

CHAPTER 353

TAXATION

HOUSE BILL 22-1406

BY REPRESENTATIVE(S) Herod and Roberts, Bacon, Bird, Bockenfeld, Boesenecker, Cutter, Exum, Jodeh, Kipp, Lindsay, Lontine, McCluskie, Michaelson Jenet, Mullica, Ricks, Sandridge, Titone, Van Winkle, Woodrow, Garnett; also SENATOR(S) Coleman and Hinrichsen, Bridges, Buckner, Donovan, Fields, Ginal, Gonzales, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Priola, Winter, Zenzinger, Fenberg.

AN ACT

CONCERNING A TEMPORARY DEDUCTION FROM STATE NET TAXABLE SALES FOR CERTAIN RETAILERS IN THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 39-26-105, **amend** (1.3)(a)(III), (1.3)(a)(V), (1.3)(b)(I), (1.3)(b)(II) introductory portion, (1.3)(c), and (1.3)(c.5); and **add** (1.3)(f.7) as follows:

39-26-105. Vendor liable for tax - definitions - repeal. (1.3) (a) As used in this subsection (1.3), unless the context otherwise requires:

(III) (A) "Qualifying retailer" means, for ~~the specified sales tax period~~ EACH MONTH SPECIFIED in subsection (1.3)(a)(V)(A) of this section, a retailer doing business in the state that timely files sales tax returns as required under subsection (1)(b) of this section and section 39-26-109, and that operates in the alcoholic beverages drinking places industry, the restaurant and other eating places industry, or the mobile food services industry.

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

(b) (I) A qualifying retailer in the alcoholic beverages drinking places industry, in the restaurant and other eating places industry, in the food services contractor industry, or operating a hotel-operated restaurant, bar, or catering service may deduct from state net taxable sales the lesser of state net taxable sales or seventy thousand dollars and retain the resulting sales tax collected for each month ~~in the specified sales tax period~~ IN SUBSECTION (1.3)(a)(V) OF THIS SECTION.

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

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

(c.5) A qualifying retailer in the catering industry may deduct from state net taxable sales the lesser of aggregate state net taxable sales for all events or seventy

thousand dollars, and retain the resulting state sales tax collected for each month ~~in the specified sales tax period~~ IN SUBSECTION (1.3)(a)(V) OF THIS SECTION.

(f.7) TO THE EXTENT THAT INFORMATION IS AVAILABLE AND WITHOUT CHANGING THE SALES TAX RETURN FORM, THE DEPARTMENT OF REVENUE SHALL INCLUDE A REPORT TO ITS COMMITTEE OF REFERENCE AT A HEARING HELD IN JANUARY 2023 PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" SPECIFYING:

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

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

SECTION 2. Appropriation. (1) For the 2022-23 state fiscal year, \$106,400 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$100,000 for use by the taxation business group for personal services related to administration; and

(b) \$6,400 for use by the executive director's office for personal services related to administration and support.

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

Approved: June 3, 2022