

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

REREVISED

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

LLS NO. 21-0718.01 Esther van Mourik x4215

HOUSE BILL 21-1177

HOUSE SPONSORSHIP

Valdez D. and Lynch, Arndt, Pico, , Carver, Duran, Michaelson Jenet

SENATE SPONSORSHIP

Moreno and Woodward, Kirkmeyer, Zenzinger, Gardner, Kolker, Priola, Rankin, Scott, Sonnenberg

House Committees
Finance

Senate Committees
Finance

A BILL FOR AN ACT

101 **CONCERNING THE INCLUSION OF USE TAX EXEMPTIONS FOR CERTAIN**
102 **EXISTING SALES TAX EXEMPTIONS IN ORDER TO MAKE THE**
103 **EXEMPTIONS COMPATIBLE WITH FUNDAMENTAL PRINCIPLES OF**
104 **SALES AND USE TAX.**

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. All of the current law sections presented in the bill provide sales tax exemptions for specific items. None of the sales tax exemptions in the bill authorize corresponding use tax

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 9, 2021

SENATE
2nd Reading Unamended
April 8, 2021

HOUSE
3rd Reading Unamended
March 25, 2021

HOUSE
2nd Reading Unamended
March 24, 2021

exemptions. As a result, an item could conceivably become subject to use tax the instant the tax-exempt sale occurs. Most statutory sales tax exemptions have corresponding use tax exemptions to prevent this. Consequently, the bill addresses defects in statute by clarifying that an item that is subject to a sales tax exemption is actually exempt from both sales and use tax and makes those statutory sections compatible with the fundamental principles of use tax and Colorado supreme court decisions on the subject.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-707, **amend**
3 (2) introductory portion; and **add** (2)(f) and (2)(g) as follows:

4 **39-26-707. Food, meals, beverages, and packaging -**
5 **definitions.** (2) The following shall be exempt from taxation under the
6 provisions of part 2 of this ~~article~~ ARTICLE 26:

7 (f) THE STORAGE, USE, OR CONSUMPTION OF ALL FOOD PURCHASED
8 WITH FOOD STAMPS. FOR PURPOSES OF THIS SUBSECTION (2)(f), "FOOD"
9 HAS THE SAME MEANING AS PROVIDED IN 7 U.S.C. SEC. 2012, AS SUCH
10 SECTION EXISTS ON OCTOBER 1, 1987, OR IS THEREAFTER AMENDED.

11 (g) THE STORAGE, USE, OR CONSUMPTION OF ALL FOOD PURCHASED
12 WITH FUNDS PROVIDED BY THE SPECIAL SUPPLEMENTAL FOOD PROGRAM
13 FOR WOMEN, INFANTS, AND CHILDREN, AS PROVIDED FOR IN 42 U.S.C. SEC.
14 1786. FOR THE PURPOSES OF THIS SUBSECTION (2)(g), "FOOD" HAS THE
15 SAME MEANING AS PROVIDED IN 42 U.S.C. SEC. 1786, AS SUCH SECTION
16 EXISTS ON OCTOBER 1, 1987, OR IS THEREAFTER AMENDED.

17 **SECTION 2.** In Colorado Revised Statutes, 39-26-711.5, **amend**
18 (1) introductory portion as follows:

19 **39-26-711.5. Aircraft - use outside state.** (1) The sale, STORAGE,
20 USE, AND CONSUMPTION of a new or used aircraft shall be exempt from
21 taxation under the provisions of part 1 AND PART 2 of this ~~article~~ ARTICLE

1 26 if:

2 **SECTION 3.** In Colorado Revised Statutes, 39-26-717, **add** (3)
3 as follows:

4 **39-26-717. Drugs and medical and therapeutic devices -**
5 **definitions.** (3) THE STORAGE, USE, OR CONSUMPTION OF ANY ITEM THAT
6 IS EXEMPT FROM SALES TAX BY OPERATION OF SUBSECTION (2) OF THIS
7 SECTION IS EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF
8 THIS ARTICLE 26.

9 **SECTION 4.** In Colorado Revised Statutes, 39-26-718, **add** (2)
10 as follows:

11 **39-26-718. Charitable organizations - association or**
12 **organization of parents and teachers of public school students.**
13 (2) THE STORAGE, USE, OR CONSUMPTION OF ANY ITEM THAT IS EXEMPT
14 FROM SALES TAX BY OPERATION OF SUBSECTION (1)(b) OR (1)(c) OF THIS
15 SECTION IS EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF
16 THIS ARTICLE 26.

17 **SECTION 5.** In Colorado Revised Statutes, 39-26-725, **add** (4)
18 as follows:

19 **39-26-725. Sales related to a school - definitions.** (4) THE
20 STORAGE, USE, OR CONSUMPTION OF ANY ITEM THAT IS EXEMPT FROM
21 SALES TAX BY OPERATION OF SUBSECTION (2) OF THIS SECTION IS EXEMPT
22 FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE 26.

23 **SECTION 6.** In Colorado Revised Statutes, 39-26-729, **add** (3)
24 as follows:

25 **39-26-729. Retail sales of marijuana.** (3) THE STORAGE, USE, OR
26 CONSUMPTION OF ANY RETAIL MARIJUANA THAT IS EXEMPT FROM SALES
27 TAX BY OPERATION OF SUBSECTION (1) OF THIS SECTION IS EXEMPT FROM

1 TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE 26.

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