

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0537.01 Ed DeCecco x4216

HOUSE BILL 22-1109

HOUSE SPONSORSHIP

Woog and Bird,

SENATE SPONSORSHIP

Liston and Kolker,

House Committees

Business Affairs & Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A SALES AND USE TAX EXEMPTION FOR**
102 **AN ON-DEMAND AIR CARRIER'S AIRCRAFT.**

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>.)

For 7 years beginning on January 1, 2023, the bill creates a sales and use tax exemption for the sale, storage, use, or consumption of an aircraft used or purchased for use in interstate or intrastate commerce by an on-demand air carrier. An on-demand air carrier is an entity authorized by the federal aviation administration to operate an aircraft to transport people or property in compliance with the administration's certification

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.

and operations requirements.

The aeronautics division in the department of transportation is required to provide the state auditor with any available information that would assist the state auditor's measurement of the effectiveness of the exemption.

The bill specifies that a statutory town, city, or county may exempt the same items only by express inclusion of the exemption in its initial sales tax ordinance or resolution or by amendment thereto and also that the exemptions do not apply to the tax imposed by a special district or other limited purpose governmental entity.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 39-26-711 as
3 follows:

4 **39-26-711. Aircraft - tangible personal property - tax**
5 **preference performance statement - legislative declaration -**
6 **definition.** (1) The following ~~shall be~~ ARE exempt from taxation under
7 ~~the provisions of part 1 of this article~~ ARTICLE 26:

8 (a) Effective July 1, 1984, the sale of aircraft used or purchased
9 for use in interstate commerce by a commercial airline; ~~and~~

10 (b) The sale of tangible personal property that is to be permanently
11 affixed or attached as a component part of an aircraft; AND

12 (c) ON AND AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1,
13 2030, THE SALE OF AIRCRAFT USED OR PURCHASED FOR USE IN INTERSTATE
14 OR INTRASTATE COMMERCE BY AN ON-DEMAND AIR CARRIER.

15 (2) The following ~~shall be~~ ARE exempt from taxation under ~~the~~
16 ~~provisions of part 2 of this article~~ ARTICLE 26:

17 (a) Effective July 1, 1984, the storage, use, or consumption of
18 aircraft used or purchased for use in interstate commerce by a commercial
19 airline; ~~and~~

20 (b) The storage, use, or consumption of any tangible personal

1 property that is to be permanently affixed or attached as a component part
2 of an aircraft; AND

3 (c) THE STORAGE, USE, OR CONSUMPTION OF AIRCRAFT USED OR
4 PURCHASED FOR USE IN INTERSTATE OR INTRASTATE COMMERCE BY AN
5 ON-DEMAND AIR CARRIER, IF THE AIRCRAFT WAS USED OR PURCHASED FOR
6 USE IN THIS STATE ON AND AFTER JANUARY 1, 2023, BUT BEFORE JANUARY
7 1, 2030.

8 (3) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
9 THAT:

10 (I) A RECENT SURVEY OF SEVERAL COLORADO-BASED ON-DEMAND
11 AIR CARRIERS REFLECTED THAT, ON AVERAGE, EACH AIRCRAFT CREATES
12 SLIGHTLY MORE THAN FIVE JOBS TO SUPPORT ITS OPERATION;

13 (II) COLORADO HAS A NUMBER OF ON-DEMAND AIR CARRIERS THAT
14 WILL HAVE INCREASED ACCESS TO ADDITIONAL AIRCRAFT AS A RESULT OF
15 THE EXEMPTIONS CREATED IN SUBSECTIONS (1)(c) AND (2)(c) OF THIS
16 SECTION;

17 (III) THE EXEMPTION WILL HELP CURRENT ON-DEMAND AIR
18 CARRIERS TO UPDATE THEIR FLEETS WITH NEWER AIRCRAFT THAT HAVE
19 ENHANCED SAFETY FEATURES; AND

20 (IV) COLORADO'S RURAL COMMUNITIES WILL BENEFIT THROUGH
21 ADDITIONAL SERVICE BECAUSE SERVICE PROVIDERS CRITICAL TO RURAL
22 COMMUNITIES, SUCH AS MEDICAL SUPPORT, RELY ON ON-DEMAND AIR
23 CARRIERS TO ACCESS COMMUNITIES WITH NO COMMERCIAL AIRLINE
24 SERVICE.

