

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0744.01 Esther van Mourik x4215

HOUSE BILL 19-1240

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A BILL FOR AN ACT

101 **CONCERNING SALES AND USE TAX ADMINISTRATION, AND, IN**
102 **CONNECTION THEREWITH, ESTABLISHING ECONOMIC NEXUS FOR**
103 **RETAILERS WITHOUT PHYSICAL PRESENCE IN THE STATE,**
104 **CODIFYING THE DESTINATION SOURCING RULE WITH A**
105 **SPECIFIED EXCEPTION, REQUIRING MARKETPLACE**
106 **FACILITATORS TO COLLECT AND REMIT SALES TAX FOR SALES**
107 **MADE BY MARKETPLACE SELLERS ON THE MARKETPLACE**
108 **FACILITATOR'S MARKETPLACE, AND REPEALING OBSOLETE**
109 **STATUTORY REFERENCES TO REMOTE SELLERS.**

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

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.*

SENATE
3rd Reading Unamended
May 1, 2019

SENATE
2nd Reading Unamended
April 30, 2019

HOUSE
3rd Reading Unamended
April 19, 2019

HOUSE
Amended 2nd Reading
April 18, 2019

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill:

- ! Establishes economic nexus for purposes of retail sales made by retailers without physical presence and specifies that the economic nexus does not apply for sales made by such retailers prior to June 1, 2019;
- ! Codifies the department of revenue's destination sourcing rule for state sales tax collection, for sales taxes imposed by any statutory incorporated town, city, or county, and for special districts, but specifies that a small retailer may source its sales to the business' location regardless of where the purchaser receives the tangible personal property or service until a geographic information system provided by the state is online and available for the retailer to determine the taxing jurisdiction in which an address resides;
- ! Requires marketplace facilitators to collect and remit sales tax on behalf of marketplace sellers that enter into a contract with a marketplace facilitator that facilitates the sale of the marketplace seller's tangible personal property, commodities, or services through the marketplace facilitator's marketplace and also:
 - ! Allows marketplace facilitators to retain the vendor fee for the collection and remittance of the sales tax on sales made by marketplace sellers on its marketplace;
 - ! Provides the marketplace facilitator with audit relief if the marketplace facilitator can demonstrate to the satisfaction of the executive director of the department of revenue that it made a reasonable effort to obtain accurate information regarding the obligation to collect tax from the marketplace seller; and
 - ! Specifies that the marketplace seller does not have the liabilities, obligations, and rights of a retailer if the marketplace facilitator is required to collect and remit sales tax on its behalf, including licensing, collection, and remittance requirements; and
- ! Repeals outdated references to remote sales and remote sellers that were added pursuant to House Bill 13-1295 but are not applicable because Congress never enacted an act that authorizes states to require certain retailers to pay, collect, or remit state or local sales taxes.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-102, **amend**
3 (3), (5.8), (6), and (8); **repeal** (5.7), (7.6), and (7.7); and **add** (5.9), (6.1),
4 (6.2), and (6.3) as follows:

5 **39-26-102. Definitions.** As used in this article 26, unless the
6 context otherwise requires:

7 (3) "Doing business in this state" means the selling, leasing, or
8 delivering in this state, or any activity in this state in connection with the
9 selling, leasing, or delivering in this state, of tangible personal property
10 or taxable services by a retail sale as defined in this section, for use,
11 storage, distribution, or consumption within this state. This subsection (3)
12 affects the imposition, application, or collection of sales and use taxes
13 only. "Doing business in this state" includes, but shall not be limited to,
14 the following acts or methods of transacting business:

15 (a) The maintaining within this state, directly or indirectly or by
16 a subsidiary, of an office, distribution facility, salesroom, warehouse,
17 storage place, or other similar place of business, including the
18 employment of a resident of this state who works from a home office in
19 this state; OR

20 (b) The soliciting, either by direct representatives, indirect
21 representatives, manufacturers' agents, or by distribution of catalogues or
22 other advertising, or by use of any communication media, or by use of the
23 newspaper, radio, or television advertising media, or by any other means
24 whatsoever, of business from persons residing in this state and by reason
25 thereof receiving orders from, or selling or leasing tangible personal
26 property to, such persons residing in this state for use, consumption,


1 distribution, and storage for use or consumption in this state.

2 (c) **Economic nexus.** (I) ~~A remote seller doing business in this~~
3 ~~state with respect to any remote sale subject to tax in accordance with~~
4 ~~section 39-26-104 (2)~~ EXCEPT AS PROVIDED IN SUBSECTION (3)(c)(II) OF
5 THIS SECTION, A PERSON IS DOING BUSINESS IN THIS STATE IN A CALENDAR
6 YEAR:

7 (A) IF IN THE PREVIOUS CALENDAR YEAR THE PERSON HAS MADE
8 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
9 SERVICES IN THE STATE AS SPECIFIED IN SECTION 39-26-104 (3),
10 EXCEEDING ONE HUNDRED THOUSAND DOLLARS; OR

11 (B) ON AND AFTER THE FIRST DAY OF THE MONTH AFTER THE
12 NINETIETH DAY AFTER THE PERSON HAS MADE RETAIL SALES OF TANGIBLE
13 PERSONAL PROPERTY, COMMODITIES, OR SERVICES IN THE STATE AS
14 SPECIFIED IN SECTION 39-26-104 (3), IN THE CURRENT CALENDAR YEAR
15 THAT EXCEED ONE HUNDRED THOUSAND DOLLARS.

16 (II) BEGINNING OCTOBER 1, 2019, FOR PURPOSES OF DETERMINING
17 WHETHER THE THRESHOLDS SET FORTH IN SUBSECTION (3)(c)(I) OF THIS
18 SECTION ARE MET:

19 
20 (A) A MARKETPLACE FACILITATOR SHALL INCLUDE ALL SALES
21 MADE BY MARKETPLACE SELLERS IN AND THROUGH ITS MARKETPLACE;
22 AND

23 (B) A MARKETPLACE SELLER SHALL NOT INCLUDE ANY SALES
24 MADE IN OR THROUGH A MARKETPLACE FACILITATOR'S MARKETPLACE.

25 (III) THIS SUBSECTION (3)(c) DOES NOT APPLY TO ANY PERSON
26 WHO IS DOING BUSINESS IN THIS STATE UNDER SUBSECTION (3)(a) OF THIS
27 SECTION BUT OTHERWISE APPLIES TO ANY OTHER PERSON.

