

CHAPTER 130

TAXATION

HOUSE BILL 01-1256

BY REPRESENTATIVE(S) Webster, Alexander, Coleman, Dean, Fairbank, Fritz, Hoppe, Johnson, Kester, King, Larson, Lawrence, Lee, Mace, Miller, Mitchell, Nuñez, Rippey, Smith, Snook, Spradley, and Stengel;
also SENATOR(S) Phillips, Arnold, Chlouber, Dennis, Hernandez, Hillman, Lamborn, Matsunaka, May, Musgrave, Nichol, and Taylor.

AN ACT

CONCERNING AN EXPANSION OF THE DEFINITION OF "FARM EQUIPMENT" UNDER THE STATE SALES AND USE TAX TO INCLUDE DAIRY EQUIPMENT.

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

SECTION 1. The introductory portion to 39-26-114 (20) (b) (II), Colorado Revised Statutes, is amended to read:

39-26-114. Exemptions - disputes - credits or refunds - definitions - creation of fund. (20) (b) For purposes of this subsection (20):

(II) "Farm equipment" means farm tractors, as defined in section 42-1-102 (33), C.R.S., implements of husbandry, as defined in section 42-1-102 (44), C.R.S., and irrigation equipment having a per unit purchase price of at least one thousand dollars. "Farm equipment" also includes, regardless of purchase price, attachments and bailing wire, binders twine, and surface wrap used primarily and directly in any farm operation. On and after July 1, 2000, "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this subparagraph (II), all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. ON AND AFTER JULY 1, 2001, "FARM EQUIPMENT" ALSO INCLUDES, REGARDLESS OF PURCHASE PRICE, DAIRY EQUIPMENT. FOR PURPOSES OF THIS SUBSECTION (20), "DAIRY EQUIPMENT" MEANS ANY ITEM THAT IS USED AT A FARM DAIRY IN CONNECTION WITH THE PRODUCTION OF RAW MILK AND NOT AT A COMMERCIAL DAIRY IN CONNECTION WITH THE PRODUCTION OF PASTURIZED, SEPARATED MILK PRODUCTS FOR RETAIL SALE, INCLUDING, WITHOUT LIMITATION: MILKING CLAWS, SHELLS, INFLATORS, PULSATORS, METERS, COW IDENTIFICATION SYSTEMS, TRANSPONDERS, AUTOMATIC

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

TAKEOFFS, PIPING, RECEIVER JARS, PUMPS, FILTER ASSEMBLIES, MILK CONTAINMENT TANKS, COOLING COMPRESSORS, WASH VATS, CLEAN IN PLACE ASSEMBLIES, WASH LINES, WASH CONTROL UNITS, PULSATOR CONTROLS, MILKING SYSTEM CONTROLS, PROGRAMMABLE LOGICAL CONTROL SYSTEMS, VACUUM PUMPS, VACUUM DISTRIBUTION TANKS, BACKFLUSH AND RELATED VALVES, RUBBER AND SIMILAR HOSES, RUBBER AND SIMILAR GASKETS, AND ANY OTHER SIMILAR OR RELATED ITEM USED IN ANY FARM DAIRY FACILITY OR FARM DAIRY OPERATION OR IN THE PRODUCTION OF RAW MILK, REGARDLESS OF WHETHER OR NOT THE ITEM HAS BECOME A FIXTURE. TO THE EXTENT THE FARM DAIRY IS ALSO INVOLVED IN THE PRODUCTION OF PASTURIZED, SEPARATED MILK PRODUCTS FOR RETAIL SALE, ONLY THE EQUIPMENT USED EXCLUSIVELY IN THE PRODUCTION OF RAW MILK CONSTITUTES DAIRY EQUIPMENT FOR PURPOSES OF THIS SUBSECTION (20). "Farm equipment" does not include:

SECTION 2. The introductory portion to 39-26-203 (1) (hh) (II), Colorado Revised Statutes, is amended to read:

