

CHAPTER 310

TAXATION

HOUSE BILL 18-1202

BY REPRESENTATIVE(S) Garnett, Bridges, Coleman, Ginal, Gray, Herod, Hooton, Kennedy, Liston, Lontine, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Salazar, Winter, Young, Duran, Arndt, Buckner, McLachlan;
also SENATOR(S) Gardner, Crowder, Guzman, Kefalas, Priola, Smallwood, Tate, Todd, Zenzinger.

AN ACT

CONCERNING AN INCOME TAX CREDIT FOR AN EMPLOYER RELATED TO AN EMPLOYEE'S PAID LEAVE OF ABSENCE FOR THE PURPOSE OF MAKING AN ORGAN DONATION, AND, IN CONNECTION THEREWITH, ENACTING THE "LIVING ORGAN DONOR SUPPORT ACT".

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

SECTION 1. Short title. The short title of this act is the "Living Organ Donor Support Act".

SECTION 2. In Colorado Revised Statutes, **add** 39-22-540 as follows:

39-22-540. Credit - organ donor - leave of absence period - legislative declaration - definitions. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) NEARLY TWO THOUSAND FOUR HUNDRED COLORADANS ARE CURRENTLY ON THE WAITING LIST FOR LIFESAIVING ORGAN TRANSPLANTS, AND NINETY-SIX PERCENT OF THOSE PEOPLE COULD RECEIVE AN ORGAN, SUCH AS A KIDNEY OR LIVER, FROM A LIVING DONOR;

(II) LAST YEAR, TWO HUNDRED FIFTY-EIGHT COLORADANS DIED OR BECAME TOO SICK TO REMAIN ON THE WAITING LIST, WHICH IS THIRTY-EIGHT PERCENT MORE THAN ALL THE HOMICIDES IN THE STATE;

(III) THESE LIVES WOULD BE SAVED IF MORE PEOPLE BECAME LIVING DONORS;

(IV) IF JUST ONE OUT OF ONE THOUSAND ONE HUNDRED ADULTS IN THE STATE BECAME LIVING DONORS, THE WAITING LIST FOR KIDNEY AND LIVER TRANSPLANTS

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

IN THE STATE WOULD BE ERADICATED; AND

(V) THE ABILITY TO GET PAID TIME OFF WORK IS AN ENORMOUS BARRIER FOR LIVING ORGAN DONORS, AND THE LOSS OF INCOME AND FEAR OF LOSING THEIR JOB HAS DETERRED MANY WOULD-BE DONORS.

(b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE INTENDED PURPOSE OF THE TAX CREDIT IN THIS SECTION IS TO SUPPORT LIVING DONORS AND THE COMPANIES THAT EMPLOY THEM.

(2) AS USED IN THIS SECTION:

(a) "EMPLOYEE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-604 (2)(a).

(b) "LEAVE OF ABSENCE PERIOD" MEANS THE PERIOD, NOT EXCEEDING TEN WORKING DAYS OR THE HOURLY EQUIVALENT OF TEN WORKING DAYS PER EMPLOYEE, DURING WHICH A TAXPAYER PROVIDES A PAID LEAVE OF ABSENCE TO AN EMPLOYEE FOR THE PURPOSE OF ORGAN DONATION. THE TERM DOES NOT INCLUDE A PERIOD DURING WHICH AN EMPLOYEE UTILIZES ANY ANNUAL LEAVE OR SICK DAYS THAT THE EMPLOYEE HAS BEEN GIVEN BY THE EMPLOYER.

(c) "TAXPAYER" MEANS AN EMPLOYER THAT DEDUCTS AND WITHHOLDS AMOUNTS FROM THE WAGES PAID TO A QUALIFIED EMPLOYEE PURSUANT TO SECTION 39-22-604 (3).

(d) "WAGES" HAS THE SAME MEANING AS SET FORTH IN SECTION 3401 (a) OF THE INTERNAL REVENUE CODE.

(3) EXCEPT AS SET FORTH IN SUBSECTION (4) OF THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020, BUT BEFORE JANUARY 1, 2025, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 THAT IS AN AMOUNT EQUAL TO THIRTY-FIVE PERCENT OF THE TAXPAYER'S EXPENSES INCURRED:

(a) PAYING AN EMPLOYEE DURING HIS OR HER LEAVE OF ABSENCE PERIOD; AND

(b) FOR THE COST OF TEMPORARY REPLACEMENT HELP, IF ANY, DURING AN EMPLOYEE'S LEAVE OF ABSENCE PERIOD.

(4) A TAXPAYER SHALL NOT CLAIM A TAX CREDIT UNDER THIS SECTION RELATED TO A LEAVE OF ABSENCE PERIOD FOR AN EMPLOYEE WHO THE TAXPAYER PAYS WAGES OF EIGHTY THOUSAND DOLLARS OR MORE DURING THE INCOME TAX YEAR.

(5) IF THE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR AN INCOME TAX YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAX LIABILITY FOR THE INCOME TAX YEAR IS NOT REFUNDED TO THE TAXPAYER. THE TAXPAYER MAY CARRY FORWARD AND APPLY THE UNUSED CREDIT AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE CREDIT AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME TAX YEARS

POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED AFTER THIS PERIOD IS NOT REFUNDABLE.

(6) UPON REQUEST OF THE DEPARTMENT OF REVENUE AS PART OF AN AUDIT, A TAXPAYER MUST PROVIDE THE DEPARTMENT WITH DOCUMENTATION FROM THE EMPLOYEE'S MEDICAL PROVIDER, WHICH THE TAXPAYER RECEIVED FROM THE EMPLOYEE, THAT VERIFIES THE EMPLOYEE'S ORGAN DONATION. IF THE TAXPAYER CANNOT PROVIDE THE DOCUMENTATION, THEN THE TAXPAYER IS INELIGIBLE FOR THE CREDIT UNDER THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 24-72-602, **amend** (3)(a) introductory portion, (3)(a)(II), and (3)(b); and **add** (3)(c) as follows:

24-72-602. Access to personal medical information prohibited - exceptions.

(3) This section does not:

(a) Prohibit the department from accessing an invoice, a sales receipt, or other documentation of a sale necessary to substantiate an exemption from state sales tax under section 39-26-717 ~~C.R.S.~~, as long as:

(II) Any information in the documentation that identifies or could be used to identify an individual patient or that indicates a patient diagnosis or treatment plan has been redacted from the documentation; ~~or~~

(b) Override the authority of the department to obtain and use a written medical opinion in accordance with section 42-2-112; ~~C.R.S.~~; OR

(c) APPLY TO A REQUEST BY THE DEPARTMENT FOR INFORMATION IN ACCORDANCE WITH SECTION 39-22-540 (6).

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 29, 2018