1 ~~(d) Presumptive physical presence – component member with~~
2 **physical presence.** ~~(I) A person is presumed to be doing business in this~~
3 ~~state if such person is part of a controlled group of corporations, and that~~
4 ~~controlled group has a component member, other than a common carrier~~
5 ~~acting in its capacity as such, that has physical presence in this state and~~
6 ~~such component member with physical presence:~~

7 ~~(A) Sells under the same or a similar business name tangible~~
8 ~~personal property or taxable services similar to that sold by the person~~
9 ~~against whom the presumption is asserted;~~

10 ~~(B) Maintains an office, distribution facility, salesroom,~~
11 ~~warehouse, storage place, or other similar place of business in this state~~
12 ~~to facilitate the delivery of tangible personal property or taxable services~~
13 ~~sold by the person against whom the presumption is asserted to such~~
14 ~~person's in-state customers;~~

15 ~~(C) Uses trademarks, service marks, or trade names in this state~~
16 ~~that are the same or substantially similar to those used by the person~~
17 ~~against whom the presumption is asserted;~~

18 ~~(D) Delivers, installs, or assembles tangible personal property in~~
19 ~~this state, or performs maintenance or repair services on tangible personal~~
20 ~~property in this state, which tangible personal property is sold to in-state~~
21 ~~customers by the person against whom the presumption is asserted; or~~

22 ~~(E) Facilitates the delivery of tangible personal property to in-state~~
23 ~~customers of the person against whom the presumption is asserted by~~
24 ~~allowing such customers to pick up tangible personal property sold by~~
25 ~~such person at an office, distribution facility, salesroom, warehouse,~~
26 ~~storage place, or other similar place of business maintained in this state.~~

27 ~~(H) For purposes of this paragraph (d), "controlled group of~~

1 corporations" has the same meaning as set forth in section 1563 (a) of the
2 federal "Internal Revenue Code of 1986", as amended, and "component
3 member" has the same meaning as set forth in section 1563 (b) of the
4 federal "Internal Revenue Code of 1986", as amended. "Controlled group
5 of corporations" and "component member" also include any entity that,
6 notwithstanding its form of organization, bears the same ownership
7 relationship to the person against whom the presumption is asserted as a
8 corporation that would qualify as a component member of the same
9 controlled group of corporations as the person against whom the
10 presumption is asserted.

11 (HH) The presumption set forth in subparagraph (I) of this
12 paragraph (d) may be rebutted by proof that, during the calendar year in
13 question, the component member with physical presence did not engage
14 in any activities in this state that are sufficient under United States
15 constitutional standards to establish nexus in this state on behalf of the
16 person against whom the presumption is asserted.

17 (e) ~~Presumptive physical presence - agreement or~~
18 ~~arrangement with a person with physical presence.~~ (I) Except as
19 provided in subparagraph (HH) of this paragraph (e), a person is presumed
20 to be doing business in this state if such person against whom the
21 presumption is asserted enters into an agreement or arrangement with a
22 person who has physical presence in this state, other than a common
23 carrier acting in its capacity as such, for that person who has physical
24 presence to:

25 (A) Sell under the same or a similar business name tangible
26 personal property or taxable services similar to that sold by the person
27 against whom the presumption is asserted;

1 ~~(B) Maintain an office, distribution facility, salesroom,~~
2 ~~warehouse, storage place, or other similar place of business in this state~~
3 ~~to facilitate the delivery of tangible personal property or taxable services~~
4 ~~sold by the person against whom the presumption is asserted to such~~
5 ~~person's in-state customers;~~

6 ~~(C) Deliver, install, or assemble tangible personal property in this~~
7 ~~state, or perform maintenance or repair services on tangible personal~~
8 ~~property in this state, which tangible personal property is sold to in-state~~
9 ~~customers by the person against whom the presumption is asserted; or~~

10 ~~(D) Facilitate the delivery of tangible personal property to in-state~~
11 ~~customers of the person against whom the presumption is asserted by~~
12 ~~allowing such customers to pick up tangible personal property sold by~~
13 ~~such person at an office, distribution facility, salesroom, warehouse,~~
14 ~~storage place, or other similar place of business maintained in this state.~~

15 ~~(H) The presumption set forth in subparagraph (I) of this~~
16 ~~paragraph (e) may be rebutted by proof that, during the calendar year in~~
17 ~~question, the person who has physical presence in this state did not~~
18 ~~engage in any activities in this state that are sufficient under United States~~
19 ~~constitutional standards to establish nexus in this state on behalf of the~~
20 ~~person against whom the presumption is asserted.~~

21 ~~(III) **Activity to which presumption does not apply.** The~~
22 ~~presumption established in subparagraph (I) of this paragraph (e) does not~~
23 ~~apply to the following agreements or arrangements:~~

24 ~~(A) **Advertising.** An agreement or arrangement under which a~~
25 ~~person without direct in-state physical presence purchases advertisements~~
26 ~~from a person to be delivered in this state on television, radio,~~
27 ~~newspapers, magazines, the internet, or any other mass-market medium;~~

1 ~~(B) **Affiliate marketing agreements.** An agreement or~~
2 ~~arrangement between an in-state independent contractor or other~~
3 ~~representative and a person without direct in-state physical presence~~
4 ~~under which such independent contractor or other representative, for a~~
5 ~~cost per action, including but not limited to a commission or other~~
6 ~~consideration based on completed sales, directly or indirectly refers~~
7 ~~potential customers through internet promotional methods to the person~~
8 ~~without direct in-state physical presence; or~~

9 ~~(C) **Small businesses.** An agreement or arrangement between an~~
10 ~~in-state person and a person without direct in-state physical presence if~~
11 ~~the cumulative gross receipts from sales by the person without direct~~
12 ~~in-state physical presence to in-state customers in the prior calendar year~~
13 ~~is less than fifty thousand dollars.~~

14 ~~(5.7) (a) "Local taxing jurisdiction" means a city, town,~~
15 ~~municipality, county, special district, or authority authorized to levy a~~
16 ~~sales tax pursuant to title 24, 25, 29, 30, 31, 32, 37, 42, or 43, C.R.S., and~~
17 ~~any municipality governed by a home rule charter that passes an~~
18 ~~ordinance, resolution, or charter provision accepting the state's~~
19 ~~administration and distribution of its local sales tax on remote sales that~~
20 ~~is collected and remitted by remote sellers in conformance with the~~
21 ~~provisions of House Bill 13-1295.~~

22 ~~(b) Any municipality governed by a home rule charter that passes~~
23 ~~an ordinance, resolution, or charter provision accepting the state's~~
24 ~~administration and distribution of its local sales tax on remote sales that~~
25 ~~is collected and remitted by remote sellers in conformance with the~~
26 ~~provisions of House Bill 13-1295 must provide a copy of such ordinance,~~
27 ~~resolution, or charter provision to the department of revenue no later than~~

1 ~~thirty days after its adoption.~~

2 (5.8) ~~"Medical marijuana" shall have the same meaning as set~~
3 ~~forth in section 44-11-104 (11)~~ "MARKETPLACE" MEANS A PHYSICAL OR
4 ELECTRONIC FORUM, INCLUDING, BUT NOT LIMITED TO, A STORE, A BOOTH,
5 AN INTERNET WEBSITE, A CATALOG, OR A DEDICATED SALES SOFTWARE
6 APPLICATION, WHERE TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
7 SERVICES ARE OFFERED FOR SALE.

8
9 (5.9) (a) "MARKETPLACE FACILITATOR" MEANS A PERSON WHO:

10 (I) CONTRACTS WITH A MARKETPLACE SELLER TO FACILITATE FOR
11 CONSIDERATION, REGARDLESS OF WHETHER THE CONSIDERATION IS
12 DEDUCTED AS FEES FROM THE TRANSACTION, THE SALE OF THE
13 MARKETPLACE SELLER'S TANGIBLE PERSONAL PROPERTY, COMMODITIES,
14 OR SERVICES THROUGH THE PERSON'S MARKETPLACE;

15 (II) ENGAGES DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE
16 AFFILIATED PERSONS, IN TRANSMITTING OR OTHERWISE COMMUNICATING
17 THE OFFER OR ACCEPTANCE BETWEEN A PURCHASER AND THE
18 MARKETPLACE SELLER; AND

19 (III) EITHER DIRECTLY OR INDIRECTLY, THROUGH AGREEMENTS OR
20 ARRANGEMENTS WITH THIRD PARTIES, COLLECTS THE PAYMENT FROM THE
21 PURCHASER AND TRANSMITS THE PAYMENT TO THE MARKETPLACE SELLER.