39-26-203. Exemptions - definitions. (1) This part 2 is declared to be supplementary to the "Emergency Retail Sales Tax Act of 1935", part 1 of this article, and shall not apply:

(hh) To the storage, use, or consumption of farm equipment. For purposes of this paragraph (hh):

(II) "Farm equipment" means farm tractors, as defined in section 42-1-102 (33), C.R.S., implements of husbandry, as defined in section 42-1-102 (44), C.R.S., and irrigation equipment having a per unit purchase price of at least one thousand dollars. "Farm equipment" also includes, regardless of purchase price, attachments and baling wire, binders twine, and surface wrap used primarily and directly in any farm operation. Effective July 1, 2000, "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this subparagraph (II), all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. ON AND AFTER JULY 1, 2001, "FARM EQUIPMENT" ALSO INCLUDES, REGARDLESS OF PURCHASE PRICE, DAIRY EQUIPMENT. FOR PURPOSES OF THIS PARAGRAPH (hh), "DAIRY EQUIPMENT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 39-26-114 (20) (b) (II). "Farm equipment" does not include:

SECTION 3. 29-2-105 (1) (d), Colorado Revised Statutes, is amended to read:

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

(d) A provision that the tangible personal property and services taxable pursuant to this article shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., except as otherwise provided in this paragraph (d). The tangible personal property and services taxable pursuant to this article are

subject to the same exemptions as those specified in section 39-26-114, C.R.S., except the exemption allowed by section 39-26-114 (11), C.R.S., for purchases of machinery or machine tools, the exemption of sales and purchases of those items in section 39-26-114 (1) (a) (XXI), C.R.S., the exemption for sales of food specified in section 39-26-114 (1) (a) (XX), C.R.S., the exemption for vending machine sales of food set forth in section 39-26-114 (7.5), C.R.S., the exemption for occasional sales by a charitable organization set forth in section 39-26-114 (18), C.R.S., the exemption for sales and purchases of farm equipment and farm equipment under lease or contract specified in section 39-26-114 (20), C.R.S., and the exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-114 (22), C.R.S. Sales of food, as defined in section 39-26-102 (4.5), C.R.S., exempted from the state sales tax pursuant to section 39-26-114 (1) (a) (XX), C.R.S., vending machine sales of food as described in section 39-26-114 (7.5), C.R.S., sales and purchases of those items exempted from the state sales tax pursuant to section 39-26-114 (1) (a) (XXI), C.R.S., purchases of machinery or machine tools as provided in section 39-26-114 (11), C.R.S., occasional sales by a charitable organization as provided in section 39-26-114 (18), C.R.S., sales and purchases of farm equipment or farm equipment under lease or contract exempted from the state sales tax pursuant to section 39-26-114 (20), C.R.S., or sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-114 (22), C.R.S., may be exempted from said town, city, or county sales tax only by the express inclusion of such exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto. Any such amendment shall be adopted in the same manner as the initial ordinance or resolution. In the absence of an express provision for the exemption for sales of food, as defined in section 39-26-102 (4.5), C.R.S., or for the exemption of vending machine sales of food as provided in section 39-26-114 (7.5), C.R.S., or for the exemption of purchases of machinery or machine tools as provided in section 39-26-114 (11), C.R.S., or for the exemption of sales and purchases of those items in section 39-26-114 (1) (a) (XXI), C.R.S., or for the exemption of occasional sales by a charitable organization as provided in section 39-26-114 (18), C.R.S., or exemption of sales and purchases of farm equipment or farm equipment under lease or contract as provided in section 39-26-114 (20), C.R.S., or exemption of sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-114 (22), C.R.S., all sales tax ordinances or resolutions, whether adopted prior to, on, or subsequent to July 1, 1979, which provide in substance that the tangible personal property and services taxed shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., or any predecessor statute, except as otherwise provided in this paragraph (d), and subject to the same exemptions as those specified in section 39-26-114, C.R.S., or any predecessor statute, shall be construed as imposing or continuing to impose the town, city, or county sales tax on food, as defined in section 39-26-102 (4.5), C.R.S., vending machine sales of food as described in section 39-26-114 (7.5), C.R.S., purchases of machinery and machine tools as described in section 39-26-114 (11), C.R.S., sales or purchases of those items described in section 39-26-114 (1) (a) (XXI), C.R.S., occasional sales by a charitable organization as described in section 39-26-114 (18), C.R.S., sales and purchases of farm equipment and farm equipment under lease or contract as described in section 39-26-114 (20), C.R.S., and sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-114 (22), C.R.S. Any incorporated town, city,

