOLLARS
11 or less; or

12 (B) Until the first day of the month after the ninetieth day after the
13 person has made retail sales of tangible personal property, commodities,
14 or services in the state in the current calendar year that total more than
15 ~~one hundred thousand dollars~~ TWO HUNDRED THOUSAND DOLLARS, after
16 which the sourcing rules set forth in subsections (3)(a) and (3)(b) of this
17 section apply to all sales made by such retailers on and after such date.

18 ~~(III) (A) This subsection (3)(c) is repealed effective ninety days~~
19 ~~after the date that the revisor of statutes is notified by the department of~~
20 ~~revenue that a geographic information system that meets the defined~~
21 ~~scope of work set forth in the request for solicitation, provided by the~~
22 ~~state, is online and available for a retailer to use to determine the taxing~~
23 ~~jurisdiction in which an address resides. The department of revenue shall~~
24 ~~notify the revisor of statutes no later than fifteen days after such a system~~
25 ~~is online.~~

26 ~~(B) The department of revenue shall immediately notify the~~
27 ~~retailers described in subsection (3)(c)(I) of this section that the~~

1 geographic information system described in subsection (3)(c)(III)(A) of
2 this section is online and that ninety days after the date of the notice to the
3 revisor of statutes described in subsection (3)(c)(III)(A) of this section,
4 the sourcing rules set forth in subsections (3)(a) and (3)(b) of this section
5 will apply to all sales made by such retailers on and after such date.

6 **SECTION 3.** In Colorado Revised Statutes, 39-26-204, **amend**
7 (2)(b) as follows:

8 **39-26-204. Periodic return - collection.** (2) (b) ~~(f)~~ Subsection
9 (2)(a) of this section does not apply to a retailer in a calendar year:

10 ~~(A)~~ (I) If in the previous calendar year the retailer has made retail
11 sales of tangible personal property, commodities, or services in the state
12 totaling ~~one hundred thousand dollars~~ TWO HUNDRED THOUSAND DOLLARS
13 or less; or

14 ~~(B)~~ (II) Until the first day of the month after the ninetieth day after
15 a retailer has made retail sales of tangible personal property,
16 commodities, or services in the state in the current calendar year that total
17 more than ~~one hundred thousand dollars~~ TWO HUNDRED THOUSAND
18 DOLLARS.

19 ~~(H)~~ This subsection (2)(b) is repealed effective ninety days after
20 the date that the revisor of statutes is notified by the department of
21 revenue that a geographic information system that meets the defined
22 scope of work set forth in the request for solicitation, provided by the
23 state, is online and available for a retailer to use to determine the taxing
24 jurisdiction in which an address resides. The department shall notify the
25 revisor of statutes no later than fifteen days after such a system is online.

26 **SECTION 4. Act subject to petition - effective date.** This act
27 takes effect September 1, 2020; except that, if a referendum petition is

1 filed pursuant to section 1 (3) of article V of the state constitution against
2 this act or an item, section, or part of this act within the ninety-day period
3 after final adjournment of the general assembly, then the act, item,
4 section, or part will not take effect unless approved by the people at the
5 general election to be held in November 2020 and, in such case, will take
6 effect on the date of the official declaration of the vote thereon by the
7 governor.