22 (b) A "MARKETPLACE FACILITATOR" DOES NOT INCLUDE A PERSON
23 THAT EXCLUSIVELY PROVIDES INTERNET ADVERTISING SERVICES OR LISTS
24 PRODUCTS FOR SALE, AND THAT DOES NOT OTHERWISE MEET THE
25 DEFINITION SET FORTH IN SUBSECTION (5.9)(a) OF THIS SECTION.

26 (6) ~~"Person" includes any individual, firm, limited liability~~
27 ~~company, partnership, joint venture, corporation, estate, or trust or any~~

1 ~~group or combination acting as a unit, and the plural as well as the~~
2 ~~singular number~~ "MARKETPLACE SELLER" MEANS A PERSON, REGARDLESS
3 OF WHETHER THE PERSON IS DOING BUSINESS IN THIS STATE, WHO HAS AN
4 AGREEMENT WITH A MARKETPLACE FACILITATOR AND OFFERS FOR SALE
5 TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES THROUGH A
6 MARKETPLACE OWNED, OPERATED, OR CONTROLLED BY A MARKETPLACE
7 FACILITATOR.

8 (6.1) "MEDICAL MARIJUANA" HAS THE SAME MEANING AS SET
9 FORTH IN SECTION 44-11-104 (11).

10 (6.2) "MULTICHANNEL SELLER" MEANS A RETAILER THAT OFFERS
11 FOR SALE TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES
12 THROUGH A MARKETPLACE OWNED, OPERATED, OR CONTROLLED BY A
13 MARKETPLACE FACILITATOR, AND THROUGH OTHER MEANS.

14 (6.3) "PERSON" INCLUDES ANY INDIVIDUAL, FIRM, LIMITED
15 LIABILITY COMPANY, PARTNERSHIP, JOINT VENTURE, CORPORATION,
16 ESTATE, OR TRUST OR ANY GROUP OR COMBINATION ACTING AS A UNIT,
17 AND THE PLURAL AS WELL AS THE SINGULAR NUMBER.

18 ~~(7.6) "Remote sale" means a sale into this state as specified in~~
19 ~~subsection (9) of this section in which the retailer would not legally be~~
20 ~~required to pay, collect, or remit state or local sales taxes unless provided~~
21 ~~by an act of congress.~~

22 ~~(7.7) "Remote seller" means a person who makes a remote sale;~~
23 ~~except that a remote seller does not include a small seller as defined in an~~
24 ~~act of congress that authorizes states to require certain retailers to pay,~~
25 ~~collect, or remit state or local sales taxes.~~

26 (8) "Retailer" or "vendor" means a person doing business in this
27 state ~~including a remote seller,~~ known to the trade and public as such, and

1 selling to the user or consumer, and not for resale. THE TERM INCLUDES
2 A MARKETPLACE FACILITATOR, A MARKETPLACE SELLER, AND A
3 MULTICHANNEL SELLER DOING BUSINESS IN THIS STATE.

4 **SECTION 2.** In Colorado Revised Statutes, 39-26-103, **amend**
5 (1)(c) and (7); and **repeal** (2)(b) as follows:

6 **39-26-103. Licenses - fee - revocation - definition.** (1) (c) For
7 each license issued, a fee of sixteen dollars shall be paid, which fee shall
8 accompany the application together with an additional fifty-dollar deposit.
9 ~~except that the additional deposit may not be required of a remote seller.~~
10 A further fee of sixteen dollars shall be paid for each two-year period or
11 fraction thereof for which said license is renewed. Payment of a fee for
12 such a license issued after June 30 shall be prorated in increments of six
13 months. The fifty-dollar deposit shall be allowed as a credit against the
14 Colorado sales tax to be remitted. Except for licenses issued pursuant to
15 ~~paragraph (b) of subsection (9)~~ SUBSECTION (9)(b) of this section, all
16 licenses issued pursuant to this section shall be renewed on a biennial
17 basis, effective January 1, 1986.

18 (2) (b) ~~A remote seller is only required to have a single license.~~

19 (7) It is the duty of the executive director of the department of
20 revenue, at the time of issuance of any new license for a retailer who
21 makes retail sales ~~except for a remote seller~~, to notify the county treasurer
22 of the county where the new licensee is located, of the name and address
23 of the licensee.

24 **SECTION 3.** In Colorado Revised Statutes, 39-26-104, **amend**
25 (1) introductory portion; **repeal** (2); and **add** (3) as follows:

26 **39-26-104. Property and services taxed - definitions - repeal.**

27 (1) ~~Except as provided in subsection (2)~~, There is levied and there shall

1 be collected and paid a tax in the amount stated in section 39-26-106 as
2 follows:

3 ~~(2) Upon the effective date of an act of congress that authorizes~~
4 ~~states to require certain retailers to pay, collect, or remit state or local~~
5 ~~sales taxes:~~

6 ~~(a) (I) With respect to remote sales there is levied and there shall~~
7 ~~be collected and paid by remote sellers on every incident subject to tax as~~
8 ~~set forth in subsection (1) of this section, but not including the incidents~~
9 ~~set forth in paragraph (c) of this subsection (2), a tax at the rate specified~~
10 ~~in section 39-26-106. Any exemptions with respect to part 1 of this article~~
11 ~~as set forth in this title are applicable.~~

12 ~~(II) In addition to subparagraph (I) of this paragraph (a), every~~
13 ~~remote seller shall collect and remit, as provided in section 39-26-122.7,~~
14 ~~the sales tax at the general sales tax rate levied by a local taxing~~
15 ~~jurisdiction; except that such sales tax shall only be collected on every~~
16 ~~incident subject to tax as set forth in subsection (1) of this section. Any~~
17 ~~exemptions with respect to part 1 of this article as set forth in this title are~~
18 ~~applicable.~~

19 ~~(b) Notwithstanding any provision of law, a local taxing~~
20 ~~jurisdiction may not collect a sales or use tax on remote sales except as~~
21 ~~provided in this subsection (2):~~

22 ~~(c) Notwithstanding any provision of law, with respect to a local~~
23 ~~taxing jurisdiction, the effective date of any change in the general sales~~
24 ~~tax rate of the local taxing jurisdiction shall be either January 1 or July 1~~
25 ~~following the date of the election in which such a sales tax proposal is~~
26 ~~approved; and notice of the adoption of any sales tax proposal shall be~~
27 ~~submitted by the local taxing jurisdiction to the executive director of the~~

1 department of revenue at least one hundred days prior to the effective date
2 of such tax. If such a sales tax proposal is approved at an election held
3 less than one hundred five days prior to the January 1 or July 1 following
4 the date of election, such sales tax proposal shall not be effective until the
5 next succeeding January 1 or July 1.

