

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

REVISED

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

LLS NO. 21-0727.01 Esther van Mourik x4215

HOUSE BILL 21-1155

HOUSE SPONSORSHIP

Arndt and Pico, Lynch, Valdez D., Duran, Ortiz, Snyder

SENATE SPONSORSHIP

Zenzinger and Woodward, Kirkmeyer, Moreno

House Committees

Finance

Senate Committees

Business, Labor, & Technology

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE SALES AND USE TAX STATUTES IN**
102 **ORDER TO ADDRESS CERTAIN DEFECTS AND ANACHRONISMS.**

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. Section 1 of the bill changes the cross references to certain definitions related to bingo that were relocated as a result of Senate Bill 17-232. The statutory references were not correctly changed for purposes of the bingo equipment sales and use tax exemption. This section addresses that defect.

Section 2 removes the words "low-emitting" from the description

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
2nd Reading Unamended
April 19, 2021

HOUSE
3rd Reading Unamended
March 30, 2021

HOUSE
2nd Reading Unamended
March 29, 2021

of a sales tax exemption because the exemption is no longer conditioned on the motor vehicle being "low-emitting".

Section 3 corrects a missed conforming amendment. House Bill 20-1023 provided for the conditional repeal of section 39-26-105.3, C.R.S., to be effectively replaced with section 39-26-105.2, C.R.S. Section 39-26-204.5, C.R.S., a use tax statute, makes reference to section 39-26-105.2, C.R.S., but a conforming amendment to that section was not included in House Bill 20-1023. Section 3 adds the same conditional repeal to the use tax statute and provides the same hold harmless for retailers as is provided in section 39-26-105.2, C.R.S.

Section 4 addresses an anachronism in the sales tax statutes by repealing section 39-26-110, C.R.S. That statute specifies that a retailer doing business in 2 or more locations in Colorado may file one return that will cover all business locations. This statute was added as part of the "Emergency Retail Sales Tax Act of 1935" and has not been amended since, only moved around. With the advent of home rule taxing jurisdictions that can collect and administer their own sales and use tax, it is no longer possible that retailers doing business in more than one location in Colorado can file only one return to report all sales and use taxes collected because the department of revenue no longer administers all sales and use taxes in the state.

Section 5 addresses a defect in the sales tax statute by updating the statutory reference for the definition of "food" for purposes of a sales tax exemption for certain types of food. The definition of food is no longer located in 7 U.S.C. sec. 2012 (g). It is better to include a more general cross reference to all of 7 U.S.C. sec. 2012 instead of the specific subsection (g), which is now incorrect. A more general reference allows for later amendments to that section.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 39-26-720 as
3 follows:

4 **39-26-720. Bingo equipment.** (1) All sales of equipment, as
5 defined in ~~section 12-9-102 (5), C.R.S.~~ SECTION 24-21-602 (16), to a
6 bingo-raffle licensee, as defined in ~~section 12-9-102 (1.2), C.R.S., shall~~
7 ~~be~~ SECTION 24-21-602 (3), ARE exempt from taxation under part 1 of this
8 ~~article~~ ARTICLE 26.

9 (2) The storage, use, or consumption of equipment, as defined in

1 ~~section 12-9-102 (5), C.R.S.~~ SECTION 24-21-602 (16), by a bingo-affle
2 licensee, as defined in ~~section 12-9-102 (1.2), C.R.S., shall be~~ SECTION
3 24-21-602 (3), IS exempt from taxation under part 2 of this ~~article~~
4 ARTICLE 26.

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

7 **29-2-105. Contents of sales tax ordinances and proposals.**

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

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

24 (G) The exemption for sales of ~~low-emitting~~ motor vehicles,
25 power sources, or parts used for converting such power sources as
26 specified in section 39-26-719 (1); ~~C.R.S.;~~

27 **SECTION 3.** In Colorado Revised Statutes, **amend** 39-26-204.5

1 as follows:

2 **39-26-204.5. Remittance of tax - electronic database - retailer**
3 **held harmless - repeal.** (1) (a) The provisions of section 39-26-105.3
4 allowing vendors to be held harmless for collecting the incorrect amount
5 of tax due on a purchase when relying on a certified database to
6 determine the jurisdictions to which tax is owed shall apply to any retailer
7 doing business in this state and making sales of tangible personal property
8 for storage, use, or consumption in the state that collects and remits use
9 tax to the department of revenue as provided by law.

10 (b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE NINETY DAYS
11 AFTER THE DATE THAT THE REVISOR OF STATUTES IS NOTIFIED BY THE
12 DEPARTMENT OF REVENUE THAT A GEOGRAPHIC INFORMATION SYSTEM
13 THAT MEETS THE DEFINED SCOPE OF WORK SET FORTH IN THE REQUEST FOR
14 SOLICITATION, PROVIDED BY THE STATE, IS ONLINE, TESTED, AND VERIFIED
15 BY THE DEPARTMENT OF REVENUE TO BE OPERATIONAL, SUPPORTED, AND
16 AVAILABLE FOR A RETAILER TO USE TO DETERMINE THE TAXING
17 JURISDICTION IN WHICH AN ADDRESS RESIDES. THE DEPARTMENT OF
18 REVENUE SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING, BY EMAIL
19 TO REVISOROFSTATUTES.GA@STATE.CO.US, NO LATER THAN FIFTEEN DAYS
20 AFTER SUCH A SYSTEM IS ONLINE, TESTED, AND VERIFIED BY THE
21 DEPARTMENT OF REVENUE TO BE OPERATIONAL, SUPPORTED, AND
22 AVAILABLE FOR USE.

23 (2) THE PROVISIONS OF SECTION 39-26-105.2 ALLOWING VENDORS
24 TO BE HELD HARMLESS FOR COLLECTING THE INCORRECT AMOUNT OF TAX
25 DUE ON A PURCHASE WHEN USING THE DATA CONTAINED IN THE GIS
26 DATABASE, OR USING DATA FROM A THIRD-PARTY DATABASE THAT IS
27 VERIFIED TO USE THE MOST RECENT INFORMATION PROVIDED BY THE GIS

1 DATABASE, TO DETERMINE THE JURISDICTIONS TO WHICH TAX IS OWED
2 APPLIES TO ANY RETAILER DOING BUSINESS IN THIS STATE AND MAKING
3 SALES OF TANGIBLE PERSONAL PROPERTY FOR STORAGE, USE, OR
4 CONSUMPTION IN THE STATE THAT COLLECTS AND REMITS USE TAX TO THE
5 DEPARTMENT OF REVENUE AS PROVIDED BY LAW.

6 **SECTION 4.** In Colorado Revised Statutes, **repeal** 39-26-110 as
7 follows:

8 **39-26-110. Retailer - multiple locations.** ~~A retailer doing~~
9 ~~business in two or more places or locations, taxable under this part 1, may~~
10 ~~file each return covering all such business activities engaged within this~~
11 ~~state.~~

12 **SECTION 5.** In Colorado Revised Statutes, 39-26-707, **amend**
13 (1) introductory portion and (1)(a) as follows:

14 **39-26-707. Food, meals, beverages, and packaging -**
15 **definitions.** (1) The following shall be exempt from taxation under the
16 provisions of part 1 of this ~~article~~ ARTICLE 26:

17 (a) All sales of food purchased with food stamps. For the purposes
18 of this ~~paragraph (a)~~ SUBSECTION (1)(a), "food" ~~shall have~~ HAS the same
19 meaning as provided in ~~7 U.S.C. sec. 2012 (g)~~ IN 7 U.S.C. SEC. 2012, as
20 such section exists on October 1, 1987, or is thereafter amended.

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