



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 21-0396	Date:	March 23, 2021
Prime Sponsors:	Rep. Neville; Snyder	Bill Status:	House Business
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Bill Topic: ALLOW RETAILERS TO ABSORB SALES OR USE TAX

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill allows retailers to advertise that they will absorb or pay sales or use tax on taxable purchases of goods and services. The bill will minimally increase workload for state and local government.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

Current law makes it illegal for a retailer to assume or absorb sales or use tax in the price of goods and services. The bill removes this restriction and allows retailers to advertise that they will assume, absorb, or refund the tax. In instances where retailers assume or absorb sales or use tax, retailers are required to separately state the purchase price and amount of tax to the consumer or user. Additionally, retailers are required to remit the full amount of tax to the Department of Revenue. The bill applies to filing periods beginning on or after January 1, 2022.

Background and Assumptions

Retailers are required to collect sales and use taxes on behalf of state and local governments and periodically remit this revenue. Retailers are allowed to retain a vendor fee for their cost in collecting and remitting sales and use tax to state and local governments, and must maintain records necessary to determine the correct amount of tax. There are instances in Colorado where tax can be included in the sales price, such as alcohol sold by the drink and vending machine sales. The fiscal note assumes that shifting the imposition of sales and use tax from buyers to retailers who absorb the tax will not affect the amount of tax owed or collected. It is also assumed that absorption of sales and use tax will not affect the amount of vendor fee retained by retailers.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offenses.

Prior conviction data and assumptions. This bill removes the existing offense for a retailer to unlawfully advertise or state that they will assume or absorb sales tax for a consumer. From FY 2017-18 to FY 2019-20, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note.

State Expenditures

The bill is expected to minimally increase workload for the Department of Revenue to enforce compliance, conduct investigations, and administer retailer absorption of sales and use tax. This fiscal note assumes that workload impacts can be absorbed as part of the normal operations of administering sales and use taxes.

Local Government

Home-rule jurisdictions in Colorado may also allow a retailer to absorb or assume local sales and use tax. These jurisdictions may also have increased workload as described above.

Technical Note

While the bill requires the price of the goods and the tax amount to be listed separately on a receipt, it does not require that the receipt state who paid the tax. Thus, in certain situations when a retailer absorbs or pays sales or use tax on behalf of a consumer, there may be ambiguity later over who owes the tax if it is not properly remitted. While this does not technically affect the amount of tax owed, it may hamper the ability of the Department of Revenue to collect unpaid tax or verify refunds.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Counties

Municipalities

Revenue

Information Technology

Personnel

Special Districts

Judicial-Criminal

Regional Transportation District