

## CHAPTER 352

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**TAXATION**

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**HOUSE BILL 93-1330**

BY REPRESENTATIVES Chlouber, Foster, Prinster, May, Reeser, Acquafresca, Armstrong, Blue, Clark, Dyer, Eisenach, Entz, George, Gordon, Grampas, Hagedorn, Lawrence, Lyle, Martin, Moellenberg, Morrison, Reeves, Salaz, Schauer, Shoemaker, Snyder, Strom, Williams, Anderson, Berry, DeGette, Fleming, Friednash, R. Hernandez, T. Hernandez, June, Kaufman, Keller, Pierson, Sullivan, Tanner, Taylor, and Tucker;  
also SENATORS Bishop, Ruddick, Ament, Casey, Cassidy, Feeley, Hopper, Johnson, Lacy, Norton, Pastore, Peterson, L. Powers, R. Powers, Roberts, Schroeder, Traylor, Trujillo, Wattenberg, and Weissmann.

**AN ACT****CONCERNING THE REINSTATEMENT OF THE COLORADO TOURISM PROMOTION FUND TAX.**

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

**SECTION 1.** Article 26.1 of title 39, Colorado Revised Statutes, 1982 Repl. Vol., is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**ARTICLE 26.1**  
**Colorado Tourism Promotion Fund Tax**

**39-26.1-101. Tax on lodging services.** IN ADDITION TO THE TAX IMPOSED BY ARTICLE 26 OF THIS TITLE, THERE SHALL BE IMPOSED ON THE PURCHASE PRICE PAID OR CHARGED TO ANY PERSON FOR ROOMS OR ACCOMMODATIONS, AS INCLUDED IN THE DEFINITION OF "SALE" IN SECTION 39-26-102 (11), A TAX OF TWO-TENTHS OF ONE PERCENT.

**39-26.1-102. Tax on food and drink sales.** IN ADDITION TO THE TAX IMPOSED BY ARTICLE 26 OF THIS TITLE, THERE SHALL BE IMPOSED ON THE PURCHASE PRICE PAID OR CHARGED TO ANY PERSON FOR FOOD AND DRINK SALES, AS DESIGNATED IN SECTION 39-26-104 (1) (e), A TAX OF TWO-TENTHS OF ONE PERCENT.

**39-26.1-103. Tax on ski lift and admission tickets.** THERE SHALL BE IMPOSED ON THE SALE OF EACH TICKET ALLOWING THE PURCHASER TO RIDE LIFTS, TRAMWAYS,

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

GONDOLAS, AND OTHER CONVEYANCES OR TO UTILIZE SLOPES, TRAILS, AND OTHER FACILITIES FOR THE PURPOSE OF SKIING A TAX OF TWO-TENTHS OF ONE PERCENT ON THE PURCHASE PRICE PAID OR CHARGED TO ANY PERSON FOR EACH TICKET.

**39-26.1-104. Tax on private tourist attraction admissions - exemptions.**

(1) THERE SHALL BE IMPOSED ON THE SALE OF EACH TICKET OR OTHER CHARGE ALLOWING ADMISSION TO OR PARTICIPATION IN ANY PRIVATE TOURIST ATTRACTION A TAX OF TWO-TENTHS OF ONE PERCENT ON THE PURCHASE PRICE PAID OR CHARGED TO ANY PERSON FOR EACH TICKET. FOR PURPOSES OF THIS SECTION, "PRIVATE TOURIST ATTRACTION" MEANS ANY COMMERCIAL ENTITY WHICH APPEALS TO THE RECREATIONAL DESIRES AND TASTES OF THE TRAVELING PUBLIC THROUGH THE PRESENTATION OF SERVICES OR DEVICES DESIGNED TO ENTERTAIN OR EDUCATE VISITORS, INCLUDING BUT NOT LIMITED TO:

