

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0738.01 Esther van Mourik x4215

HOUSE BILL 17-1136

HOUSE SPONSORSHIP

Foote,

SENATE SPONSORSHIP

Gardner,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CONSISTENT STATUTORY LANGUAGE FOR ELECTRONIC**
102 **FILING OF TAXES.**

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>.)

Within the statutory title on taxation, some sections require a taxpayer to pay taxes via electronic funds transfer (EFT) while other sections allow a taxpayer to pay taxes via EFT. The same is true for electronic filing of returns. The inconsistent approach of requiring it in some cases and allowing it in others has created difficulty in administering the laws, particularly when the department of revenue tried

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

HOUSE
2nd Reading Unamended
February 21, 2017

by rule to provide a consistent exception in the form of an undue hardship waiver for EFT. The bill changes the EFT and electronic filing requirements for consistency, specifying in all cases that the department may require EFT and electronic filing and that the department may promulgate rules to implement EFT and electronic filing.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-604, **amend**
3 (4)(a) as follows:

4 **39-22-604. Withholding tax - requirement to withhold - tax**
5 **lien - exemption from lien - definitions.** (4) (a) The executive director
6 may require any taxpayer who has an annual estimated withheld tax
7 liability of more than fifty thousand dollars to remit withheld tax by
8 electronic funds transfer. The executive director MAY PROMULGATE RULES
9 TO IMPLEMENT REMITTANCES BY ELECTRONIC FUNDS TRANSFER AND shall
10 promulgate rules ~~and regulations~~ prescribing withholding tax periods and
11 the corresponding tax return filing and tax payment due dates. The
12 executive director shall consult with the state treasurer regarding the
13 formulation of such rules and regulations in order to minimize the amount
14 of lost interest to the state general fund.

15 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-26-105.5
16 as follows:

17 **39-26-105.5. Remittance of sales taxes - electronic funds**
18 **transfers.** For any calendar year, ~~commencing on or after January 1,~~
19 ~~2002,~~ THE EXECUTIVE DIRECTOR MAY REQUIRE any vendor whose liability
20 for state sales tax only for the previous calendar year was more than
21 seventy-five thousand dollars ~~shall~~ TO use electronic funds transfers to
22 remit all state and local sales taxes required to be remitted to the
23 executive director of the department of revenue. The executive director

1 may promulgate rules to ~~effectively~~ implement this section, but shall first
2 consult with the state treasurer to ensure that any rules promulgated do
3 not adversely affect the ability of the state treasurer to optimize sales tax
4 investment earnings. Such rules shall be promulgated in accordance with
5 article 4 of title 24. ~~C.R.S.~~ The executive director shall not require any
6 taxpayer required to remit sales taxes by electronic funds transfers to
7 remit sales tax prior to the deadline specified in section 39-26-105 for
8 taxpayers who remit sales taxes by other means.

9 **SECTION 3.** In Colorado Revised Statutes, **amend** 39-27-105.3
10 as follows:

11 **39-27-105.3. Remittance of tax on gasoline and special fuel -**
12 **electronic funds transfers.** For any calendar month, ~~commencing on or~~
13 ~~after July 1, 2005,~~ THE EXECUTIVE DIRECTOR MAY REQUIRE any
14 distributor, supplier, carrier, exporter, importer, blender, refiner, licensee,
15 or terminal operator ~~shall~~ TO use electronic funds transfers to remit all
16 taxes required to be remitted to ~~the executive director of the department~~
17 ~~of revenue. Such distributor, supplier, carrier, exporter, importer, blender,~~
18 ~~refiner, licensee, or terminal operator shall pay such taxes by electronic~~
19 ~~funds transfers to the department~~ REVENUE on or before the twenty-sixth
20 day of each calendar month. The executive director may promulgate rules
21 to ~~effectively~~ implement this section, but shall first consult with the state
22 treasurer to ensure that any rules promulgated do not adversely affect the
23 ability of the state treasurer to optimize gasoline and special fuel tax
24 investment earnings. Such rules shall be promulgated in accordance with
25 article 4 of title 24. ~~C.R.S.~~

