

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

**PREAMENDED**

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

LLS NO. 18-0171.02 Esther van Mourik x4215

**HOUSE BILL 18-1083**

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**HOUSE SPONSORSHIP**

**Kraft-Tharp and Sias, McKean**

**SENATE SPONSORSHIP**

**Tate and Williams A.,**

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**House Committees**

Business Affairs and Labor  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A SALES AND USE TAX EXEMPTION FOR AIRCRAFT TO BE**  
102 **USED BY ON-DEMAND AIR CARRIERS.**

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**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 creates a sales and use tax exemption for the purchase, storage, use, or consumption of an aircraft for use in interstate, intrastate, or foreign commerce by an on-demand air carrier if the aircraft is purchased by a person and then subsequently leased or subleased to an on-demand air carrier or if the aircraft is purchased by an on-demand air carrier.

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 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.

The bill requires any special district or other limited purpose governmental entity that is authorized by law to levy sales tax upon all transactions or incidents with respect to which the state levies sales tax to levy a tax on the purchase, storage, use, or consumption of aircraft for use in interstate, intrastate, or foreign commerce by an on-demand air carrier.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares:

4 (a) That the intended purpose of this act is to place additional  
5 aircraft in commercial service in Colorado, which will increase jobs  
6 related to their operation;

7 (b) A recent survey of several Colorado-based on-demand air  
8 carriers reflected that, on average, each aircraft creates slightly more than  
9 five jobs to support its operation;

10 (c) Colorado has a multitude of on-demand air carriers that will  
11 have increased access to additional aircraft as a result of this exemption;

12 (d) The exemption will help current on-demand air carriers to  
13 update their fleet with newer aircraft with enhanced safety features; and

14 (e) Colorado's rural communities will benefit through additional  
15 service because service providers critical to rural communities, such as  
16 medical support, rely on on-demand air carriers to access communities  
17 with no commercial airline service.

18 **SECTION 2.** In Colorado Revised Statutes, 39-26-711, **amend**  
19 (1) introductory portion and (2) introductory portion; and **add** (1)(c),  
20 (2)(c), (3), and (4) as follows:

21 **39-26-711. Aircraft - tangible personal property - definition.**

1 (1) The following ~~shall be~~ ARE exempt from taxation under ~~the~~  
2 ~~provisions of part 1 of this article~~ ARTICLE 26:

3 (c) (I) EFFECTIVE JANUARY 1, 2019, THE PURCHASE OF AN  
4 AIRCRAFT BY A PERSON, IF SUCH AIRCRAFT IS THEN LEASED OR SUBLEASED  
5 FOR A TERM OF NOT LESS THAN TWENTY-FOUR MONTHS, FOR USE IN  
6 INTERSTATE, INTRASTATE, OR FOREIGN COMMERCE BY AN ON-DEMAND AIR  
7 CARRIER.

8 (II) EFFECTIVE JANUARY 1, 2019, THE PURCHASE OF AN AIRCRAFT  
9 BY AN ON-DEMAND AIR CARRIER FOR USE IN INTERSTATE, INTRASTATE, OR  
10 FOREIGN COMMERCE BY SUCH ON-DEMAND AIR CARRIER.

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

13 (c) (I) EFFECTIVE JANUARY 1, 2019, THE STORAGE, USE, OR  
14 CONSUMPTION OF AN AIRCRAFT, IF SUCH AIRCRAFT IS PURCHASED BY A  
15 PERSON AND THEN LEASED OR SUBLEASED FOR A TERM OF NOT LESS THAN  
16 TWENTY-FOUR MONTHS, FOR USE IN INTERSTATE, INTRASTATE, OR FOREIGN  
17 COMMERCE BY AN ON-DEMAND AIR CARRIER.

18 (II) EFFECTIVE JANUARY 1, 2019, THE STORAGE, USE, OR  
19 CONSUMPTION OF AN AIRCRAFT IF SUCH AIRCRAFT IS PURCHASED BY AN  
20 ON-DEMAND AIR CARRIER FOR USE IN INTERSTATE, INTRASTATE, OR  
21 FOREIGN COMMERCE BY SUCH ON-DEMAND AIR CARRIER.

22 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
23 REQUIRES:

24 (a) "LEASED" OR "SUBLEASED" MEANS THAT A WRITTEN CONTRACT  
25 IS MEMORIALIZED IN WRITING AT THE TIME THAT THE AGREEMENT  
26 BETWEEN THE PARTIES IS FIRST REACHED AND THAT THE WRITTEN  
27 CONTRACT PROVIDES THAT THE:

1 (I) RIGHTFUL POSSESSOR OF AN AIRCRAFT CONVEYS THE RIGHT TO  
2 EXCLUSIVELY USE AND OCCUPY THAT AIRCRAFT TO A LESSEE IN EXCHANGE  
3 FOR CONSIDERATION;

4 (II) AIRCRAFT REMAINS IN FULL POSSESSION, CONTROL, AND  
5 OPERATION OF THE LESSEE FOR THE CONTRACT TERM;

6 (III) CONTRACT IS THE RESULT OF AN ARM'S LENGTH  
7 TRANSACTION; AND

8 (IV) LESSOR DOES NOT TAKE POSSESSION OR OTHERWISE USE THE  
9 AIRCRAFT AT ANY TIME DURING THE CONTRACT TERM UNLESS THE LESSOR  
10 CHARTERS THE AIRCRAFT FROM THE LESSEE AT THE MARKET RATE AND  
11 PAYS ANY APPLICABLE TAX.

12 (b) "ON-DEMAND AIR CARRIER" MEANS AN ENTITY AUTHORIZED BY  
13 THE FEDERAL AVIATION ADMINISTRATION TO OPERATE AN AIRCRAFT TO  
14 TRANSPORT PEOPLE OR PROPERTY IN COMPLIANCE WITH THE  
15 CERTIFICATION AND OPERATIONS REQUIREMENTS SET FORTH IN 14 CFR  
16 125, 133, OR 135.

17 (4) NOTWITHSTANDING THE EXEMPTIONS PROVIDED FOR IN  
18 SUBSECTIONS (1)(c) AND (2)(c) OF THIS SECTION, ANY SPECIAL DISTRICT  
19 OR OTHER LIMITED PURPOSE GOVERNMENTAL ENTITY THAT IS AUTHORIZED  
20 BY LAW TO LEVY SALES TAX UPON ALL TRANSACTIONS OR INCIDENTS WITH  
21 RESPECT TO WHICH THE STATE LEVIES SALES TAX, REGARDLESS OF  
22 WHETHER THE AUTHORIZATION SPECIFICALLY REFERENCES THIS ARTICLE  
23 26, SHALL, IF IT LEVIES SALES TAX, LEVY THE TAX ON THE ITEMS  
24 EXEMPTED IN SUBSECTIONS (1)(c) AND (2)(c) OF THIS SECTION.

25 **SECTION 3.** In Colorado Revised Statutes, 29-2-105, **add**  
26 (1)(d)(I)(P) as follows:

27 **29-2-105. Contents of sales tax ordinances and proposals -**

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

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

17             (P) THE ON-DEMAND AIR CARRIER EXEMPTIONS SET FORTH IN  
18    SECTION 39-26-711 (1)(c) AND (2)(c).

19             **SECTION 4. Safety clause.** The general assembly hereby finds,  
20    determines, and declares that this act is necessary for the immediate  
21    preservation of the public peace, health, and safety.