- (a) AMUSEMENT PARKS AND CARNIVALS;
- (b) AERIAL TRAMWAYS;
- (c) COMMERCIAL ANIMAL, REPTILE, AND ZOOLOGICAL EXHIBITS;
- (d) COMMERCIAL BEACHES AND HOT SPRINGS;
- (e) BOAT, RAFT, AND KAYAK RENTALS AND TOURS;
- (f) CAVES, WATERFALLS, OBSERVATION TOWERS, AND OTHER SCENIC AND NATURAL WONDERS;
- (g) HISTORIC STRUCTURES;
- (h) HORSE SHOWS AND RODEOS;
- (i) COMMERCIAL MUSEUMS AND WAX EXHIBITS;
- (j) RIDES ON AIRPLANES, BALLOONS, GLIDERS, PARACHUTES, SCENIC RAILROADS, AND OTHER FORMS OF TRANSPORTATION FOR AMUSEMENT PURPOSES; EXCEPT THAT COMMON CARRIERS SUBJECT TO THE FARE TAX IMPOSED BY SECTION 39-26.1-106 ARE NOT INCLUDED IN THIS PARAGRAPH (j); AND
- (k) AUTOMOBILE, BICYCLE, DOG, HORSE, AND OTHER RACING EVENTS.

(2) ATTRACTIONS OWNED OR OPERATED BY THE FEDERAL, STATE, OR UNITS OF LOCAL GOVERNMENT SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION.

(3) ATTRACTIONS OPERATED ON AN OCCASIONAL OR INTERMITTENT BASIS FOR FUND-RAISING PURPOSES BY NONPROFIT CHARITABLE ORGANIZATIONS WHOSE ORDINARY ACTIVITIES DO NOT INVOLVE THE OPERATION OF SUCH ATTRACTIONS SHALL BE EXEMPT FROM THE ADMISSIONS TAX IMPOSED BY THIS SECTION.

**39-26.1-105. Tax on rental automobiles.** IN ADDITION TO ANY TAX IMPOSED BY ARTICLE 26 OF THIS TITLE, THERE SHALL BE IMPOSED ON THE PURCHASE PRICE PAID OR CHARGED TO ANY PERSON FOR THE RENTAL OF A PASSENGER AUTOMOBILE A TAX

OF TWO-TENTHS OF ONE PERCENT.

**39-26.1-106. Tax on tour bus and sightseeing carrier tickets.** THERE SHALL BE IMPOSED ON THE SALE OF EACH TICKET OR FARE ALLOWING PASSAGE ON TOUR BUSES AND OTHER COMMON CARRIERS ENGAGED IN TRANSPORTING PASSENGERS FOR SIGHTSEEING PURPOSES A TAX OF TWO-TENTHS OF ONE PERCENT.

**39-26.1-107. Vendor liable for tax - schedule.** (1) EVERY RETAILER, VENDOR, OPERATOR, AND OTHER PERSON WHO SELLS GOODS AND SERVICES SUBJECT TO TAX UNDER THIS ARTICLE SHALL BE LIABLE AND RESPONSIBLE FOR THE PAYMENT OF TAXES DUE UNDER THIS ARTICLE AND SHALL MAKE A RETURN AND REMIT SAID TAXES TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE AT SUCH TIMES AND IN SUCH MANNER AS THE EXECUTIVE DIRECTOR SHALL PRESCRIBE. THE TAX IMPOSED BY THIS ARTICLE MAY BE INCLUDED IN THE PURCHASE PRICE ACTUALLY PAID AND NEED NOT BE STATED AS A SEPARATE AND DISTINCT ITEM.

(2) THE COLLECTION OF THE TWO-TENTHS OF ONE PERCENT TAX ON LODGING, FOOD AND DRINK, AND RENTAL AUTOMOBILES IMPOSED BY SECTIONS 39-26.1-101, 39-26.1-102, AND 39-26.1-105 SHALL BE COMPUTED IN ACCORDANCE WITH SCHEDULES OR SYSTEMS APPROVED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. SUCH SCHEDULES OR SYSTEMS SHALL BE DESIGNED SO THAT NO SUCH TAX IS CHARGED ON ANY SALE OF ONE DOLLAR OR LESS.

**39-26.1-108. Rules and regulations.** THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, IN CONSULTATION WITH THE COLORADO TOURISM BOARD CREATED IN SECTION 24-32-1304, C.R.S., SHALL FORMULATE AND PROMULGATE, AFTER HEARING, APPROPRIATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSE OF THIS ARTICLE.

