

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 21-0899.01 Esther van Mourik x4215

HOUSE BILL 21-1265

HOUSE SPONSORSHIP

Mullica and Van Winkle,

SENATE SPONSORSHIP

Pettersen and Woodward,

House Committees

Finance
Appropriations

Senate Committees

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.**

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.

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)(a)(I.7), (1.3)(c.5), and (1.3)(f.5)
5 as follows:

6 **39-26-105. Vendor liable for tax - definitions - repeal.**

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

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

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

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

10 (I.7) "HOTEL-OPERATED RESTAURANT, BAR, OR CATERING
11 SERVICE" MEANS A RESTAURANT OR OTHER EATING PLACES INDUSTRY
12 ESTABLISHMENT OR AN ALCOHOLIC BEVERAGES DRINKING PLACES
13 INDUSTRY ESTABLISHMENT LOCATED ON THE PREMISES OF AN
14 ESTABLISHMENT PRIMARILY ENGAGED IN PROVIDING SHORT-TERM
15 LODGING FACILITIES AND KNOWN AS A HOTEL, MOTOR HOTEL, RESORT
16 HOTEL, MOTEL, BED-AND-BREAKFAST INN, TOURIST HOME, GUEST HOUSE,
17 YOUTH HOSTEL, OR HOUSEKEEPING CABIN, INCLUDING A HOTEL FACILITY
18 WITH A CASINO ON THE PREMISES. "HOTEL-OPERATED RESTAURANT, BAR,
19 OR CATERING SERVICE" INCLUDES THE SALE OF SINGLE EVENT-BASED FOOD
20 SERVICES DESCRIBED IN SUBSECTION (1.3)(a)(I.3) OF THIS SECTION ON THE
21 PREMISES OF THE ESTABLISHMENT. "HOTEL-OPERATED RESTAURANT, BAR,
22 OR CATERING SERVICE" DOES NOT INCLUDE SALES OF ROOMS OR
23 ACCOMMODATIONS, GIFTS AND SUNDRIES, RECREATIONAL SERVICES,
24 CONFERENCE ROOMS, CONVENTION SERVICES, LAUNDRY SERVICES,
25 PARKING, AND OTHER SERVICES.

26 (III) (A) "Qualifying retailer" means, FOR THE SPECIFIED SALES
27 TAX PERIOD IN SUBSECTION (1.3)(a)(V)(A) OF THIS SECTION, a retailer

1 doing business in the state that timely files sales tax returns as required
2 under subsection (1)(b) of this section and section 39-26-109, and that
3 operates in the alcoholic beverages drinking places industry, the
4 restaurant and other eating places industry, or the mobile food services
5 industry.

6 (B) "QUALIFYING RETAILER" MEANS, FOR THE SPECIFIED SALES
7 TAX PERIOD IN SUBSECTION (1.3)(a)(V)(B) OF THIS SECTION, A RETAILER
8 DOING BUSINESS IN THE STATE THAT TIMELY FILES SALES TAX RETURNS AS
9 REQUIRED UNDER SUBSECTION (1)(b) OF THIS SECTION AND SECTION
10 39-26-109, AND THAT OPERATES IN THE ALCOHOLIC BEVERAGES DRINKING
11 PLACES INDUSTRY, THE CATERING INDUSTRY, THE FOOD SERVICES
12 CONTRACTOR INDUSTRY, THE RESTAURANT AND OTHER EATING PLACES
13 INDUSTRY, OR THE MOBILE FOOD SERVICES INDUSTRY, OR THAT OPERATES
14 A HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE.

15 (V) (A) "Specified sales tax period" means sales made in
16 November 2020, December 2020, January 2021, and February 2021, for
17 which monthly returns must be filed pursuant to subsection (1)(b) of this
18 section, on December 21, 2020, January 20, 2021, February 22, 2021, and
19 March 22, 2021, respectively.

20 (B) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
21 (1.3)(a)(V)(B), "SPECIFIED SALES TAX PERIOD" MEANS SALES MADE IN
22 JUNE 2021, JULY 2021, AND AUGUST 2021, FOR WHICH MONTHLY
23 RETURNS MUST BE FILED PURSUANT TO SUBSECTION (1)(b) OF THIS
24 SECTION, ON JULY 20, 2021, AUGUST 20, 2021, AND SEPTEMBER 20, 2021,
25 RESPECTIVELY.

26 (b) (I) A qualifying retailer in the alcoholic beverages drinking
27 places industry, or in the restaurant and other eating places industry, ■

1 IN THE FOOD SERVICES CONTRACTOR INDUSTRY, OR OPERATING A
2 HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE may deduct
3 from state net taxable sales the lesser of state net taxable sales or seventy
4 thousand dollars and retain the resulting sales tax collected for each
5 month in the specified sales tax period.

6 (II) One deduction described in subsection (1.3)(b)(I) of this
7 section is allowed per month for each of up to five fixed physical
8 premises that are properly licensed under section 39-26-103 (2)(a), to a
9 qualifying retailer in the alcoholic beverages drinking places industry, or
10 in the restaurant and other eating places industry, IN THE FOOD
11 SERVICES CONTRACTOR INDUSTRY, OR OPERATING A HOTEL-OPERATED
12 RESTAURANT, BAR, OR CATERING SERVICE. No deduction is allowed for:

13 (c.5) A QUALIFYING RETAILER IN THE CATERING INDUSTRY MAY
14 DEDUCT FROM STATE NET TAXABLE SALES THE LESSER OF AGGREGATE
15 STATE NET TAXABLE SALES FOR ALL EVENTS OR SEVENTY THOUSAND
16 DOLLARS, AND RETAIN THE RESULTING STATE SALES TAX COLLECTED FOR
17 EACH MONTH IN THE SPECIFIED SALES TAX PERIOD.

18 (f.5) TO THE EXTENT INFORMATION IS AVAILABLE AND WITHOUT
19 CHANGING THE SALES TAX RETURN FORM, THE DEPARTMENT OF REVENUE
20 SHALL INCLUDE A REPORT TO ITS COMMITTEE OF REFERENCE AT A HEARING
21 HELD IN JANUARY 2022 PURSUANT TO SECTION 2-7-203 (2)(a) OF THE
22 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
23 TRANSPARENT (SMART) GOVERNMENT ACT" SPECIFYING:

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

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

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