

CHAPTER 119

TAXATION

HOUSE BILL 21-1158

BY REPRESENTATIVE(S) Lynch and Valdez D., Arndt, Pico, Baisley, Duran, Esgar, Exum, Holtorf, McCluskie, McCormick, McLachlan, Ricks, Young;
 also SENATOR(S) Kirkmeyer, Moreno, Woodward, Zenzinger, Cooke, Gardner, Hisey, Holbert, Kolker, Liston, Lundeen, Priola, Rankin, Simpson, Sonnenberg.

AN ACT

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

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

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

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

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

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

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

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

(a) "Agricultural compounds" means:

~~(I) Insecticides, fungicides, growth-regulating chemicals, enhancing compounds, vaccines, and hormones;~~

~~(II) Drugs, whether dispensed in accordance with a prescription or not, that are used for the prevention or treatment of disease or injury in livestock; and~~

~~(III) Animal pharmaceuticals that have been approved by the food and drug administration.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29-2-105. Contents of sales tax ordinances and proposals. (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article 2 shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in subsection (1)(d) of this section. Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

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

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

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

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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 7, 2021