

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0899.01 Esther van Mourik x4215

HOUSE BILL 21-1265

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HOUSE SPONSORSHIP

Mullica and Van Winkle,

SENATE SPONSORSHIP

Pettersen and Woodward,

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING A TEMPORARY DEDUCTION FROM STATE NET TAXABLE  
102 SALES FOR CERTAIN RETAILERS IN THE STATE IN ORDER TO  
103 ALLOW SUCH RETAILERS TO RETAIN THE RESULTING SALES TAX  
104 COLLECTED AS ASSISTANCE FOR LOST REVENUE AS A RESULT OF  
105 THE ECONOMIC DISRUPTIONS DUE TO THE PRESENCE OF  
106 CORONAVIRUS DISEASE 2019 (COVID-19) IN COLORADO.

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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 continues for June 2021, July 2021, and August 2021 a

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.

temporary deduction from state net taxable sales for qualifying retailers in the alcoholic beverages drinking places industry, the restaurant and other eating places industry, and the mobile food services industry in the state in order to allow such qualified retailers to retain the resulting sales tax collected as assistance for lost revenue as a result of the economic disruptions due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

The bill also expands the definition of qualifying retailers to include those in the catering industry and the food service contractors industry.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-105, **amend**  
3 (1.3)(a)(III), (1.3)(a)(V), (1.3)(b)(I), and (1.3)(b)(II) introductory portion;  
4 and **add** (1.3)(a)(I.3), (1.3)(a)(I.5), (1.3)(c.5), and (1.3)(f.5) as follows:

5 **39-26-105. Vendor liable for tax - definitions - repeal.**

6 (1.3) (a) As used in this subsection (1.3), unless the context otherwise  
7 requires:

8 (I.3) "CATERING INDUSTRY" MEANS ESTABLISHMENTS, NOT  
9 INCLUDING THE MOBILE FOOD SERVICES INDUSTRY OR THE FOOD SERVICES  
10 CONTRACTOR INDUSTRY, THAT ARE PRIMARILY ENGAGED IN PROVIDING  
11 SINGLE EVENT-BASED FOOD SERVICES FOR EVENTS SUCH AS GRADUATION  
12 PARTIES, WEDDING RECEPTIONS, BUSINESS OR RETIREMENT LUNCHEONS,  
13 OR TRADE SHOWS AND THAT HAVE EQUIPMENT AND VEHICLES TO  
14 TRANSPORT MEALS AND SNACKS TO EVENTS OR TO PREPARE FOOD AT AN  
15 OFF-PREMISE SITE. "CATERING INDUSTRY" INCLUDES BANQUET HALLS  
16 WITH CATERING STAFF.

17 (I.5) "FOOD SERVICES CONTRACTOR INDUSTRY" MEANS  
18 ESTABLISHMENTS, NOT INCLUDING THE CATERING INDUSTRY, THAT ARE  
19 PRIMARILY ENGAGED IN PROVIDING FOOD SERVICES, FOR THE  
20 CONVENIENCE OF THE CONTRACTING ORGANIZATION OR THE

1 CONTRACTING ORGANIZATION'S CUSTOMERS, AT INSTITUTIONAL,  
2 GOVERNMENTAL, COMMERCIAL, OR INDUSTRIAL LOCATIONS OF OTHERS,  
3 BASED ON CONTRACTUAL ARRANGEMENTS WITH THESE TYPES OF  
4 ORGANIZATIONS FOR A SPECIFIED PERIOD OF TIME, SUCH AS AIRLINE FOOD  
5 SERVICE CONTRACTORS; FOOD CONCESSION CONTRACTORS AT SPORTING,  
6 ENTERTAINMENT, OR CONVENTION FACILITIES; OR CAFETERIA FOOD  
7 SERVICES CONTRACTORS AT SCHOOLS, HOSPITALS, OR GOVERNMENT  
8 OFFICES.

9 (III) (A) "Qualifying retailer" means, FOR THE SPECIFIED SALES  
10 TAX PERIOD IN SUBSECTION (1.3)(a)(V)(A) OF THIS SECTION, a retailer  
11 doing business in the state that timely files sales tax returns as required  
12 under subsection (1)(b) of this section and section 39-26-109, and that  
13 operates in the alcoholic beverages drinking places industry, the  
14 restaurant and other eating places industry, or the mobile food services  
15 industry.