or county that adopts or has adopted a sales tax ordinance or resolution pursuant to this article shall levy a sales tax on pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S., notwithstanding the removal of such pesticides from the state sales tax base pursuant to House Bill 99-1381, enacted at the first regular session of the sixty-second general assembly, unless exempted by local ordinance or resolution. Any incorporated town, city, or county that adopts or has adopted a sales tax ordinance or resolution pursuant to this article shall levy a sales tax upon all sales and purchases of parts used in the repair or maintenance of farm equipment, all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications, notwithstanding the removal of such items from the state sales tax base pursuant to House Bill 00-1162, enacted at the second regular session of the sixty-second general assembly, unless exempted by local ordinance or resolution. ANY INCORPORATED TOWN, CITY, OR COUNTY THAT ADOPTS OR HAS ADOPTED A SALES TAX ORDINANCE OR RESOLUTION PURSUANT TO THIS ARTICLE SHALL LEVY A SALES TAX UPON ALL SALES AND PURCHASES OF DAIRY EQUIPMENT, NOTWITHSTANDING THE REMOVAL OF SUCH ITEMS FROM THE STATE SALES TAX BASE PURSUANT TO HOUSE BILL 01-1256, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY, UNLESS EXEMPTED BY LOCAL ORDINANCE OR RESOLUTION. The regional transportation district may, in its discretion, continue to levy a sales tax on vending machine sales of food as described in section 39-26-114 (7.5), C.R.S., and on purchases of machinery or machine tools, as provided in section 39-26-114 (11), C.R.S.

SECTION 4. 29-2-106 (4) (a), Colorado Revised Statutes, is amended to read:

29-2-106. Collection - administration - enforcement. (4) (a) The executive director of the department of revenue shall, at no charge, administer, collect, and distribute the sales tax of any home rule municipality, upon request of the governing body of such municipality, if the provisions of the sales tax ordinance of said municipality, other than those provisions relating to local procedures followed in adopting the ordinance and whether or not the ordinance applies the sales tax to the sale of food, as defined in section 39-26-102 (4.5), C.R.S., or purchases of machinery or machine tools as provided in section 39-26-114 (11), C.R.S., or sales or purchases of electricity, coal, wood, gas, fuel oil, or coke as provided in section 39-26-114 (1) (a) (XXI), C.R.S., or vending machine sales of food as described in section 39-26-114 (7.5), C.R.S., or sales or purchases of farm equipment or farm equipment under lease or contract, parts used in the repair or maintenance of farm equipment, all shipping pallets or aids paid for by a farm operation, ~~and~~ aircraft designed or adapted to undertake agricultural applications, AND DAIRY EQUIPMENT as provided in section 39-26-114 (20), C.R.S., or sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-114 (22), C.R.S., or to pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S., as provided in section 29-2-105 (1) (d), correspond to the requirements of this article for sales taxes imposed by counties, towns, and cities and if no use tax is to be collected by the department except as provided in section 39-26-208, C.R.S. At the

time of making such request, said governing body shall certify to the executive director of the department of revenue a true copy of said sales tax ordinance.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2001, and shall apply to all sales and purchases, storage, use, or consumption of dairy equipment that occurs on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 2001