6 ~~(d) For the purpose of the administration by the state of the~~
7 ~~provisions of this subsection (2), each local taxing jurisdiction shall file,~~
8 ~~pursuant to section 29-2-109, C.R.S., with the executive director of the~~
9 ~~department of revenue a copy of each sales tax ordinance or resolution,~~
10 ~~or any amendment thereto, that changes the general sales tax rate~~
11 ~~described in paragraph (a) of this subsection (2), and a copy of any~~
12 ~~ordinance or resolution that changes the local taxing jurisdiction's~~
13 ~~boundaries, no later than one hundred days before the effective date~~
14 ~~thereof.~~

15 (e) Notwithstanding any provisions of law, the following incidents
16 are not subject to the collection and payment of sales tax by remote sellers
17 as set forth in paragraph (a) of this subsection (2):

18 ~~(I) Direct mail advertising materials as defined in section~~
19 ~~39-26-102 (2.8);~~

20 ~~(II) Candy as defined in section 39-26-707 (1.5)(b)(I);~~

21 ~~(III) Soft drinks as defined in section 39-26-707 (1.5)(b)(II);~~

22 ~~(IV) Nonessential articles as described in section 39-26-707~~
23 ~~(1)(c); and~~

24 ~~(V) Nonessential containers or bags as described in section~~
25 ~~39-26-707 (1)(d).~~

26 (3) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (3)(b) AND (3)(c) OF
27 THIS SECTION, FOR PURPOSES OF DETERMINING WHERE A SALE OF

1 TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES IS MADE, THE
2 FOLLOWING RULES APPLY:

3 (I) IF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES
4 ARE RECEIVED BY THE PURCHASER AT A BUSINESS LOCATION OF THE
5 SELLER, THE SALE IS SOURCED TO THAT BUSINESS LOCATION;

6 (II) IF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES
7 ARE NOT RECEIVED BY THE PURCHASER AT A BUSINESS LOCATION OF THE
8 SELLER, THE SALE IS SOURCED TO THE LOCATION WHERE RECEIPT BY THE
9 PURCHASER OCCURS, INCLUDING THE LOCATION INDICATED BY
10 INSTRUCTIONS FOR DELIVERY TO THE PURCHASER, IF THAT LOCATION IS
11 KNOWN TO THE SELLER;

12 (III) IF SUBSECTIONS (3)(a)(I) AND (3)(a)(II) OF THIS SECTION DO
13 NOT APPLY, THE SALE IS SOURCED TO THE LOCATION INDICATED BY AN
14 ADDRESS FOR THE PURCHASER THAT IS AVAILABLE FROM THE BUSINESS
15 RECORDS OF THE SELLER THAT ARE MAINTAINED IN THE ORDINARY COURSE
16 OF THE SELLER'S BUSINESS, WHEN USE OF THIS ADDRESS DOES NOT
17 CONSTITUTE BAD FAITH;

18 (IV) IF SUBSECTIONS (3)(a)(I), (3)(a)(II), AND (3)(a)(III) OF THIS
19 SECTION DO NOT APPLY, THE SALE IS SOURCED TO THE LOCATION
20 INDICATED BY AN ADDRESS FOR THE PURCHASER OBTAINED DURING THE
21 CONSUMMATION OF THE SALE, INCLUDING, IF NO OTHER ADDRESS IS
22 AVAILABLE, THE ADDRESS OF A PURCHASER'S PAYMENT INSTRUMENT,
23 WHEN USE OF THIS ADDRESS DOES NOT CONSTITUTE BAD FAITH; OR

24 (V) IF SUBSECTIONS (3)(a)(I), (3)(a)(II), (3)(a)(III), AND (3)(a)(IV)
25 OF THIS SECTION DO NOT APPLY, OR IF THE SELLER IS WITHOUT SUFFICIENT
26 INFORMATION TO APPLY THE RULES SET FORTH IN SUBSECTIONS (3)(a)(I),
27 (3)(a)(II), (3)(a)(III), AND (3)(a)(IV) OF THIS SECTION, THE SALE IS

1 SOURCED TO THE LOCATION INDICATED BY THE ADDRESS FROM WHICH THE
2 TANGIBLE PERSONAL PROPERTY, COMMODITY, OR SERVICE WAS SHIPPED.

3 (b) (I) THE LEASE OR RENTAL OF TANGIBLE PERSONAL PROPERTY
4 OR COMMODITIES, BUT NOT PROPERTY IDENTIFIED IN SUBSECTION
5 (3)(b)(II) OR (3)(b)(III) OF THIS SECTION, NOT LEASES OR RENTALS BASED
6 ON A LUMP SUM OR ACCELERATED BASIS, AND NOT ON THE ACQUISITION OF
7 PROPERTY FOR LEASE, ARE SOURCED AS FOLLOWS:

8 (A) FOR A LEASE OR RENTAL THAT REQUIRES RECURRING PERIODIC
9 PAYMENTS, THE FIRST PERIODIC PAYMENT IS SOURCED THE SAME AS A
10 RETAIL SALE IN ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.
11 PERIODIC PAYMENTS MADE SUBSEQUENT TO THE FIRST PAYMENT ARE
12 SOURCED TO THE PRIMARY PROPERTY LOCATION FOR EACH PERIOD
13 COVERED BY THE PAYMENT. THE PRIMARY PROPERTY LOCATION IS AS
14 INDICATED BY AN ADDRESS FOR THE PROPERTY PROVIDED BY THE LESSEE
15 THAT IS AVAILABLE TO THE LESSOR FROM ITS RECORDS MAINTAINED IN
16 THE ORDINARY COURSE OF BUSINESS, WHEN USE OF THIS ADDRESS DOES
17 NOT CONSTITUTE BAD FAITH. THE PROPERTY LOCATION IS NOT ALTERED BY
18 INTERMITTENT USE AT DIFFERENT LOCATIONS, SUCH AS USE OF BUSINESS
19 PROPERTY THAT ACCOMPANIES EMPLOYEES ON BUSINESS TRIPS AND
20 SERVICE CALLS.

21 (B) FOR A LEASE OR RENTAL THAT DOES NOT REQUIRE PERIODIC
22 PAYMENTS, THE PAYMENT IS SOURCED THE SAME AS A RETAIL SALE IN
23 ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.

24 (II) THE LEASE OR RENTAL OF MOTOR VEHICLES, TRAILERS,
25 SEMI-TRAILERS, OR AIRCRAFT THAT DO NOT QUALIFY AS TRANSPORTATION
26 EQUIPMENT IS SOURCED AS FOLLOWS:

27 (A) FOR A LEASE OR RENTAL THAT REQUIRES RECURRING PERIODIC

1 PAYMENTS, EACH PERIODIC PAYMENT IS SOURCED TO THE PRIMARY
2 PROPERTY LOCATION. THE PRIMARY PROPERTY LOCATION IS AS INDICATED
3 BY AN ADDRESS FOR THE PROPERTY PROVIDED BY THE LESSEE THAT IS
4 AVAILABLE TO THE LESSOR FROM ITS RECORDS MAINTAINED IN THE
5 ORDINARY COURSE OF BUSINESS, WHEN USE OF THIS ADDRESS DOES NOT
6 CONSTITUTE BAD FAITH. THE LOCATION DOES NOT CHANGE BY
7 INTERMITTENT USE AT DIFFERENT LOCATIONS.

