

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 22-0153.01 Jason Gelender x4330

HOUSE BILL 22-1039

HOUSE SPONSORSHIP

Kipp and Van Winkle,

SENATE SPONSORSHIP

Bridges and Woodward,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING SIMPLIFICATION OF THE MEANS BY WHICH PROOF OF**
102 **ELIGIBILITY FOR SALES AND USE TAX EXEMPTIONS IS**
103 **ESTABLISHED.**

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/>.)

Sales and Use Tax Simplification Task Force. For some, but not all, exemptions from state and state-collected local sales and use taxes, a person who wishes to establish the right to obtain an exemption is either explicitly required by state law or required by the department of revenue (department) as it administers and enforces state law to complete a form

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.

HOUSE
2nd Reading Unamended
February 23, 2022

created by the department, which, depending on which exemption is sought, may be described as an affidavit, application, certificate, certification, declaration, or statement. The bill requires the department to examine its forms and requirements relating to their use and, to the extent feasible without impairing the proper administration of the exemptions, simplify the forms and related requirements for persons making tax-exempt purchases. Exceptions to existing statutory requirements relating to the forms are made for any simplifications made by the department.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-26-730 as
3 follows:

4 **39-26-730. Sales and use tax exemption forms - simplification.**

5 (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

6 (a) IN MANY CASES, A PERSON WHO WISHES TO ESTABLISH THE
7 RIGHT TO OBTAIN AN EXEMPTION ALLOWED BY THIS PART 7 IS REQUIRED
8 TO COMPLETE A FORM CREATED BY THE DEPARTMENT OF REVENUE WHICH,
9 DEPENDING ON WHICH EXEMPTION IS SOUGHT, MAY BE DESCRIBED AS AN
10 AFFIDAVIT, APPLICATION, CERTIFICATE, CERTIFICATION, DECLARATION, OR
11 STATEMENT; AND

12 (b) THE BURDENS OF ESTABLISHING THE RIGHT TO AN EXEMPTION
13 ALLOWED BY THIS PART 7 THAT ARE IMPOSED ON PERSONS MAKING
14 TAX-EXEMPT PURCHASES SHOULD BE MINIMIZED TO THE EXTENT FEASIBLE
15 WITHOUT IMPAIRING THE PROPER ADMINISTRATION OF THE EXEMPTIONS.

16 (2) THE DEPARTMENT OF REVENUE SHALL EXAMINE ITS SALES AND
17 USE TAX EXEMPTION FORMS AND ITS REQUIREMENTS RELATING TO THEIR
18 USE AND, TO THE EXTENT FEASIBLE WITHOUT IMPAIRING THE PROPER
19 ADMINISTRATION OF THE EXEMPTIONS, SIMPLIFY THE FORMS, WHICH
20 SIMPLIFICATION MAY INCLUDE ELIMINATION OF CERTAIN FORMS OR

1 CONSOLIDATION OF FORMS, AND FORM-RELATED REQUIREMENTS FOR
2 PERSONS MAKING TAX-EXEMPT PURCHASES AS ALLOWED BY THIS ARTICLE
3 26. THE DEPARTMENT SHALL COMPLETE THE INITIAL SIMPLIFICATION ON
4 OR BEFORE JULY 1, 2023, AND SHALL CONTINUE TO PURSUE
5 SIMPLIFICATION THEREAFTER AS THE PROVISIONS OF THIS PART 7 OR
6 OTHER RELEVANT CIRCUMSTANCES CHANGE.

7 **SECTION 2.** In Colorado Revised Statutes, 39-26-708, **amend**
8 (3) as follows:

9 **39-26-708. Construction and building materials.** (3) On
10 application by a purchaser or seller, the department of revenue shall issue
11 to a contractor or subcontractor a certificate of exemption indicating that
12 the contractor's or subcontractor's purchase of construction or building
13 materials is for a purpose stated in subsection (1) of this section and is,
14 therefore, free from sales tax. UNLESS THE DEPARTMENT DETERMINES
15 PURSUANT TO SECTION 39-26-730(2) THAT FORMS CAN BE CONSOLIDATED
16 OR ELIMINATED, the department shall provide forms for the application
17 and certificate and shall have the authority to verify that the contractor or
18 subcontractor is, in fact, entitled to the issuance of the certificate prior to
19 such issuance.

20 **SECTION 3.** In Colorado Revised Statutes, 39-26-709, **amend**
21 (1)(g) as follows:

22 **39-26-709. Machinery and machine tools - definitions.**
23 (1)(g) UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO
24 SECTION 39-26-730 (2) THAT THE DECLARATION CAN BE CONSOLIDATED
25 WITH ANOTHER FORM OR ELIMINATED, to receive an exemption under this
26 subsection (1), a declaration of entitlement shall be filed by the purchaser
27 with the vendor of the machinery or machine tools, or parts thereof, and

1 with the executive director of the department. ~~of revenue.~~

2 **SECTION 4.** In Colorado Revised Statutes, 39-26-711.5, **amend**
3 (2) as follows:

4 **39-26-711.5. Aircraft - use outside state.** (2) A purchaser of an
5 aircraft who claims the exemption allowed by this section shall, at the
6 time of purchase AND UNLESS THE DEPARTMENT OF REVENUE DETERMINES
7 PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE
8 CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, provide to the seller
9 an affidavit that the purchaser is not a resident of the state and that the
10 purchaser agrees to pay the tax imposed by part 1 of this ~~article~~ ARTICLE
11 26 if the purchaser fails to comply with the requirements of ~~paragraphs~~
12 ~~(b) and (c) of subsection (1)~~ SUBSECTION (1)(b) OR (1)(c) of this section.

