

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0996.02 Pierce Lively x2059

HOUSE BILL 22-1406

HOUSE SPONSORSHIP

Herod and Roberts,

SENATE SPONSORSHIP

Coleman,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A TEMPORARY DEDUCTION FROM STATE NET TAXABLE
102 SALES FOR CERTAIN RETAILERS IN THE STATE.

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 renews for July 2022, August 2022, and September 2022, after a 10-month hiatus, a temporary deduction from state net taxable sales for qualifying retailers in the alcoholic beverages drinking places industry, the catering industry, the food service contractors industry, the mobile food services industry, the restaurant and other eating places industry, and retailers operating a hotel-operated restaurant, bar, or

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.

catering service in the state. The temporary deduction from state taxable sales for qualifying retailers is equal to the lesser of state net taxable sales or \$70,000 for each month in the specified sales tax period.

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), (1.3)(b)(II) introductory portion,
4 (1.3)(c), and (1.3)(c.5); and **add** (1.3)(f.7) 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 (III) (A) "Qualifying retailer" means, for ~~the specified sales tax~~
9 ~~period~~ EACH MONTH SPECIFIED in subsection (1.3)(a)(V)(A) of this
10 section, a retailer doing business in the state that timely files sales tax
11 returns as required under subsection (1)(b) of this section and section
12 39-26-109, and that operates in the alcoholic beverages drinking places
13 industry, the restaurant and other eating places industry, or the mobile
14 food services industry.

15 (B) "Qualifying retailer" means, for ~~the specified sales tax period~~
16 EACH MONTH SPECIFIED in subsection (1.3)(a)(V)(B) of this section, a
17 retailer doing business in the state that timely files sales tax returns as
18 required under subsection (1)(b) of this section and section 39-26-109,
19 and that operates in the alcoholic beverages drinking places industry, the
20 catering industry, the food services contractor industry, the restaurant and
21 other eating places industry, or the mobile food services industry, or that
22 operates a hotel-operated restaurant, bar, or catering service.

23 (C) "QUALIFYING RETAILER" MEANS, FOR THE SPECIFIED SALES
24 TAX PERIOD IN SUBSECTION (1.3)(a)(V)(C) OF THIS SECTION, A RETAILER

1 DOING BUSINESS IN THE STATE THAT TIMELY FILES SALES TAX RETURNS AS
2 REQUIRED UNDER SUBSECTION (1)(b) OF THIS SECTION AND SECTION
3 39-26-109 AND THAT OPERATES IN THE ALCOHOLIC BEVERAGES DRINKING
4 PLACES INDUSTRY, THE CATERING INDUSTRY, THE FOOD SERVICES
5 CONTRACTOR INDUSTRY, THE RESTAURANT AND OTHER EATING PLACES
6 INDUSTRY, OR THE MOBILE FOOD SERVICES INDUSTRY, OR THAT OPERATES
7 A HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE.

8 (V) (A) AFTER DECEMBER 7, 2020, BUT BEFORE JUNE 14, 2021,
9 "specified sales tax period" means sales made in November 2020,
10 December 2020, January 2021, and February 2021, for which monthly
11 returns must be filed pursuant to subsection (1)(b) of this section, on
12 December 21, 2020, January 20, 2021, February 22, 2021, and March 22,
13 2021, respectively.

14 (B) On and after June 14, 2021, BUT BEFORE THE EFFECTIVE DATE
15 OF THIS SUBSECTION (1.3)(a)(V)(B), AS AMENDED, "specified sales tax
16 period" means sales made in June 2021, July 2021, and August 2021, for
17 which monthly returns must be filed pursuant to subsection (1)(b) of this
18 section, on July 20, 2021, August 20, 2021, and September 20, 2021,
19 respectively.

20 (C) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
21 (1.3)(a)(V)(C), "SPECIFIED SALES TAX PERIOD" MEANS SALES MADE IN
22 JULY 2022, AUGUST 2022, AND SEPTEMBER 2022, FOR WHICH MONTHLY
23 RETURNS MUST BE FILED PURSUANT TO SUBSECTION (1)(b) OF THIS
24 SECTION, ON AUGUST 20, 2022, SEPTEMBER 20, 2022, AND OCTOBER 20,
25 2022, RESPECTIVELY.

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

1 food services contractor industry, or operating a hotel-operated restaurant,
2 bar, or catering service may deduct from state net taxable sales the lesser
3 of state net taxable sales or seventy thousand dollars and retain the
4 resulting sales tax collected for each month ~~in the specified sales tax~~
5 ~~period~~ IN SUBSECTION (1.3)(a)(V) OF THIS SECTION.

6 (II) FOR EACH MONTH SPECIFIED IN SUBSECTION (1.3)(a)(V) OF
7 THIS SECTION, one deduction described in subsection (1.3)(b)(I) of this
8 section is allowed per month for each of up to five fixed physical
9 premises that are properly licensed under section 39-26-103 (2)(a), to a
10 qualifying retailer in the alcoholic beverages drinking places industry, in
11 the restaurant and other eating places industry, in the food services
12 contractor industry, or operating a hotel-operated restaurant, bar, or
13 catering service. No deduction is allowed for:

14 (c) A qualifying retailer in the mobile food services industry may
15 deduct from state net taxable sales the lesser of aggregate state net taxable
16 sales for all sites or seventy thousand dollars per motorized vehicle or
17 nonmotorized cart, not to exceed five motorized vehicles or nonmotorized
18 carts, and retain the resulting state sales tax collected for each month ~~in~~
19 ~~the specified sales tax period~~ IN SUBSECTION (1.3)(a)(V)(A) OF THIS
20 SECTION.

21 (c.5) A qualifying retailer in the catering industry may deduct
22 from state net taxable sales the lesser of aggregate state net taxable sales
23 for all events or seventy thousand dollars, and retain the resulting state
24 sales tax collected for each month ~~in the specified sales tax period~~ IN
25 SUBSECTION (1.3)(a)(V) OF THIS SECTION.

26 (f.7) TO THE EXTENT THAT INFORMATION IS AVAILABLE AND
27 WITHOUT CHANGING THE SALES TAX RETURN FORM, THE DEPARTMENT OF

1 REVENUE SHALL INCLUDE A REPORT TO ITS COMMITTEE OF REFERENCE AT
2 A HEARING HELD IN JANUARY 2023 PURSUANT TO SECTION 2-7-203 (2)(a)
3 OF THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
4 TRANSPARENT (SMART) GOVERNMENT ACT" SPECIFYING:

5 (I) THE AMOUNT OF SALES TAX REVENUE THAT THE STATE DID NOT
6 COLLECT IN 2022 AS A RESULT OF THE DEDUCTION ALLOWED IN THIS
7 SUBSECTION (1.3); AND

8 (II) HOW MANY RETAILERS ELECTED TO TAKE ADVANTAGE OF THE
9 DEDUCTION ALLOWED IN THIS SUBSECTION (1.3) IN 2022.

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