

CHAPTER 160

TAXATION

SENATE BILL 22-006

BY SENATOR(S) Kolker and Rodriguez, Bridges, Cooke, Gardner, Hansen, Hisey, Holbert, Kirkmeyer, Lee, Liston, Lundeen, Pettersen, Priola, Rankin, Simpson, Smallwood, Woodward;
also REPRESENTATIVE(S) McLachlan and Snyder, Burnett, Bird, Bockenfeld, Boesenecker, Caraveo, Cutter, Duran, Exum, Herod, Hooton, Jodeh, Kipp, Lindsay, McCluskie, McKean, Michaelson Jenet, Ortiz, Pelton, Ricks, Roberts, Titone, Valdez A., Valdez D., Weissman, Will, Young, Garnett.

AN ACT

CONCERNING AN INCREASE IN THE AMOUNT OF SALES TAX REVENUE THAT A RETAILER MAY RETAIN TO COVER THE RETAILER'S EXPENSE IN COLLECTING AND REMITTING THE TAX, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The ongoing COVID-19 pandemic has caused adverse impacts to small businesses in Colorado and continues to do so;

(b) The financial viability of small businesses is critical to Colorado's economic recovery from the impacts of COVID-19;

(c) Retail businesses in Colorado are required to collect and remit sales tax revenue to the state; except that a retailer may retain a certain percentage of the sales tax collected for the expense of collecting and remitting the sales tax revenue; and

(d) The general assembly finds that in order to provide financial relief to small retail businesses in the state, department of revenue shall permit retailers with a certain amount of taxable sales to retain a larger percentage of the sales tax they collect.

SECTION 2. In Colorado Revised Statutes, 39-21-119.5, **add** (7) as follows:

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.

39-21-119.5. Mandatory electronic filing of returns - mandatory electronic payment - penalty - waiver - definitions. (7) (a) IN ORDER TO INDUCE THE ELECTRONIC PAYMENT OF TAXES AND FEES ADMINISTERED UNDER SECTION 39-21-102, THE EXECUTIVE DIRECTOR MAY DEDUCT PROCESSING COSTS FROM THE PAYMENT IN LIEU OF IMPOSING A CONVENIENCE FEE, AND IF THE PROCESSING COSTS ARE DEDUCTED FROM THE PAYMENT, THE EXECUTIVE DIRECTOR SHALL CREDIT THE FULL AMOUNT OF THE PAYMENT COLLECTED TO THE TAXPAYER'S ACCOUNT. PROCESSING COSTS MAY BE DEDUCTED BY THE EXECUTIVE DIRECTOR UNDER THIS SUBSECTION (7) REGARDLESS OF IF ELECTRONIC PAYMENT IS MANDATED UNDER THIS SECTION.

(b) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, IF THE EXECUTIVE DIRECTOR DEDUCTS PROCESSING COSTS PURSUANT TO THIS SUBSECTION (7), THE STATE TREASURER SHALL CREDIT THE FULL AMOUNT OF THE PAYMENT COLLECTED LESS THE DEDUCTED PROCESSING COSTS TO THE APPROPRIATE FUND.

(c) IF THE EXECUTIVE DIRECTOR IS REQUIRED TO DISTRIBUTE PAYMENT TO A LOCAL GOVERNMENT, THE EXECUTIVE DIRECTOR SHALL DEDUCT THE PROCESSING COSTS FROM STATE REVENUE AND SHALL NOT REDUCE THE AMOUNT DISTRIBUTED TO THE LOCAL GOVERNMENT.

(d) AS USED IN THIS SUBSECTION (7):

(I) "CONVENIENCE FEE" MEANS THE CONVENIENCE FEE THAT A STATE GOVERNMENTAL ENTITY IS AUTHORIZED TO IMPOSE ON A PERSON THAT USES ALTERNATIVE FORMS OF PAYMENT UNDER SECTION 24-19.5-103 (3).

(II) "PROCESSING COSTS" MEANS THE ACTUAL COSTS INCURRED BY THE DEPARTMENT TO PROCESS A TRANSACTION BY AN ALTERNATIVE FORM OF PAYMENT FOR WHICH THE DEPARTMENT IS AUTHORIZED TO IMPOSE A CONVENIENCE FEE.

SECTION 3. In Colorado Revised Statutes, 39-26-105, **amend** (1)(d)(I) as follows:

39-26-105. Vendor liable for tax - definitions - repeal. (1) (d) (I) (A) For sales made on or after January 1, 2020, EXCEPT AS PROVIDED IN SUBSECTION (1)(d)(I)(B) OF THIS SECTION, the amount retained by a retailer to cover the retailer's expense in collecting and remitting tax in accordance with this section is four percent of the tax reported; except that a retailer shall not retain more than one thousand dollars in any filing period.

(B) FOR SALES MADE ON AND AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2024, THE AMOUNT RETAINED BY A RETAILER TO COVER THE RETAILER'S EXPENSE IN COLLECTING AND REMITTING TAX IN ACCORDANCE WITH THIS SECTION FOR ANY FILING PERIOD THAT THE RETAILER'S TOTAL TAXABLE SALES ARE LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS IS FIVE AND THREE-TENTHS PERCENT OF THE TAX REPORTED; EXCEPT THAT A RETAILER SHOULD NOT RETAIN MORE THAN ONE THOUSAND DOLLARS IN ANY FILING PERIOD. THIS SUBSECTION (1)(d)(I)(B) IS REPEALED, EFFECTIVE JANUARY 1, 2032.

SECTION 4. In Colorado Revised Statutes, 39-26-123, **amend** (3)(b)(I); and

repeal (1)(a) as follows:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions. (1) As used in this section, unless the context otherwise requires:

(a) ~~"Increase in sales and use tax revenue attributable to the vendor fee changes" means an amount equal to the net revenue for a fiscal year minus what the net revenue would have been for the fiscal year if the amount retained by a vendor to cover the vendor's expenses in collecting and remitting sales tax had not been modified by House Bill 19-1245, enacted in 2019.~~

(3) For any state fiscal year commencing on or after July 1, 2013, the state treasurer shall credit eighty-five percent of all net revenue collected under this article 26 to the old age pension fund created in section 1 of article XXIV of the state constitution. The state treasurer shall credit to the general fund the remaining fifteen percent of the net revenue, less:

(b) (I) Except as set forth in subsection (3)(b)(II) of this section, an amount equal to the FISCAL YEAR increase in sales and use tax revenue attributable to the vendor fee changes MADE BY HOUSE BILL 19-1245, ENACTED IN 2019, which amount the state treasurer shall credit to the housing development grant fund created in section 24-32-721 (1).

SECTION 5. Appropriation. (1) For the 2022-23 state fiscal year, \$61,980 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

- (a) \$16,875 for tax administration IT system (GenTax) support;
- (b) \$6,400 for use by the executive director's office for personal services;
- (c) \$33,705 for use by the taxation services division for personal services; and
- (d) \$5,000 for use by the taxation services division for operating expenses.

SECTION 6. 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 16, 2022