

CHAPTER 205

TAXATION

HOUSE BILL 16-1187

BY REPRESENTATIVE(S) Kraft-Tharp, Buckner, Court, Ginal, Hamner, Kagan, Lontine, Melton, Mitsch Bush, Pettersen, Priola, Rosenthal, Roupe, Ryden, Singer, Van Winkle, Williams, Young;
also SENATOR(S) Holbert, Aguilar, Baumgardner, Carroll, Cooke, Donovan, Garcia, Grantham, Guzman, Heath, Hodge, Jahn, Johnston, Jones, Kefalas, Kerr, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Newell, Roberts, Scheffel, Scott, Tate, Todd, Woods, Cadman.

AN ACT**CONCERNING A SALES AND USE TAX EXEMPTION FOR MEALS PROVIDED IN CERTAIN RETIREMENT COMMUNITIES.**

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that:

(a) The department of revenue does not currently have a written policy with regard to the application of sales and use taxes on food purchased and provided as part of a meal plan to residents of a retirement community, nor with regard to the application of sales and use taxes on the packaging used in presenting that food to a resident of a retirement community. The question of the taxation of these items has been brought to light by the issuance of a department of revenue private letter ruling indicating that these items should be taxed. In general, the retirement community industry has not been collecting and remitting sales or use tax for these items.

(b) The intended purpose of the tax expenditure in this act is to clarify that food purchased and provided as part of a meal plan to residents of a retirement community is exempt from sales and use tax as food for domestic home consumption, and clarifying that the packaging used in presenting that food to a resident of a retirement community is exempt from sales and use tax under the existing exemption for food packaging.

SECTION 2. In Colorado Revised Statutes, 39-26-707, **add** (1) (f), (2) (e), and (2.5) as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

39-26-707. Food, meals, beverages, and packaging - definitions. (1) The following shall be exempt from taxation under the provisions of part 1 of this article:

(f) (I) (A) ON AND AFTER JULY 1, 2016, ALL SALES OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF A RETIREMENT COMMUNITY;

(B) ON AND AFTER JULY 1, 2016, ALL SALES TO A RETIREMENT COMMUNITY OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS FOR PURPOSES OF A SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I);

(C) ON AND AFTER JULY 1, 2016, ALL SALES OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR THE PURPOSE OF PACKAGING, BAGGING, OR USE WITH FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF A RETIREMENT COMMUNITY; AND

(D) ON AND AFTER JULY 1, 2016, ALL SALES TO A RETIREMENT COMMUNITY OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR PURPOSES OF A SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I).

(II) FOR PURPOSES OF THIS PARAGRAPH (f), "FOOD" INCLUDES PREPARED SALADS, SALAD BARS, AND PACKAGED AND UNPACKAGED COLD SANDWICHES.

(2) The following shall be exempt from taxation under the provisions of part 2 of this article:

(e) (I) (A) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR CONSUMPTION OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF A RETIREMENT COMMUNITY;

(B) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR CONSUMPTION BY A RETIREMENT COMMUNITY OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS FOR PURPOSES OF A SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION;

(C) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR CONSUMPTION OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR THE PURPOSE OF PACKAGING, BAGGING, OR USE WITH FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF A RETIREMENT COMMUNITY; AND

(D) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR CONSUMPTION BY A RETIREMENT COMMUNITY OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR PURPOSES OF A SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION.

(II) FOR PURPOSES OF THIS PARAGRAPH (e), "FOOD" INCLUDES PREPARED SALADS, SALAD BARS, AND PACKAGED AND UNPACKAGED COLD SANDWICHES.

(2.5) FOR PURPOSES OF THIS SECTION, "RETIREMENT COMMUNITY" MEANS:

(a) AN ASSISTED LIVING RESIDENCE AS DEFINED IN SECTION 25-27-102 (1.3), C.R.S.;

(b) AN INDEPENDENT LIVING FACILITY DESIGNED AND OPERATED SPECIFICALLY TO SERVE AS THE PRIMARY RESIDENCE FOR PERSONS AGED FIFTY-FIVE OR OLDER THAT PROVIDES MEALS AND OTHER SERVICES TO RESIDENTS AS PART OF A COMPREHENSIVE FEE, INCLUDING A FACILITY THAT QUALIFIES AS HOUSING FOR OLDER PERSONS AS DEFINED IN SECTION 24-34-502 (7) (b), C.R.S., AND A LIFE CARE INSTITUTION SUBJECT TO ARTICLE 13 OF TITLE 12, C.R.S.; OR

(c) A NURSING CARE FACILITY LICENSED UNDER THE AUTHORITY OF SECTION 25-1.5-103 (1) (a) (I) (A), C.R.S., THAT PROVIDES SERVICES TO PERSONS WHO, DUE TO PHYSICAL CONDITION, MENTAL CONDITION, OR DISABILITY, REQUIRE CONTINUOUS OR REGULAR INPATIENT NURSING CARE.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2016