8 (B) FOR A LEASE OR RENTAL THAT DOES NOT REQUIRE RECURRING
9 PERIODIC PAYMENTS, THE PAYMENT IS SOURCED THE SAME AS A RETAIL
10 SALE IN ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION.

11 (III) THE LEASE OR RENTAL OF TRANSPORTATION EQUIPMENT IS
12 SOURCED IN THE SAME MANNER AS A RETAIL SALE IN ACCORDANCE WITH
13 SUBSECTION (3)(a) OF THIS SECTION.

14 (c) (I) A RETAILER SHALL SOURCE ITS SALES TO THE BUSINESS
15 LOCATION OF THE RETAILER REGARDLESS OF WHERE THE PURCHASER
16 RECEIVES THE TANGIBLE PERSONAL PROPERTY OR SERVICE IN A CALENDAR
17 YEAR:

18 (A) IF IN THE PREVIOUS CALENDAR YEAR THE RETAILER HAS MADE
19 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
20 SERVICES IN THE STATE TOTALING ONE HUNDRED THOUSAND DOLLARS OR
21 LESS; OR

22 (B) UNTIL THE FIRST DAY OF THE MONTH AFTER THE NINETIETH
23 DAY AFTER THE PERSON HAS MADE RETAIL SALES OF TANGIBLE PERSONAL
24 PROPERTY, COMMODITIES, OR SERVICES IN THE STATE IN THE CURRENT
25 CALENDAR YEAR THAT TOTAL MORE THAN ONE HUNDRED THOUSAND
26 DOLLARS, AFTER WHICH THE SOURCING RULES SET FORTH IN SUBSECTIONS
27 (3)(a) AND (3)(b) OF THIS SECTION APPLY TO ALL SALES MADE BY SUCH

1 RETAILERS ON AND AFTER SUCH DATE.

2 (II) SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
3 SERVICES THAT ARE SOURCED TO THE BUSINESS LOCATION OF THE
4 RETAILER UNDER THIS SUBSECTION (3)(c) AND THAT WOULD OTHERWISE
5 BE SOURCED TO AN OUT-OF-STATE LOCATION UNDER SUBSECTION (3)(a)
6 OF THIS SECTION ARE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF
7 THIS PART 1.

8 (III) (A) THIS SUBSECTION (3)(c) IS REPEALED EFFECTIVE NINETY
9 DAYS AFTER THE DATE THAT THE REVISOR OF STATUTES IS NOTIFIED BY
10 THE DEPARTMENT OF REVENUE THAT A GEOGRAPHIC INFORMATION
11 SYSTEM THAT MEETS THE DEFINED SCOPE OF WORK SET FORTH IN THE
12 REQUEST FOR SOLICITATION, PROVIDED BY THE STATE, IS ONLINE AND
13 AVAILABLE FOR A RETAILER TO USE TO DETERMINE THE TAXING
14 JURISDICTION IN WHICH AN ADDRESS RESIDES. THE DEPARTMENT OF
15 REVENUE SHALL NOTIFY THE REVISOR OF STATUTES NO LATER THAN
16 FIFTEEN DAYS AFTER SUCH A SYSTEM IS ONLINE.

17 (B) THE DEPARTMENT OF REVENUE SHALL IMMEDIATELY NOTIFY
18 THE RETAILERS DESCRIBED IN SUBSECTION (3)(c)(I) OF THIS SECTION THAT
19 THE GEOGRAPHIC INFORMATION SYSTEM DESCRIBED IN SUBSECTION
20 (3)(c)(III)(A) OF THIS SECTION IS ONLINE AND THAT NINETY DAYS AFTER
21 THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES DESCRIBED IN
22 SUBSECTION (3)(c)(III)(A) OF THIS SECTION, THE SOURCING RULES SET
23 FORTH IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION WILL APPLY TO
24 ALL SALES MADE BY SUCH RETAILERS ON AND AFTER SUCH DATE.

25 (d) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT
26 OTHERWISE REQUIRES:

27 (I) "PURCHASER" MAY INCLUDE A DONEE WHO IS DESIGNATED AS

1 SUCH BY THE PURCHASER.

2 (II) "RECEIPT" OR "RECEIVE" MEANS TAKING POSSESSION OF
3 TANGIBLE PERSONAL PROPERTY OR COMMODITIES OR MAKING FIRST USE
4 OF SERVICES, BUT DOES NOT INCLUDE POSSESSION BY A SHIPPING
5 COMPANY ON BEHALF OF THE PURCHASER.

6 (III) "TRANSPORTATION EQUIPMENT" MEANS:

7 (A) LOCOMOTIVES AND RAILCARS THAT ARE UTILIZED FOR THE
8 CARRIAGE OF PERSONS OR PROPERTY IN INTERSTATE COMMERCE;

9 (B) TRUCKS AND TRUCK-TRACTORS WITH A GROSS VEHICLE
10 WEIGHT RATING OF TEN THOUSAND ONE POUNDS OR GREATER, TRAILERS,
11 SEMI-TRAILERS, OR PASSENGER BUSES THAT ARE REGISTERED UNDER THE
12 INTERNATIONAL REGISTRATION PLAN AND OPERATED UNDER AUTHORITY
13 OF A CARRIER AUTHORIZED AND CERTIFICATED BY THE UNITED STATES
14 DEPARTMENT OF TRANSPORTATION OR ANOTHER FEDERAL OR FOREIGN
15 AUTHORITY TO ENGAGE IN THE CARRIAGE OF PERSONS OR PROPERTY IN
16 INTERSTATE OR FOREIGN COMMERCE;

17 (C) AIRCRAFT THAT ARE OPERATED BY AIR CARRIERS AUTHORIZED
18 AND CERTIFICATED BY THE UNITED STATES DEPARTMENT OF
19 TRANSPORTATION OR ANOTHER FEDERAL OR FOREIGN AUTHORITY TO
20 ENGAGE IN THE CARRIAGE OF PERSONS OR PROPERTY IN INTERSTATE OR
21 FOREIGN COMMERCE; AND

22 (D) CONTAINERS DESIGNED FOR USE ON AND COMPONENT PARTS
23 ATTACHED OR SECURED ON THE ITEMS SET FORTH IN SUBSECTIONS
24 (3)(d)(III)(A) TO (3)(d)(III)(C) OF THIS SECTION.

25 **SECTION 4.** In Colorado Revised Statutes, 39-26-105, **amend**
26 **(1)(a)(I)(A), (1)(b), (1)(c)(I), (1)(c)(II), and (3); repeal (1)(a)(II); and add**
27 **(1.5) as follows:**

1 **39-26-105. Vendor liable for tax - repeal.** (1) (a) (I) (A) Except
2 as provided in ~~sub-subparagraph (B) of this subparagraph (I) and in~~
3 ~~subparagraph (H) of this paragraph (a)~~ SUBSECTIONS (1)(a)(I)(B) AND
4 (1.5) OF THIS SECTION, every retailer shall, irrespective of the provisions
5 of section 39-26-106, be liable and responsible for the payment of an
6 amount equivalent to two and ninety one-hundredths percent of all sales
7 made on or after January 1, 2001, by the retailer of commodities or
8 services as specified in section 39-26-104.