25 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), THE PURPOSES
26 OF THE TAX EXPENDITURES CREATED IN SUBSECTIONS (1)(c) AND (2)(c) OF
27 THIS SECTION ARE TO:

1 (I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS,
2 WHICH IN THIS INSTANCE IS TO PLACE ADDITIONAL AIRCRAFT IN
3 COMMERCIAL SERVICE IN COLORADO; AND

4 (II) TO CREATE OR RETAIN JOBS.

5 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
6 MEASURE THE EFFECTIVENESS OF THE EXEMPTION IN ACHIEVING THE
7 PURPOSES SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION BASED ON THE
8 NUMBER OF ADDITIONAL AIRCRAFT IN COMMERCIAL SERVICE AND JOBS
9 CREATED OR RETAINED AFTER THE EXEMPTION IS CREATED. THE
10 DEPARTMENT OF REVENUE SHALL PROVIDE THE STATE AUDITOR WITH
11 INFORMATION ABOUT THE NUMBER OF ADDITIONAL AIRCRAFT IN
12 COMMERCIAL SERVICE. THE STATE AUDITOR MAY USE INFORMATION
13 RECEIVED FROM THE AVIATION INDUSTRY TO DETERMINE THE NUMBER OF
14 JOBS CREATED OR RETAINED.

15 (4) THE EXEMPTIONS SET FORTH IN SUBSECTIONS (1)(c) AND (2)(c)
16 OF THIS SECTION SHALL NOT APPLY TO THE TAX IMPOSED BY A SPECIAL
17 DISTRICT OR OTHER LIMITED PURPOSE GOVERNMENTAL ENTITY THAT IS
18 AUTHORIZED BY LAW TO LEVY SALES OR USE TAX UPON ALL
19 TRANSACTIONS OR INCIDENTS WITH RESPECT TO WHICH THE STATE LEVIES
20 SALES OR USE TAX, REGARDLESS OF WHETHER THE AUTHORIZATION
21 SPECIFICALLY REFERENCES THIS ARTICLE 26.

22 (5) AS USED IN THIS SECTION, "ON-DEMAND AIR CARRIER" MEANS
23 AN ENTITY AUTHORIZED BY THE FEDERAL AVIATION ADMINISTRATION TO
24 OPERATE AN AIRCRAFT TO TRANSPORT PEOPLE OR PROPERTY IN
25 COMPLIANCE WITH THE CERTIFICATION AND OPERATIONS REQUIREMENTS
26 SET FORTH IN 14 CFR 133 OR 135.

27 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **add**

1 (1)(d)(I)(Q) as follows:

2 **29-2-105. Contents of sales tax ordinances and proposals.**

3 (1) The sales tax ordinance or proposal of any incorporated town, city,
4 or county adopted pursuant to this article 2 shall be imposed on the sale
5 of tangible personal property at retail or the furnishing of services, as
6 provided in subsection (1)(d) of this section. Any countywide or
7 incorporated town or city sales tax ordinance or proposal shall include the
8 following provisions:

9 (d) (I) A provision that the sale of tangible personal property and
10 services taxable pursuant to this article 2 shall be the same as the sale of
11 tangible personal property and services taxable pursuant to section
12 39-26-104, except as otherwise provided in this subsection (1)(d). The
13 sale of tangible personal property and services taxable pursuant to this
14 article 2 shall be subject to the same sales tax exemptions as those
15 specified in part 7 of article 26 of title 39; except that the sale of the
16 following may be exempted from a town, city, or county sales tax only by
17 the express inclusion of the exemption either at the time of adoption of
18 the initial sales tax ordinance or resolution or by amendment thereto:

19 (Q) THE ON-DEMAND AIR CARRIER EXEMPTIONS SET FORTH IN
20 SECTION 39-26-711 (1)(c) AND (2)(c).

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly; except
24 that, if a referendum petition is filed pursuant to section 1 (3) of article V
25 of the state constitution against this act or an item, section, or part of this
26 act within such period, then the act, item, section, or part will not take
27 effect unless approved by the people at the general election to be held in

- 1 November 2022 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.