13 **SECTION 5.** In Colorado Revised Statutes, 39-26-711.8, **amend**
14 (2) as follows:

15 **39-26-711.8. Aircraft - use outside state - on-demand air**
16 **carriers.** (2) A purchaser of an aircraft who claims the exemption
17 allowed by this section shall, at the time of purchase AND UNLESS THE
18 DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730
19 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR
20 ELIMINATED, provide to the seller an affidavit that the aircraft will be used
21 by an on-demand air carrier and that the purchaser agrees to pay the tax
22 imposed by part 1 or part 2 of this ~~article~~ ARTICLE 26, as applicable, if the
23 purchaser fails to comply with the requirements of ~~paragraphs (b), (c) and~~
24 ~~(d) of subsection (1)~~ SUBSECTIONS (1)(b), (1)(c), AND (1)(d) of this
25 section.

26 **SECTION 6.** In Colorado Revised Statutes, 39-26-712, **amend**
27 (1), (2) introductory portion, (2)(a), and (2)(b) as follows:

1 **39-26-712. Trailers and trucks.** (1) The following ~~shall be~~ ARE
2 exempt from taxation under the provisions of part 1 of this ~~article~~
3 ARTICLE 26:

4 (a) The sale of a new or used trailer, semitrailer, truck, truck
5 tractor, or truck body manufactured within this state if such vehicle is
6 purchased from the manufacturer for use exclusively outside this state or
7 in interstate commerce and is delivered by the manufacturer to the
8 purchaser within this state, if the purchaser drives or moves such vehicle
9 to any point outside this state within thirty days after the date of delivery,
10 and if, the purchaser furnishes an affidavit to the manufacturer that such
11 vehicle will be permanently licensed and registered outside this state and
12 will be removed from this state within thirty days after the date of
13 delivery, UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT
14 TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED
15 WITH ANOTHER FORM OR ELIMINATED; and

16 (b) The sale of a new or used trailer, semitrailer, truck, truck
17 tractor, or truck body if such vehicle is purchased for use exclusively
18 outside this state or in interstate commerce and is delivered by the
19 manufacturer or licensed Colorado dealer to the purchaser within this
20 state, if the purchaser drives or moves such vehicle to any point outside
21 this state within thirty days after the date of delivery, and if the purchaser
22 furnishes an affidavit to the seller that such vehicle will be permanently
23 licensed and registered outside this state and will be removed from this
24 state within thirty days after the date of delivery, UNLESS THE
25 DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730
26 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR
27 ELIMINATED.

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

3 (a) The storage or use of a new or used trailer, semitrailer, truck,
4 truck tractor, or truck body manufactured within this state if such vehicle
5 is purchased from the manufacturer for use exclusively outside this state
6 or in interstate commerce and is delivered by the manufacturer to the
7 purchaser within this state, if the purchaser drives or moves such vehicle
8 to any point outside this state within thirty days after the date of delivery,
9 and if the purchaser furnishes an affidavit to the manufacturer that such
10 vehicle will be permanently licensed and registered outside this state and
11 will be removed from this state within thirty days after the date of
12 delivery, UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT
13 TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED
14 WITH ANOTHER FORM OR ELIMINATED;

15 (b) The storage or use of a new or used trailer, semitrailer, truck,
16 truck tractor, or truck body if such vehicle is purchased for use
17 exclusively outside this state or in interstate commerce and is delivered
18 by the manufacturer or licensed Colorado dealer to the purchaser within
19 this state, if the purchaser drives or moves such vehicle to any point
20 outside this state within thirty days after the date of delivery, and if the
21 purchaser furnishes an affidavit to the seller that such vehicle will be
22 permanently licensed and registered outside this state and will be
23 removed from this state within thirty days after the date of delivery,
24 UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO
25 SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH
26 ANOTHER FORM OR ELIMINATED; and

27 **SECTION 7.** In Colorado Revised Statutes, 39-26-716, **amend**

1 (4)(f)(II) as follows:

2 **39-26-716. Agriculture and livestock - special fuels -**
3 **definitions.** (4) The following are exempt from taxation under the
4 provisions of parts 1 and 2 of this article 26:

5 (f) (II) UNLESS THE DEPARTMENT OF REVENUE DETERMINES
6 PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE
7 CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, the lessor or seller
8 of such farm equipment shall obtain a signed affidavit from the lessee,
9 renter, or purchaser affirming that the farm equipment will be used
10 primarily and directly in a farm operation.

11 **SECTION 8.** In Colorado Revised Statutes, 39-26-723, **amend**
12 (2) as follows:

13 **39-26-723. Colorado wood products - repeal.** (2) For purposes
14 of the exemption specified in subsection (1) of this section, UNLESS THE
15 DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730
16 (2) THAT THE FORM CAN BE CONSOLIDATED WITH ANOTHER FORM OR
17 ELIMINATED, a wholesaler shall certify on a form prescribed by the
18 department of revenue that a product is from salvaged trees killed or
19 infested in Colorado by mountain pine beetles or spruce beetles.

20 **SECTION 9. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in

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