9 (II) ~~A remote seller shall be liable and responsible for the payment~~
10 ~~of the amounts specified in section 39-26-104 (2)(a).~~

11 (b) ~~(I) Except as provided in subparagraph (H) of this paragraph~~
12 ~~(b),~~ Every retailer shall, before the twentieth day of each month, make a
13 return to the executive director of the department of revenue for the
14 preceding calendar month. The executive director shall determine what
15 information the returns must contain, how the returns must be made, and
16 the type of forms that must be used.

17 ~~(H) Every remote seller shall make a return to the executive~~
18 ~~director of the department of revenue as specified in section 39-26-122.7.~~

19 (c) (I) ~~(A) Except as provided in sub-subparagraph (B) of this~~
20 ~~subparagraph (I),~~ Every retailer shall remit, along with the return required
21 in ~~paragraph (b) of this subsection (I)~~ SUBSECTION (1)(b) OF THIS
22 SECTION, an amount equivalent to the percentage on sales as specified in
23 ~~subparagraph (I) of paragraph (a) of this subsection (I)~~ SUBSECTION
24 (1)(a)(I) OF THIS SECTION to the executive director of the department of
25 revenue, less an amount as set forth in ~~subparagraph (H) of this paragraph~~
26 ~~(e)~~ SUBSECTION (1)(c)(II) OF THIS SECTION to cover the retailer's expense
27 in the collection and remittance of said tax.

1 ~~(B) Every remote seller shall remit, along with the return required~~
2 ~~in paragraph (b) of this subsection (1), the amounts specified in section~~
3 ~~39-26-104 (2)(a), less an amount as set forth in subparagraph (H) of this~~
4 ~~paragraph (c) to cover the retailer's expense in the collection and~~
5 ~~remittance of said tax.~~

6 ~~(II) Except as provided in section 39-26-105.3 (8)(b)(III) THE~~
7 ~~AMOUNT RETAINED BY A RETAILER TO COVER THE RETAILER'S EXPENSE IN~~
8 ~~COLLECTING AND REMITTING TAX PURSUANT TO THIS SECTION IS THREE~~
9 ~~AND ONE-THIRD PERCENT OF ALL SALES TAX REPORTED.~~

10 ~~(A) Except as provided in sub-subparagraph (B), the amount~~
11 ~~retained by a retailer to cover the retailer's expense in collecting and~~
12 ~~remitting tax pursuant to this section shall be three and one-third percent~~
13 ~~of all sales tax reported.~~

14 ~~(B) For a twelve-month period commencing upon the first day of~~
15 ~~the third month following the effective date of any act of congress~~
16 ~~authorizing states to require certain retailers to pay, collect, or remit state~~
17 ~~or local sales tax, the percentage of all sales tax reported as specified in~~
18 ~~sub-subparagraph (A) of this subparagraph (H) shall be reduced by one~~
19 ~~hundred five one-thousandths percentage points.~~

20 (1.5) (a) WITH RESPECT TO SALES OF TANGIBLE PERSONAL
21 PROPERTY, COMMODITIES, OR SERVICES MADE BY MARKETPLACE SELLERS
22 IN OR THROUGH A MARKETPLACE FACILITATOR'S MARKETPLACE, A
23 MARKETPLACE FACILITATOR HAS ALL OF THE LIABILITIES, OBLIGATIONS,
24 AND RIGHTS OF A RETAILER OR VENDOR UNDER SUBSECTION (1) OF THIS
25 SECTION AND THIS ARTICLE 26 WHETHER OR NOT THE MARKETPLACE
26 SELLER, BECAUSE THE MARKETPLACE SELLER IS A MULTICHANNEL SELLER:

27 (I) HAS OR IS REQUIRED TO HAVE A LICENSE UNDER SECTION

1 39-26-103; OR

2 (II) WOULD HAVE BEEN REQUIRED TO COLLECT AND REMIT TAX
3 UNDER THIS ARTICLE 26 HAD THE SALE NOT BEEN MADE IN OR THROUGH
4 THE MARKETPLACE.

5 (b) THE LIABILITIES, OBLIGATIONS, AND RIGHTS SET FORTH IN
6 SUBSECTION (1.5)(a) OF THIS SECTION ARE IN ADDITION TO ANY
7 REQUIREMENTS THE MARKETPLACE FACILITATOR HAS UNDER SUBSECTION
8 (1) OF THIS SECTION IF IT ALSO OFFERS FOR SALE TANGIBLE PERSONAL
9 PROPERTY, COMMODITIES, OR SERVICES THROUGH OTHER MEANS.

10 (c) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION,
11 A MARKETPLACE SELLER, WITH RESPECT TO SALES OF TANGIBLE PERSONAL
12 PROPERTY, COMMODITIES, OR SERVICES MADE IN OR THROUGH A
13 MARKETPLACE FACILITATOR'S MARKETPLACE, DOES NOT HAVE THE
14 LIABILITIES, OBLIGATIONS, OR RIGHTS OF A RETAILER OR VENDOR UNDER
15 SUBSECTION (1) OF THIS SECTION AND THIS ARTICLE 26 IF THE
16 MARKETPLACE SELLER CAN SHOW THAT SUCH SALE WAS FACILITATED BY
17 A MARKETPLACE FACILITATOR:

18 (I) WITH WHOM THE MARKETPLACE SELLER HAS A CONTRACT THAT
19 EXPLICITLY PROVIDES THAT THE MARKETPLACE FACILITATOR WILL
20 COLLECT AND REMIT SALES TAX ON ALL SALES SUBJECT TO TAX UNDER
21 THIS ARTICLE 26; OR

22 (II) FROM WHOM THE MARKETPLACE SELLER REQUESTED AND
23 RECEIVED IN GOOD FAITH A CERTIFICATION THAT THE MARKETPLACE
24 FACILITATOR IS REGISTERED TO COLLECT SALES TAX AND WILL COLLECT
25 SALES TAX ON ALL SALES SUBJECT TO TAX UNDER THIS ARTICLE 26 MADE
26 IN OR THROUGH THE MARKETPLACE FACILITATOR'S MARKETPLACE.

27 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS

1 SECTION, the burden of proving that any retailer is exempt from collecting
2 the tax on any goods sold and paying the same to the executive director
3 of the department of revenue, or from making such returns, shall be on
4 the retailer under such reasonable requirements of proof as the executive
5 director may prescribe.

6 (b) (I) IF A MARKETPLACE FACILITATOR DEMONSTRATES TO THE
7 SATISFACTION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
8 REVENUE THAT THE MARKETPLACE FACILITATOR MADE A REASONABLE
9 EFFORT TO OBTAIN ACCURATE INFORMATION REGARDING THE OBLIGATION
10 TO COLLECT TAX FROM THE MARKETPLACE SELLER AND THAT THE FAILURE
11 TO COLLECT TAX ON ANY TANGIBLE PERSONAL PROPERTY, COMMODITIES,
12 OR SERVICES SOLD WAS DUE TO INCORRECT INFORMATION PROVIDED TO
13 THE MARKETPLACE FACILITATOR BY THE MARKETPLACE SELLER, THEN THE
14 MARKETPLACE FACILITATOR, BUT NOT THE MARKETPLACE SELLER, IS
15 RELIEVED OF LIABILITY UNDER THIS SECTION FOR THE AMOUNT OF THE TAX
16 THE MARKETPLACE FACILITATOR FAILED TO COLLECT, PLUS APPLICABLE
17 PENALTIES AND INTEREST.

