

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

REVISED

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

LLS NO. 21-0899.01 Esther van Mourik x4215

HOUSE BILL 21-1265

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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, AND,**
107 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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>.)

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
2nd Reading Unamended
June 2, 2021

HOUSE
3rd Reading Unamended
May 5, 2021

HOUSE
2nd Reading Unamended
May 4, 2021

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

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

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

27 (III) (A) "Qualifying retailer" means, FOR THE SPECIFIED SALES

1 TAX PERIOD IN SUBSECTION (1.3)(a)(V)(A) OF THIS SECTION, a retailer
2 doing business in the state that timely files sales tax returns as required
3 under subsection (1)(b) of this section and section 39-26-109, and that
4 operates in the alcoholic beverages drinking places industry, the
5 restaurant and other eating places industry, or the mobile food services
6 industry.

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

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

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

27 (b) (I) A qualifying retailer in the alcoholic beverages drinking

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

7 (II) 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, or
11 in the restaurant and other eating places industry, IN THE FOOD
12 SERVICES CONTRACTOR INDUSTRY, OR OPERATING A HOTEL-OPERATED
13 RESTAURANT, BAR, OR CATERING SERVICE. No deduction is allowed for:

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

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

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

27 (II) HOW MANY RETAILERS ELECTED TO TAKE ADVANTAGE OF THE

1 DEDUCTION ALLOWED IN THIS SUBSECTION (1.3).

2 **SECTION 2. Appropriation.** (1) For the 2021-22 state fiscal
3 year, \$101,600 is appropriated to the department of revenue. This
4 appropriation is from the general fund. To implement this act, the
5 department may use this appropriation as follows:

6 (a) \$1,600 for use by the executive director's office for personal
7 services related to administration and support; and

8 (b) \$100,000 for use by taxation services for personal services.

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