26 **SECTION 4.** In Colorado Revised Statutes, 39-28-104, **amend**
27 (1)(c) as follows:

1 **39-28-104. Evidence of payment of tax - credits - redemptions.**

2 (1) (c) THE DEPARTMENT MAY REQUIRE wholesalers ~~shall electronically~~
3 TO USE ELECTRONIC FUNDS TRANSFERS TO remit tax payments due
4 pursuant to this ~~article~~ ARTICLE 28 and section 21 of article X of the state
5 constitution to the department ~~The department~~ AND may require
6 wholesalers to file tax returns electronically. The department ~~shall~~ MAY
7 promulgate rules governing electronic payment and filing.

8 **SECTION 5.** In Colorado Revised Statutes, 39-28.5-106, **amend**
9 (3) as follows:

10 **39-28.5-106. Returns and remittance of tax - civil penalty.**

11 (3) THE DEPARTMENT MAY REQUIRE distributors ~~shall electronically~~ TO
12 USE ELECTRONIC FUNDS TRANSFERS TO remit tax payments due pursuant
13 to this ~~article~~ ARTICLE 28.5 and section 21 of article X of the state
14 constitution to the department ~~The department~~ AND may require
15 distributors to file tax returns electronically. The department ~~shall~~ MAY
16 promulgate rules governing electronic payment and filing.

17 **SECTION 6.** In Colorado Revised Statutes, 39-28.8-202, **amend**
18 (1)(a)(I) and (3) as follows:

19 **39-28.8-202. Retail marijuana sales tax.** (1) (a) (I) In addition
20 to the tax imposed pursuant to part 1 of article 26 of this ~~title~~ TITLE 39 and
21 the sales tax imposed by a local government pursuant to title 29, 30, 31,
22 or 32, but except as otherwise set forth in ~~subparagraphs (II) and (III) of~~
23 ~~this paragraph (a)~~ SUBSECTIONS (1)(a)(II) AND (1)(a)(III) OF THIS
24 SECTION, beginning January 1, 2014, and through June 30, 2017, there is
25 imposed upon all sales of retail marijuana and retail marijuana products
26 by a retailer a tax at the rate of ten percent of the amount of the sale, and
27 beginning July 1, 2017, there is imposed upon all sales of retail marijuana

1 and retail marijuana products by a retailer a tax at the rate of eight percent
2 of the amount of the sale. The tax imposed by this section is computed in
3 accordance with schedules or forms prescribed by the executive director
4 of the department; except that a retail marijuana store is not allowed to
5 retain any portion of the retail marijuana sales tax collected pursuant to
6 this part 2 to cover the expenses of collecting and remitting the tax and
7 except that the department of revenue may require a retailer to make
8 returns and remit the tax described in this part 2 by electronic means
9 FUNDS TRANSFERS. THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES
10 TO IMPLEMENT THIS SECTION.

11 (3) The department may require retail marijuana stores to file tax
12 returns ELECTRONICALLY and TO remit payments due pursuant to this part
13 2 ~~electronically~~ BY ELECTRONIC FUNDS TRANSFERS. The department ~~shall~~
14 MAY promulgate rules governing electronic payment and filing.

15 **SECTION 7.** In Colorado Revised Statutes, 39-28.8-304, **amend**
16 (3) as follows:

17 **39-28.8-304. Returns and remittance of tax - civil penalty.**

18 (3) The department may require retail marijuana cultivation facilities to
19 file tax returns ELECTRONICALLY and TO remit payments due pursuant to
20 this part 3 ~~electronically~~ BY ELECTRONIC FUNDS TRANSFERS. The
21 department ~~shall~~ MAY promulgate rules governing electronic payment and
22 filing.

23 **SECTION 8. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.