

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0481.01 Pierce Lively x2059

**HOUSE BILL 22-1118**

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**HOUSE SPONSORSHIP**

**Daugherty,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING LIMITATIONS ON PURCHASERS' CLAIMS FOR SALES AND**  
102 **USE TAX REFUNDS.**

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**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>.)*

The bill requires the executive director of the department of revenue (executive director) to issue a voucher to the controller in favor of a purchaser who makes a valid and complete claim for a sales and use tax overpayment refund on or after July 1, 2022. The voucher must be for the amount of the refund of the sales or use tax overpayment without interest.

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.*

If a purchaser makes a frivolous claim for a sales and use tax refund, the bill requires the executive director to assess and collect, in addition to other penalties provided by law, a civil penalty equal to 10% of the total refund claimed. If the frivolous claim is prepared, in whole or in part, by a person other than the purchaser, the executive director can impose the penalty on that other person. In certain cases, the executive director may waive this penalty.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-21-110,  
3 **amend** (1) introductory portion and (1)(b); and **add** (1)(c) as follows:

4 **39-21-110. Interest on overpayments.** (1) Interest shall be  
5 allowed and paid upon any overpayment in respect to any tax or any  
6 charge on oil and gas production imposed pursuant to articles 22 to 29 of  
7 this title, article 60 of title 34, or article 3 of title 42 ~~C.R.S.~~, at the rate  
8 imposed under section 39-21-110.5. Such interest shall be allowed and  
9 paid as follows:

10 (b) EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION,  
11 in the case of a refund, from the date of the overpayment to a date, to be  
12 determined by the executive director of the department of revenue or his  
13 THEIR delegate, preceding the date of the refund by not more than thirty  
14 days, whether or not such refund is accepted by the taxpayer after tender  
15 of such refund to the taxpayer. The acceptance of such refund shall be  
16 without prejudice to any right of the taxpayer to claim any additional  
17 overpayment and interest thereon; OR

18 (c) (I) IN THE CASE OF A REFUND CLAIM MADE BY A PURCHASER  
19 FOR SALES OR USE TAX PAID TO A VENDOR UNDER SECTION 39-26-703 (2)  
20 ON OR AFTER JULY 1, 2022, BUT BEFORE JULY 1, 2026, FROM THE DATE  
21 THAT THE CLAIM FOR REFUND WAS FILED TO A DATE, TO BE DETERMINED  
22 BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OR THEIR

1 DELEGATE, PRECEDING THE DATE OF THE REFUND BY NOT MORE THAN  
2 THIRTY DAYS, WHETHER OR NOT SUCH REFUND IS ACCEPTED BY THE  
3 TAXPAYER AFTER TENDER OF SUCH REFUND TO THE TAXPAYER, BUT ONLY  
4 IF THE DATE OF THE REFUND IS MORE THAN ONE HUNDRED AND EIGHTY  
5 DAYS FROM THE DATE THE CLAIM FOR REFUND WAS FILED. THE  
6 ACCEPTANCE OF SUCH REFUND SHALL BE WITHOUT PREJUDICE TO ANY  
7 RIGHT OF THE PURCHASER TO CLAIM ANY ADDITIONAL OVERPAYMENT AND  
8 INTEREST THEREON.

9 (II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JULY 1, 2030.

10 SECTION 2. In Colorado Revised Statutes, 39-26-703, **amend**  
11 (2)(d); and **add** (5) as follows:

12 **39-26-703. Disputes and refunds.** (2) (d) An application for  
13 refund under subsection (2)(c) or (2)(c.5) of this section ~~shall~~ MUST be  
14 made within the applicable deadline and ~~shall~~ MUST be made on forms  
15 prescribed and furnished by the executive director of the department of  
16 revenue, which form ~~shall~~ MUST contain, in addition to the foregoing  
17 information, such OTHER pertinent data, INFORMATION, OR  
18 DOCUMENTATION as the executive director prescribes BY RULES  
19 PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24. Except as  
20 set forth in section 29-2-106.1 (5)(b), the deadline for a sales tax refund  
21 or a refund of any use tax collected by a vendor is three years after the  
22 twentieth day of the month following the date of purchase and the  
23 deadline for any other use tax refund is three years after the twentieth day  
24 of the month following the initial date of the storage, use, or consumption  
25 in the state by the person applying for the refund.

26 (5) (a) (I) IF A PURCHASER FILES A FRIVOLOUS CLAIM FOR REFUND  
27 OF TAX PAID PURSUANT TO THIS ARTICLE 26 TO A VENDOR ON OR AFTER

1 JULY 1, 2022, BUT BEFORE JULY 1, 2026, THE EXECUTIVE DIRECTOR OF THE  
2 DEPARTMENT OF REVENUE SHALL ASSESS AND COLLECT, IN ADDITION TO  
3 OTHER PENALTIES PROVIDED BY LAW, A CIVIL PENALTY AS FOLLOWS:

4 (A) FIVE PERCENT OF THE TOTAL REFUND CLAIMED IF THE CLAIM  
5 IS FOUND TO BE MATERIALLY INCOMPLETE; AND

6 (B) TEN PERCENT OF THE AMOUNT OF THE REFUND CLAIM THAT IS  
7 FOUND TO BE DUPLICATIVE OR LACKING A REASONABLE BASIS IN LAW OR  
8 IN FACT.