**39-26.1-109. Sales tax provisions applicable - exemption from tax limit.** (1) THE PROVISIONS OF PART 1 OF ARTICLE 26 OF THIS TITLE, SO FAR AS THEY ARE APPLICABLE, SHALL APPLY TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO PROVISIONS FOR LICENSES, PENALTIES, AND INTEREST.

(2) THE TAX AUTHORIZED IN THIS ARTICLE IS AN ADDITIONAL TAX LEVIED TO PROVIDE MONEYS FOR THE COLORADO TOURISM PROMOTION FUND. TO PREVENT THIS ADDITIONAL TAX FROM WORKING A HARDSHIP ON LOCAL GOVERNMENTS BY REDUCING THEIR ABILITY TO TAX WITHIN THE LIMITATION OF THE SALES OR USE TAX REQUIRED BY SECTION 29-2-108, C.R.S., THE TAX IMPOSED BY THIS ARTICLE SHALL BE EXEMPTED FROM SAID LIMITATION.

**39-26.1-110. Tax procedure and administration provisions applicable.** THE PROVISIONS OF ARTICLE 21 OF THIS TITLE, SO FAR AS THEY ARE APPLICABLE, SHALL APPLY TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO PROVISIONS FOR HEARINGS, RECORDKEEPING, AND REPORTS AND RETURNS.

**39-26.1-111. Receipts - disposition - appropriation.** (1) ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED AS PROVIDED FOR IN SECTION 39-26-123.

(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, AN AMOUNT

EQUAL TO ONE HUNDRED PERCENT OF THE SALES TAXES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE TRANSFERRED OUT OF THE GENERAL FUND TO THE COLORADO TOURISM PROMOTION FUND TO BE AVAILABLE FOR APPROPRIATION BY THE GENERAL ASSEMBLY IN ACCORDANCE WITH SECTION 24-32-1306, C.R.S. SUCH TRANSFERS SHALL BE MADE BY THE STATE TREASURER AS SOON AS POSSIBLE AFTER THE TWENTIETH DAY OF THE MONTH FOLLOWING THE COLLECTION OF SUCH SALES TAX.

(3) THE AMOUNT OF THE TRANSFER TO THE COLORADO TOURISM PROMOTION FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL NOT EXCEED THIRTEEN MILLION ONE HUNDRED THOUSAND DOLLARS FOR THE 1994-95 FISCAL YEAR, NOR SHALL IT EXCEED THIRTEEN MILLION ONE HUNDRED THOUSAND DOLLARS AS ADJUSTED FOR EACH FISCAL YEAR AFTER 1994-95 FOR INFLATION PLUS THE PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR. FOR PURPOSES OF THIS SECTION, "INFLATION" HAS THE MEANING SET FORTH IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND IN SECTION 24-77-102 (8), C.R.S., AND THE PERCENTAGE CHANGE IN STATE POPULATION SHALL BE DETERMINED IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND AS PROVIDED IN SECTION 24-77-103 (2) (b), C.R.S. WHENEVER ONE HUNDRED PERCENT OF THE SALES TAXES COLLECTED IN ANY FISCAL YEAR PURSUANT TO THIS ARTICLE EXCEEDS THE PERMISSIBLE AMOUNT OF THE TRANSFER UNDER THIS SUBSECTION (3), THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION GOVERNING TAX REFUNDS SHALL APPLY.

**39-26.1-112. Implementation of tax.** THE SALES TAX PROVIDED FOR IN THIS ARTICLE SHALL BE IMPOSED UPON THE GOVERNOR'S PROCLAMATION OR THIRTY DAYS AFTER A CANVASS OF ALL VOTES IS COMPLETED, WHICHEVER OCCURS EARLIER.