16 (B) "QUALIFYING RETAILER" MEANS, FOR THE SPECIFIED SALES  
17 TAX PERIOD IN SUBSECTION (1.3)(a)(V)(B) OF THIS SECTION, A RETAILER  
18 DOING BUSINESS IN THE STATE THAT TIMELY FILES SALES TAX RETURNS AS  
19 REQUIRED UNDER SUBSECTION (1)(b) OF THIS SECTION AND SECTION  
20 39-26-109, AND THAT OPERATES IN THE ALCOHOLIC BEVERAGES DRINKING  
21 PLACES INDUSTRY, THE CATERING INDUSTRY, THE FOOD SERVICES  
22 CONTRACTOR INDUSTRY, THE RESTAURANT AND OTHER EATING PLACES  
23 INDUSTRY, OR THE MOBILE FOOD SERVICES INDUSTRY.

24 (V) (A) "Specified sales tax period" means sales made in  
25 November 2020, December 2020, January 2021, and February 2021, for  
26 which monthly returns must be filed pursuant to subsection (1)(b) of this  
27 section, on December 21, 2020, January 20, 2021, February 22, 2021, and

1 March 22, 2021, respectively.

2 (B) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION  
3 (1.3)(a)(V)(B), "SPECIFIED SALES TAX PERIOD" MEANS SALES MADE IN  
4 JUNE 2021, JULY 2021, AND AUGUST 2021, FOR WHICH MONTHLY  
5 RETURNS MUST BE FILED PURSUANT TO SUBSECTION (1)(b) OF THIS  
6 SECTION, ON JULY 20, 2021, AUGUST 20, 2021, AND SEPTEMBER 20, 2021,  
7 RESPECTIVELY.

8 (b) (I) A qualifying retailer in the alcoholic beverages drinking  
9 places industry, ~~or~~ in the restaurant and other eating places industry, OR  
10 IN THE FOOD SERVICES CONTRACTOR INDUSTRY may deduct from state net  
11 taxable sales the lesser of state net taxable sales or seventy thousand  
12 dollars and retain the resulting sales tax collected for each month in the  
13 specified sales tax period.

14 (II) One deduction described in subsection (1.3)(b)(I) of this  
15 section is allowed per month for each of up to five fixed physical  
16 premises that are properly licensed under section 39-26-103 (2)(a), to a  
17 qualifying retailer in the alcoholic beverages drinking places industry, ~~or~~  
18 in the restaurant and other eating places industry, OR IN THE FOOD  
19 SERVICES CONTRACTOR INDUSTRY. No deduction is allowed for:

20 (c.5) A QUALIFYING RETAILER IN THE CATERING INDUSTRY MAY  
21 DEDUCT FROM STATE NET TAXABLE SALES THE LESSER OF AGGREGATE  
22 STATE NET TAXABLE SALES FOR ALL EVENTS OR SEVENTY THOUSAND  
23 DOLLARS, AND RETAIN THE RESULTING STATE SALES TAX COLLECTED FOR  
24 EACH MONTH IN THE SPECIFIED SALES TAX PERIOD.

25 (f.5) TO THE EXTENT INFORMATION IS AVAILABLE AND WITHOUT  
26 CHANGING THE SALES TAX RETURN FORM, THE DEPARTMENT OF REVENUE  
27 SHALL INCLUDE A REPORT TO ITS COMMITTEE OF REFERENCE AT A HEARING

1 HELD IN JANUARY 2022 PURSUANT TO SECTION 2-7-203 (2)(a) OF THE  
2 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND  
3 TRANSPARENT (SMART) GOVERNMENT ACT" SPECIFYING:

4 (I) THE SALES TAX REVENUE THE STATE DID NOT COLLECT AS A  
5 RESULT OF THE DEDUCTION ALLOWED IN THIS SUBSECTION (1.3); AND

6 (II) HOW MANY RETAILERS ELECTED TO TAKE ADVANTAGE OF THE  
7 DEDUCTION ALLOWED IN THIS SUBSECTION (1.3).

8 **SECTION 2. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, or safety.