9 (II) THE CIVIL PENALTY IMPOSED BY THIS SUBSECTION (5) APPLIES  
10 ONLY TO CLAIMS TOTALING FIVE THOUSAND DOLLARS OR MORE.

11 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE  
12 SHALL ASSESS AND COLLECT, IN THE SAME MANNER AS A SALES OR USE  
13 TAX DEFICIENCY, THE CIVIL PENALTY IMPOSED BY THIS SUBSECTION (5)  
14 FROM THE PURCHASER UNLESS THE CLAIM FOR REFUND IS PREPARED, IN  
15 WHOLE OR IN PART, BY A PERSON OTHER THAN THE PURCHASER, IN WHICH  
16 CASE THE PENALTY IS IMPOSED ON THAT PERSON. THE EXECUTIVE  
17 DIRECTOR SHALL GIVE THE PERSON AGAINST WHOM THE PENALTY IS  
18 ASSESSED WRITTEN NOTICE OF THE PENALTY IN ACCORDANCE WITH  
19 SECTION 39-21-105.5. WITHIN THIRTY DAYS AFTER SUCH NOTICE IS  
20 MAILED, THE PERSON AGAINST WHOM THE PENALTY WAS ASSESSED MAY  
21 PETITION THE EXECUTIVE DIRECTOR FOR A HEARING ON THE NOTICE IN THE  
22 MANNER PROVIDED IN SECTION 39-21-103 AND MAY APPEAL TO THE  
23 DISTRICT COURT IN THE MANNER PROVIDED IN SECTION 39-21-105.

24 (b) A CLAIM FOR REFUND IS FRIVOLOUS IF:

25 (I) IT IS INCOMPLETE;

26 (II) IT INCLUDES A PURCHASE FOR WHICH AN EARLIER CLAIM FOR  
27 REFUND HAS ALREADY BEEN FILED; OR

1 (III) IT, OR ANY PART OF IT, LACKS A REASONABLE BASIS IN LAW  
2 OR IN FACT.

3 (c) (I) A CLAIM FOR REFUND IS INCOMPLETE IF IT DOES NOT  
4 INCLUDE THE FORM AND SUBSTANTIALLY ALL OF THE PERTINENT DATA,  
5 INFORMATION, AND DOCUMENTATION REQUIRED BY SUBSECTION (2)(d) OF  
6 THIS SECTION AND THE RULES PROMULGATED THEREUNDER.

7 (II) PRIOR TO ASSESSING A PENALTY FOR A FRIVOLOUS CLAIM FOR  
8 REFUND DUE TO INCOMPLETENESS UNDER SUBSECTION (5)(b)(I) OF THIS  
9 SECTION, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE PURCHASER OR  
10 THE PREPARER OF THE CLAIM, IF ANY, THAT THE CLAIM APPEARS TO BE  
11 INCOMPLETE. THE NOTIFICATION MUST SPECIFY THE PERTINENT DATA,  
12 INFORMATION, AND DOCUMENTATION THAT APPEARS TO BE MISSING AND  
13 MUST STATE THAT FAILURE TO EITHER CORRECT THE OMISSION OR  
14 WITHDRAW THE CLAIM FOR REFUND WITHIN SIXTY DAYS OF THE DATE OF  
15 THE NOTICE, PLUS SUCH ADDITIONAL TIME ALLOWED BY THE EXECUTIVE  
16 DIRECTOR FOR REASONABLE CAUSE SHOWN, WILL RESULT IN THE  
17 ASSESSMENT AND COLLECTION OF THE CIVIL PENALTY ALLOWED UNDER  
18 THIS SUBSECTION (5). CORRECTING THE OMISSION REQUIRES THE  
19 PURCHASER OR PREPARER TO PROVIDE THE MISSING DATA, INFORMATION,  
20 AND DOCUMENTATION AND TO DEMONSTRATE WHY THE CLAIM IS NOT  
21 INCOMPLETE.

22 (d) IF AN APPLICATION FOR REFUND IS IDENTIFIED AT THE TIME OF  
23 FILING AS A PROTECTIVE CLAIM FILED IN ORDER TO PRESERVE THE RIGHT  
24 TO A REFUND PRIOR TO THE EXPIRATION OF THE STATUTE OF LIMITATIONS,  
25 THE EXECUTIVE DIRECTOR SHALL DETERMINE IF THE CLAIM FOR REFUND  
26 IS FRIVOLOUS AFTER THE CLAIM FOR REFUND IS PERFECTED.

27 (e) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE

1 MAY WAIVE THE CIVIL PENALTY IMPOSED BY THIS SUBSECTION (5) IF THE  
2 PERSON AGAINST WHOM THE PENALTY IS ASSESSED:

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4 (I) ESTABLISHES THAT A DUPLICATE CLAIM WAS NOT INTENTIONAL  
5 AND WAS EITHER MINIMAL OR IMMATERIAL; OR

6 (II) DEMONSTRATES OTHER GOOD CAUSE FOR WAIVER OF THE CIVIL  
7 PENALTY.

8 (f) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2030.

9 **SECTION 3. Safety clause.** The general assembly hereby finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, or safety.