

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

REREVISED

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

LLS NO. 21-0726.01 Pierce Lively x2059

HOUSE BILL 21-1158

HOUSE SPONSORSHIP

Lynch and Valdez D., Arndt, Pico, Baisley, Duran, Esgar, Exum, Holtorf, McCluskie, McCormick, McLachlan, Ricks, Young

SENATE SPONSORSHIP

Kirkmeyer, Moreno, Woodward, Zenzinger, Cooke, Gardner, Hisey, Holbert, Kolker, Liston, Lundeen, Priola, Rankin, Simpson, Sonnenberg

House Committees
Finance

Senate Committees
Agriculture & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING NONSUBSTANTIVE MODIFICATIONS TO SALES AND USE**
102 **TAX EXEMPTIONS, AND, IN CONNECTION THEREWITH,**
103 **REORGANIZING SALES AND USE TAX EXEMPTIONS FOR**
104 **AGRICULTURE, LIVESTOCK, AND SPECIAL FUELS.**

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/>.)

Statutory Revision Committee. The bill removes an unused definition of "agricultural compounds" and a redundant reference to a sales and use tax exemption for poultry and livestock. The bill also

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
April 20, 2021

SENATE
2nd Reading Unamended
April 19, 2021

HOUSE
3rd Reading Unamended
March 25, 2021

HOUSE
2nd Reading Unamended
March 24, 2021

reorganizes special fuel and farm equipment sales and use tax exemptions so that they are in the same location.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-715, **amend**
3 (2) introductory portion and (2)(a)(I) as follows:

4 **39-26-715. Fuel and oil - definitions.** (2) The following are
5 exempt from taxation under the provisions of part 2 of this ~~article~~
6 ARTICLE 26:

7 (a) (I) The storage, use, or consumption of gasoline that is taxed
8 under the provisions of part 1 of article 27 of this ~~title~~ TITLE 39 and all
9 gasoline that is taxed under said provisions and the tax on which is
10 refunded; and ~~special fuel, as defined in section 39-27-101 (29), used for~~
11 ~~the operation of farm vehicles when the same are being used on farms or~~
12 ~~ranches;~~ except that aviation fuel used in turbo-propeller or jet engine
13 aircraft and upon which a tax was collected pursuant to the provisions of
14 part 2 of this ~~article~~ ARTICLE 26 prior to January 1, 1989, shall not be
15 exempt.

16 **SECTION 2.** In Colorado Revised Statutes, 39-26-716, **amend**
17 (4) introductory portion, (4)(b), and (4)(c); **repeal** (1)(a), (2), and (3); and
18 **add** (4)(d), (4)(e), and (4)(f) as follows:

19 **39-26-716. Agriculture and livestock - special fuels -**
20 **definitions.** (1) For purposes of this section, unless the context otherwise
21 requires:

22 (a) ~~"Agricultural compounds" means:~~
23 ~~(I) Insecticides, fungicides, growth-regulating chemicals,~~
24 ~~enhancing compounds, vaccines, and hormones;~~
25 ~~(H) Drugs, whether dispensed in accordance with a prescription~~

1 or not, that are used for the prevention or treatment of disease or injury
2 in livestock; and

3 (HH) Animal pharmaceuticals that have been approved by the food
4 and drug administration.

5 (2) The following shall be exempt from taxation under the
6 provisions of part 1 of this article:

7 (a) The sale of special fuel, as defined in section 39-27-101 (29),
8 used for the operation of farm vehicles when such vehicles are being used
9 on farms and ranches;

10 (b) All sales and purchases of farm equipment;

11 (c) (I) Any farm equipment under lease or contract, if the fair
12 market value of the equipment is at least one thousand dollars and the
13 equipment is rented or leased for use primarily and directly in any farm
14 operation.

15 (H) The lessor or seller of such farm equipment shall obtain a
16 signed affidavit from the lessee, renter, or purchaser affirming that the
17 farm equipment will be used primarily and directly in a farm operation.

18 (d) and (e) Repealed.