**39-26.1-113. Legislative declaration - submission to voters - severability.** THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE REINSTATEMENT OF THE TAX IMPOSED BY THIS ARTICLE IS A TAX RATE INCREASE SUBJECT TO THE PROVISIONS OF SECTION 20 (4) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND IS SUBJECT TO VOTER APPROVAL; THAT IN FORMULATING THE BALLOT TITLE FOR THE MEASURE, THE GENERAL ASSEMBLY HAS COMPLIED WITH SECTION 20 (3) (c) OF SAID ARTICLE X WHICH SPECIFIES HOW BALLOT TITLES FOR SUCH MEASURES MUST BEGIN; THAT THE BALLOT TITLE FOR THE MEASURE FULLY DISCLOSES TO THE VOTERS THAT THE AMOUNT OF TAX PROCEEDS WHICH THEY ARE BEING ASKED TO AUTHORIZE WILL BE SUBJECT TO INCREASE AFTER THE FIRST FULL FISCAL YEAR OF IMPLEMENTATION; THAT IF THE MEASURE IS APPROVED BY THE VOTERS, IT SHALL CONSTITUTE A REVENUE CHANGE APPROVED BY VOTERS WITHIN THE MEANING OF SECTION 20 (7) (a) AND (7) (d) OF SAID ARTICLE X; THAT SAID REVENUE CHANGE ENCOMPASSES THE DOLLAR AMOUNTS RAISED BY THE TAX, INCLUDING THE ADJUSTMENTS DESCRIBED AND SET FORTH IN THE BALLOT TITLE AND IN SECTION 39-26.1-111 (3), AS WELL AS THE SPECIFIC DOLLAR FIGURE SET FORTH IN THE BALLOT TITLE; AND THAT THE DOLLAR AMOUNTS RAISED BY THE TAX, INCLUDING THE ADJUSTMENTS DESCRIBED AND SET FORTH IN THE BALLOT TITLE AND SECTION 39-26.1-111 (3), CONSTITUTE THE DOLLAR AMOUNTS REFERRED TO IN SECTION 20 (7) (d) OF SAID ARTICLE X.

(2) THE PURPOSE OF THIS ARTICLE IS TO SECURE A DEPENDABLE SOURCE OF REVENUE TO PAY FOR THE ACTIVITIES OF THE COLORADO TOURISM BOARD AS SET FORTH IN PART 13 OF ARTICLE 32 OF TITLE 24, C.R.S., AND TO PROVIDE FOR A SOURCE OF REVENUE WHICH WILL GROW IN PROPORTION TO THE EXPANDING NEED FOR

ACTIVITIES WHICH WILL PROMOTE AND DEVELOP THE STATE'S TOURISM INDUSTRY. HOWEVER, IN THE EVENT THAT IT IS FOUND BY A COURT OF COMPETENT JURISDICTION THAT THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION DO NOT PERMIT A VOTER-APPROVED REVENUE CHANGE WHICH INCORPORATES SUCH GROWTH IN REVENUES, THE PORTIONS OF SECTION 39-26.1-111 AND OF THE BALLOT TITLE WHICH PROVIDE FOR AN ADJUSTMENT OF PERMISSIBLE REVENUES BASED ON INFLATION AND POPULATION GROWTH SHALL BE DEEMED TO BE SEVERABLE FROM THE REMAINDER OF SUCH STATUTE AND SUCH BALLOT TITLE, AND THAT THE VALID PORTIONS OF THE STATUTE AND BALLOT TITLE ARE NOT SO ESSENTIALLY AND INSEPARABLY CONNECTED WITH OR DEPENDENT UPON THE INVALID PORTIONS THAT THE VALID PORTIONS WOULD NOT HAVE BEEN ENACTED WITHOUT THE INVALID PORTIONS.

**SECTION 2. Referral for voter approval.** Section 1 of this act shall be submitted to a vote of the registered electors of the state of Colorado at the next state-wide election for their approval or rejection in accordance with the provisions of section 1 of article V and section 20 of article X of the state constitution. Each elector voting at said election and desirous of voting for or against said act shall cast a vote as provided by law either "Yes" or "No" on the proposition: "Shall state taxes be increased by \$13,100,000 annually in the first full fiscal year of implementation, and by \$13,100,000 as adjusted for inflation plus the percentage change in state population for each fiscal year after the first full fiscal year of implementation, by reinstating the 0.2 percent sales tax on tourist-related items, including lodging services, restaurant food and drinks, ski lift admission, private tourist attraction admission, passenger automobile rental, and tour bus and sightseeing tickets for the purpose of funding statewide tourism marketing and promotional programs under the Colorado tourism board in order to assist future tourism growth and promote Colorado's continuing economic health?"

**SECTION 3.** The votes cast for the adoption or rejection of said act shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", said act shall become law.