18 (II) IF A MARKETPLACE FACILITATOR IS RELIEVED OF LIABILITY
19 UNDER SUBSECTION (3)(b)(I) OF THIS SECTION, THE MARKETPLACE SELLER
20 IS LIABLE UNDER THIS SECTION FOR THE AMOUNT OF TAX THE
21 MARKETPLACE FACILITATOR FAILED TO COLLECT, PLUS APPLICABLE
22 PENALTIES AND INTEREST.

23 (III) THIS SUBSECTION (3)(b) DOES NOT APPLY TO ANY SALE BY A
24 MARKETPLACE FACILITATOR THAT IS NOT FACILITATED ON BEHALF OF A
25 MARKETPLACE SELLER OR THAT IS FACILITATED ON BEHALF OF A
26 MARKETPLACE SELLER WHO IS AN AFFILIATE OF THE MARKETPLACE
27 FACILITATOR.

1 **SECTION 5.** In Colorado Revised Statutes, 39-26-113, **add** (5.5)
2 as follows:

3 **39-26-113. Collection of sales tax - motor vehicles -**
4 **off-highway vehicles - exemption - process for motor vehicles sold at**
5 **auction - exception - definition.** (5.5) THE SALE OF PERSONAL PROPERTY
6 ON WHICH A SPECIFIC OWNERSHIP TAX HAS BEEN PAID OR IS PAYABLE IS
7 EXEMPT FROM THE SALES TAX IMPOSED BY ANY SPECIAL DISTRICT OR
8 AUTHORITY AUTHORIZED TO LEVY A SALES TAX PURSUANT TO TITLE 24,
9 25, 29, 30, 32, 37, OR 43, WHEN THE SALE MEETS BOTH OF THE FOLLOWING
10 CONDITIONS:

11 (a) THE PURCHASER IS A NONRESIDENT OF, OR HAS HIS OR HER
12 PRINCIPAL PLACE OF BUSINESS OUTSIDE OF, THE DISTRICT OR AUTHORITY;
13 AND

14 (b) THE PERSONAL PROPERTY IS REGISTERED OR REQUIRED TO BE
15 REGISTERED OUTSIDE THE LIMITS OF THE DISTRICT OR AUTHORITY UNDER
16 THE LAWS OF THIS STATE.

17 **SECTION 6.** In Colorado Revised Statutes, **repeal** 39-26-122.7.

18 **SECTION 7.** In Colorado Revised Statutes, 39-26-204, **amend**
19 (2) as follows:

20 **39-26-204. Periodic return - collection - repeal.** (2) (a) Every
21 retailer, EXCEPT THOSE RETAILERS DESCRIBED IN SUBSECTION (2)(b) OF
22 THIS SECTION, doing business in this state and making sales of tangible
23 personal property for storage, use, or consumption in the state, and not
24 exempted as provided in part 7 of this ~~article~~ ARTICLE 26, at the time of
25 making such sales or taking the orders therefor, or, if the storage, use, or
26 consumption of such tangible personal property is not then taxable under
27 this part 2, then at the time such storage, use, or consumption becomes

1 taxable under this part 2, AND SOURCED AS PROVIDED IN SECTION
2 39-26-104 (3), shall collect the tax imposed by section 39-26-202, from
3 the purchaser and give to the purchaser a receipt therefor, which receipt
4 shall identify the property, the date sold or the date ordered, and the tax
5 collected and paid. The tax required to be collected by such retailer from
6 such purchaser shall be displayed separately from the advertised price
7 listed on the forms or advertising matter on all sales checks, orders, sales
8 slips, or other proof of sales.

9 (b) (I) SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO A
10 RETAILER IN A CALENDAR YEAR:

11 (A) IF IN THE PREVIOUS CALENDAR YEAR THE RETAILER HAS MADE
12 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR
13 SERVICES IN THE STATE TOTALING ONE HUNDRED THOUSAND DOLLARS OR
14 LESS; OR

15 (B) UNTIL THE FIRST DAY OF THE MONTH AFTER THE NINETIETH
16 DAY AFTER A RETAILER HAS MADE RETAIL SALES OF TANGIBLE PERSONAL
17 PROPERTY, COMMODITIES, OR SERVICES IN THE STATE IN THE CURRENT
18 CALENDAR YEAR THAT TOTAL MORE THAN ONE HUNDRED THOUSAND
19 DOLLARS.

20 (II) THIS SUBSECTION (2)(b) IS REPEALED EFFECTIVE NINETY DAYS
21 AFTER THE DATE THAT THE REVISOR OF STATUTES IS NOTIFIED BY THE
22 DEPARTMENT OF REVENUE THAT A GEOGRAPHIC INFORMATION SYSTEM
23 THAT MEETS THE DEFINED SCOPE OF WORK SET FORTH IN THE REQUEST FOR
24 SOLICITATION, PROVIDED BY THE STATE, IS ONLINE AND AVAILABLE FOR
25 A RETAILER TO USE TO DETERMINE THE TAXING JURISDICTION IN WHICH AN
26 ADDRESS RESIDES. THE DEPARTMENT SHALL NOTIFY THE REVISOR OF
27 STATUTES NO LATER THAN FIFTEEN DAYS AFTER SUCH A SYSTEM IS

1 ONLINE.

2 **SECTION 8.** In Colorado Revised Statutes, 24-46-303, **amend**
3 (12) as follows:

4 **24-46-303. Definitions.** As used in this part 3, unless the context
5 otherwise requires:

6 (12) "State sales tax increment revenue" means the portion of the
7 revenue derived from state sales taxes, including any revenue attributable
8 to the baseline growth rate, ~~and not including any sales taxes for remote~~
9 ~~sales as specified in section 39-26-104 (2), C.R.S.,~~ collected within a
10 designated regional tourism zone in excess of the amount of base year
11 revenue.

12 **SECTION 9.** In Colorado Revised Statutes, 29-2-105, **amend**
13 (1)(b) and (2) as follows:

14 **29-2-105. Contents of sales tax ordinances and proposals -**
15 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,
16 city, or county adopted pursuant to this article 2 shall be imposed on the
17 sale of tangible personal property at retail or the furnishing of services,
18 as provided in subsection (1)(d) of this section. Any countywide or
19 incorporated town or city sales tax ordinance or proposal shall include the
20 following provisions:

21 (b) A provision that, for the purpose of the sales tax ordinance or
22 proposal enacted in accordance with this ~~article~~ ARTICLE 2, all retail sales
23 are ~~consummated at the place of business of the retailer unless the~~
24 ~~tangible personal property sold is delivered by the retailer or his agent to~~
25 ~~a destination outside the limits of the local taxing entity or to a common~~
26 ~~carrier for delivery to a destination outside the limits of the incorporated~~
27 ~~town, city, or county. The gross receipts from such sales shall include~~

1 ~~delivery charges when such charges are subject to the state sales and use~~
2 ~~tax imposed by article 26 of title 39, C.R.S., regardless of the place to~~
3 ~~which delivery is made. If a retailer has no permanent place of business~~
4 ~~in such incorporated town, city, or county, or has more than one place of~~
5 ~~business, the place at which the retail sales are consummated for the~~
6 ~~purpose of a sales tax imposed by ordinance pursuant to this article shall~~
7 ~~be determined by the provisions of article 26 of title 39, C.R.S., and by~~
8 ~~rules and regulations promulgated by the department of revenue SOURCED~~
9 ~~AS SPECIFIED IN SECTION 39-26-104 (3).~~

10 (2) No sales tax of any statutory or home rule city, town, city and
11 county, or county shall apply to the sale of construction and building
12 materials, as the term is used in section 29-2-109, ~~if such materials are~~
13 ~~picked up by the purchaser and~~ if the purchaser of such materials presents
14 to the retailer a building permit or other documentation acceptable to such
15 local government evidencing that a local use tax has been paid or is
16 required to be paid.

