

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0523.01 Esther van Mourik x4215

HOUSE BILL 16-1187

HOUSE SPONSORSHIP

Kraft-Tharp,

SENATE SPONSORSHIP

Holbert,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A SALES AND USE TAX EXEMPTION FOR MEALS PROVIDED**
102 **IN CERTAIN RETIREMENT COMMUNITIES.**

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://www.leg.state.co.us/billsummaries>.)

The bill creates:

- ! A sales and use tax exemption for the sale, storage, use, or consumption of food, food products, snacks, beverages, and meals (food products) on the premises of a retirement community;
- ! A sales and use tax exemption for the sale, storage, use, or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

consumption of any container, bag, or article (packaging) used by or furnished to a consumer for the purpose of packaging, bagging, or use with food products consumed on the premises of a retirement community;

! A sales tax exemption for the sale of food products to a retirement community for purposes of a sale of food products for consumption on the premises of such community;

! A sales tax exemption for the sale to a retirement community of any packaging used by or furnished to a consumer for purposes of a sale of food products on the premises of such community;

! A use tax exemption for the storage, use, or consumption of food products by a retirement community for purposes of a sale of food products for consumption on the premises of such community; and

! A use tax exemption for the storage, use, or consumption by a retirement community of any packaging used by or furnished to a consumer for purposes of a sale of food products for consumption on the premises of such community.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds and declares that:

4 (a) The department of revenue does not currently have a written
5 policy with regard to the application of sales and use taxes on food
6 purchased and provided as part of a meal plan to residents of a retirement
7 community, nor with regard to the application of sales and use taxes on
8 the packaging used in presenting that food to a resident of a retirement
9 community. The question of the taxation of these items has been brought
10 to light by the issuance of a department of revenue private letter ruling
11 indicating that these items should be taxed. In general, the retirement
12 community industry has not been collecting and remitting sales or use tax
13 for these items.

1 (b) The intended purpose of the tax expenditure in this act is to
2 clarify that food purchased and provided as part of a meal plan to
3 residents of a retirement community is exempt from sales and use tax as
4 food for domestic home consumption, and clarifying that the packaging
5 used in presenting that food to a resident of a retirement community is
6 exempt from sales and use tax under the existing exemption for food
7 packaging.

8 **SECTION 2.** In Colorado Revised Statutes, 39-26-707, **add** (1)
9 (f), (2) (e), and (2.5) as follows:

10 **39-26-707. Food, meals, beverages, and packaging -**
11 **definitions.** (1) The following shall be exempt from taxation under the
12 provisions of part 1 of this article:

13 (f) (I) (A) ON AND AFTER JULY 1, 2016, ALL SALES OF FOOD, FOOD
14 PRODUCTS, SNACKS, BEVERAGES, AND MEALS PROVIDED FOR
15 CONSUMPTION BY RESIDENTS ON THE PREMISES OF A RETIREMENT
16 COMMUNITY;

17 (B) ON AND AFTER JULY 1, 2016, ALL SALES TO A RETIREMENT
18 COMMUNITY OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS
19 FOR PURPOSES OF A SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS
20 SUBPARAGRAPH (I);

21 (C) ON AND AFTER JULY 1, 2016, ALL SALES OF ANY CONTAINER,
22 BAG, OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR THE
23 PURPOSE OF PACKAGING, BAGGING, OR USE WITH FOOD, FOOD PRODUCTS,
24 SNACKS, BEVERAGES, AND MEALS PROVIDED FOR CONSUMPTION BY
25 RESIDENTS ON THE PREMISES OF A RETIREMENT COMMUNITY; AND

26 (D) ON AND AFTER JULY 1, 2016, ALL SALES TO A RETIREMENT
27 COMMUNITY OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR FURNISHED

1 TO A CONSUMER FOR PURPOSES OF A SALE DESCRIBED IN
2 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I).

3 (II) FOR PURPOSES OF THIS PARAGRAPH (f), "FOOD" INCLUDES
4 PREPARED SALADS, SALAD BARS, AND PACKAGED AND UNPACKAGED COLD
5 SANDWICHES.

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

8 (e) (I) (A) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
9 CONSUMPTION OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND
10 MEALS PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF
11 A RETIREMENT COMMUNITY;

12 (B) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
13 CONSUMPTION BY A RETIREMENT COMMUNITY OF FOOD, FOOD PRODUCTS,
14 SNACKS, BEVERAGES, AND MEALS FOR PURPOSES OF A SALE DESCRIBED IN
15 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (f) OF
16 SUBSECTION (1) OF THIS SECTION;

17 (C) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
18 CONSUMPTION OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR
19 FURNISHED TO A CONSUMER FOR THE PURPOSE OF PACKAGING, BAGGING,
20 OR USE WITH FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS
21 PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF A
22 RETIREMENT COMMUNITY; AND

23 (D) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
24 CONSUMPTION BY A RETIREMENT COMMUNITY OF ANY CONTAINER, BAG,
25 OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR PURPOSES OF A
26 SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF
27 PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION.

1 (II) FOR PURPOSES OF THIS PARAGRAPH (e), "FOOD" INCLUDES
2 PREPARED SALADS, SALAD BARS, AND PACKAGED AND UNPACKAGED COLD
3 SANDWICHES.

4 (2.5) FOR PURPOSES OF THIS SECTION, "RETIREMENT COMMUNITY"
5 MEANS:

6 (a) AN ASSISTED LIVING RESIDENCE AS DEFINED IN SECTION
7 25-27-102 (1.3), C.R.S.;

8 (b) AN INDEPENDENT LIVING FACILITY DESIGNED AND OPERATED
9 SPECIFICALLY TO SERVE AS THE PRIMARY RESIDENCE FOR PERSONS AGED
10 FIFTY-FIVE OR OLDER THAT PROVIDES MEALS AND OTHER SERVICES TO
11 RESIDENTS AS PART OF A COMPREHENSIVE FEE, INCLUDING A FACILITY
12 THAT QUALIFIES AS HOUSING FOR OLDER PERSONS AS DEFINED IN SECTION
13 24-34-502 (7) (b), C.R.S., AND A LIFE CARE INSTITUTION SUBJECT TO
14 ARTICLE 13 OF TITLE 12, C.R.S.; OR

15 (c) A NURSING CARE FACILITY LICENSED UNDER THE AUTHORITY
16 OF SECTION 25-1.5-103 (1) (a) (I) (A), C.R.S., THAT PROVIDES SERVICES TO
17 PERSONS WHO, DUE TO PHYSICAL CONDITION, MENTAL CONDITION, OR
18 DISABILITY, REQUIRE CONTINUOUS OR REGULAR INPATIENT NURSING CARE.

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