19 (3) The following shall be exempt from taxation under the
20 provisions of part 2 of this article:

21 (a) The storage and use of neat cattle, sheep, lambs, swine, and
22 goats within this state, or the storage and use within this state of mares
23 and stallions kept, held, and used for breeding purposes only;

24 (b) The storage, use, or consumption of farm equipment;

25 (c) (I) Any farm equipment under lease or contract if the fair
26 market value of such equipment is at least one thousand dollars and the
27 equipment is rented or leased for storage, use, or consumption primarily

1 ~~and directly in any farm operation.~~

2 ~~(H) The lessor shall obtain a signed affidavit from the lessee or~~
3 ~~renter affirming that the farm equipment will be stored, used, or~~
4 ~~consumed primarily and directly in a farm operation.~~

5 ~~(d) and (e) Repealed.~~

6 (4) The following ~~shall be~~ ARE exempt from taxation under the
7 provisions of parts 1 and 2 of this ~~article~~ ARTICLE 26:

8 (b) All sales and purchases of feed for livestock, all sales and
9 purchases of seeds, and all sales and purchases of orchard trees and the
10 storage, use, or consumption of such property; ~~and~~

11 (c) All sales and purchases of straw and other bedding for use in
12 the care of livestock ~~or poultry~~ and the storage, use, or consumption of
13 straw and other bedding for use in the care of livestock; ~~or poultry;~~

14 (d) THE SALE OF SPECIAL FUEL, AS DEFINED IN SECTION 39-27-101
15 (29), USED FOR THE OPERATION OF FARM VEHICLES WHEN SUCH VEHICLES
16 ARE BEING USED ON FARMS AND RANCHES AND THE STORAGE, USE, OR
17 CONSUMPTION OF SUCH SPECIAL FUEL;

18 (e) ALL SALES AND PURCHASES OF FARM EQUIPMENT AND THE
19 STORAGE, USE, OR CONSUMPTION OF FARM EQUIPMENT; AND

20 (f) (I) ANY FARM EQUIPMENT UNDER LEASE OR CONTRACT, IF THE
21 FAIR MARKET VALUE OF THE EQUIPMENT IS AT LEAST ONE THOUSAND
22 DOLLARS AND THE EQUIPMENT IS RENTED OR LEASED FOR USE PRIMARILY
23 AND DIRECTLY IN ANY FARM OPERATION.

24 (II) THE LESSOR OR SELLER OF SUCH FARM EQUIPMENT SHALL
25 OBTAIN A SIGNED AFFIDAVIT FROM THE LESSEE, RENTER, OR PURCHASER
26 AFFIRMING THAT THE FARM EQUIPMENT WILL BE USED PRIMARILY AND
27 DIRECTLY IN A FARM OPERATION.

1 **SECTION 3.** In Colorado Revised Statutes, 29-2-105, **amend**
2 (1)(d)(I)(F) as follows:

3 **29-2-105. Contents of sales tax ordinances and proposals.**

4 (1) The sales tax ordinance or proposal of any incorporated town, city,
5 or county adopted pursuant to this article 2 shall be imposed on the sale
6 of tangible personal property at retail or the furnishing of services, as
7 provided in subsection (1)(d) of this section. Any countywide or
8 incorporated town or city sales tax ordinance or proposal shall include the
9 following provisions:

10 (d) (I) A provision that the sale of tangible personal property and
11 services taxable pursuant to this article 2 shall be the same as the sale of
12 tangible personal property and services taxable pursuant to section
13 39-26-104, except as otherwise provided in this subsection (1)(d). The
14 sale of tangible personal property and services taxable pursuant to this
15 article 2 shall be subject to the same sales tax exemptions as those
16 specified in part 7 of article 26 of title 39; except that the sale of the
17 following may be exempted from a town, city, or county sales tax only by
18 the express inclusion of the exemption either at the time of adoption of
19 the initial sales tax ordinance or resolution or by amendment thereto:

20 (F) The exemption for sales of farm equipment and farm
21 equipment under lease or contract specified in ~~section 39-26-716 (2)(b)~~
22 ~~and (2)(c)~~ SECTION 39-26-716 (4)(e) AND (4)(f). The express inclusion of
23 the exemption by a town, city, or county before August 2, 2019, does not
24 exempt from the town, city, or county sales tax any visual, electronic
25 identification, or matched pair ear tags and electronic identification
26 readers used to scan ear tags that are used by a farm operator to identify
27 or track food animals, including animals used for food or in the

1 production of food, that were added to the definition of "farm equipment"
2 set forth in section 39-26-716 (1)(d) by House Bill 19-1162, enacted in
3 2019, and thereby exempted from state sales and use taxes but such a
4 town, city, or county may expressly exempt such items by a subsequent
5 amendment to its sales tax ordinance or resolution.

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly; except
9 that, if a referendum petition is filed pursuant to section 1 (3) of article V
10 of the state constitution against this act or an item, section, or part of this
11 act within such period, then the act, item, section, or part will not take
12 effect unless approved by the people at the general election to be held in
13 November 2022 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.