17 **SECTION 10.** In Colorado Revised Statutes, 30-20-604.5,
18 **amend** (1) as follows:

19 **30-20-604.5. District sales tax.** (1) The board of any county or
20 of any city that has been authorized to become a city and county pursuant
21 to an amendment to the state constitution that has been approved by the
22 registered electors of the state of Colorado and that subsequently becomes
23 a city and county for the purpose of funding all or a portion of the cost of
24 any improvements constructed or transportation services provided
25 pursuant to section 30-20-603 (1)(a), (1)(a.5), and (1)(c), may levy a sales
26 tax throughout the district upon every transaction or other incident with
27 respect to which a sales tax is authorized pursuant to section 29-2-105;

1 ~~C.R.S.~~, except that such tax may be levied only upon those transactions
2 specified in section 39-26-104 (1)(a), (1)(b), (1)(e), and (1)(f). ~~C.R.S. and~~
3 ~~may not include any sales taxes for remote sales as specified in section~~
4 ~~39-26-104 (2), C.R.S.~~ The board may, in its discretion, levy or continue
5 to levy a sales tax on the sales of low-emitting motor vehicles, power
6 sources, or parts used for converting such power sources as specified in
7 section 39-26-719 (1). ~~C.R.S.~~

8 **SECTION 11.** In Colorado Revised Statutes, 31-25-107, **amend**
9 (9)(a)(I) as follows:

10 **31-25-107. Approval of urban renewal plans by local**
11 **governing body - definitions.** (9) (a) Notwithstanding any law to the
12 contrary, any urban renewal plan, as originally approved or as later
13 modified pursuant to this part 1, may contain a provision that the property
14 taxes of specifically designated public bodies, if any, levied after the
15 effective date of the approval of such urban renewal plan upon taxable
16 property in an urban renewal area each year or that municipal sales taxes
17 collected within said area, or both such taxes, by or for the benefit of the
18 designated public body must be divided for a period not to exceed
19 twenty-five years after the effective date of adoption of such a provision,
20 as follows:

21 (I) That portion of the taxes which are produced by the levy at the
22 rate fixed each year by or for each such public body upon the valuation
23 for assessment of taxable property in the urban renewal area last certified
24 prior to the effective date of approval of the urban renewal plan or, as to
25 an area later added to the urban renewal area, the effective date of the
26 modification of the plan, or that portion of municipal sales taxes ~~not~~
27 ~~including any sales taxes for remote sales as specified in section~~

1 ~~39-26-104 (2), C.R.S.~~, collected within the boundaries of said urban
2 renewal area in the twelve-month period ending on the last day of the
3 month prior to the effective date of approval of said plan, or both such
4 portions, shall be paid into the funds of each such public body as are all
5 other taxes collected by or for said public body.

6 **SECTION 12.** In Colorado Revised Statutes, 31-25-807, **amend**
7 (3)(a) introductory portion as follows:

8 **31-25-807. Powers - duties.** (3) (a) Notwithstanding any law to
9 the contrary and subject to ~~the provisions of subparagraph (IV) of this~~
10 ~~paragraph (a)~~ SUBSECTION (3)(a)(IV) OF THIS SECTION, any such plan of
11 development as originally adopted by the board or as later modified
12 pursuant to this part 8 may, after approval by the governing body of the
13 municipality, contain a provision that taxes, if any, levied after the
14 effective date of the approval of such plan of development by said
15 governing body upon taxable property within the boundaries of the plan
16 of development area each year or that municipal sales taxes ~~not including~~
17 ~~any sales taxes for remote sales as specified in section 39-26-104 (2),~~
18 ~~C.R.S.~~, collected within said area, or both such taxes, by or for the benefit
19 of any public body shall be divided for a period not to exceed thirty years
20 or such longer period as provided for in ~~subparagraph (IV) of this~~
21 ~~paragraph (a)~~ SUBSECTION (3)(a)(IV) OF THIS SECTION after the effective
22 date of approval by said governing body of such a provision, as follows:

23 **SECTION 13.** In Session Laws of Colorado 2013, section 2 of
24 chapter 314, **amend** 39-26-102 (9) as follows:

25 Section 2. In Colorado Revised Statutes, 39-26-102, **amend** (5.7),
26 (8), and (9); and **add** (5.6), (7.6), and (7.7) as follows:

27 **39-26-102. Definitions.** As used in this article, unless the context

1 otherwise requires:

2 (9) "Retail sale" includes all sales made within the state except
3 wholesale sales. ~~FOR ITEMS DELIVERED BY THE RETAILER, A RETAIL SALE~~
4 ~~IS MADE AT THE LOCATION WHERE THE ITEM SOLD IS RECEIVED BY THE~~
5 ~~PURCHASER, BASED ON THE LOCATION INDICATED BY INSTRUCTIONS FOR~~
6 ~~DELIVERY THAT THE PURCHASER FURNISHES TO THE RETAILER. WHEN NO~~
7 ~~DELIVERY LOCATION IS SPECIFIED, THE REMOTE SALE IS SOURCED TO THE~~
8 ~~CUSTOMER'S ADDRESS THAT IS EITHER KNOWN TO THE RETAILER OR, IF NOT~~
9 ~~KNOWN, OBTAINED BY THE RETAILER DURING THE CONSUMMATION OF THE~~
10 ~~TRANSACTION, INCLUDING THE ADDRESS OF THE CUSTOMER'S PAYMENT~~
11 ~~INSTRUMENT IF NO OTHER ADDRESS IS AVAILABLE. IF AN ADDRESS IS~~
12 ~~UNKNOWN AND A BILLING ADDRESS CANNOT BE OBTAINED, THE REMOTE~~
13 ~~SALE IS SOURCED TO THE ADDRESS OF THE RETAILER FROM WHICH THE~~
14 ~~REMOTE SALE WAS MADE.~~

15 **SECTION 14.** In Session Laws of Colorado 2013, **repeal** section
16 10 of chapter 314.

17 **SECTION 15.** In Session Laws of Colorado 2013, section 16 of
18 chapter 314, **repeal** (3).

19 **SECTION 16.** In Session Laws of Colorado 2014, **repeal**
20 sections 1 and 2 of chapter 300.

21 **SECTION 17. Effective date.** This act takes effect June 1, 2019;
22 except that section 39-26-102 (5.8), (5.9), (6), (6.1), (6.2), (6.3) and (8),
23 Colorado Revised Statutes, as enacted in section 1 of this act, and section
24 4 of this act take effect October 1, 2019.

25 **SECTION 18. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.