

CHAPTER 210

TAXATION

SENATE BILL 98-049

BY SENATORS Schroeder, Alexander, Bishop, Chlouber, Congrove, Hernandez, Lamborn, Mutzebaugh, Norton, Powers, Tebedo, and Wham;
also REPRESENTATIVES May, Adkins, Agler, Arrington, C. Berry, Epps, Hagedorn, Hefley, Kreutz, McElhany, McPherson, Paschall, Pfiffner, Smith, Sullivant, Swenson, and Tupa.

AN ACT

CONCERNING A PROHIBITION ON THE IMPOSITION BY GOVERNMENTAL ENTITIES OF CHARGES UPON ACCESS TO THE INTERNET.

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

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 79
Limitations on Sources of Revenue

24-79-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) FREE AND UNFETTERED ACCESS BY COLORADO'S CITIZENS TO NATIONAL AND GLOBAL COMMUNICATIONS MEDIA, INCLUDING, WITHOUT LIMITATION, THE INTERNET, IS ESSENTIAL TO CITIZEN PARTICIPATION IN STATE AND NATIONAL AFFAIRS THROUGH THE EXCHANGE OF INFORMATION AND THE CONTINUED VITALITY OF COMMERCE AT THE STATE, NATIONAL, AND INTERNATIONAL LEVELS;

(b) COLORADO'S LONG-TERM ECONOMIC HEALTH AND COMPETITIVENESS VIS-À-VIS THE ECONOMIES OF OTHER STATES AND NATIONS, INCLUDING THE BENEFITS OF FULL EMPLOYMENT AND THE ATTRACTION OF NEW BUSINESSES THAT MAY WISH TO LOCATE HERE, DEPEND ON CREATING A BUSINESS ENVIRONMENT THAT IS CONDUCIVE TO THE CONTINUED GROWTH OF COMMERCE VIA THE INTERNET AND ON-LINE SERVICES;

(c) A PATCHWORK OF LOCAL FEES AND TAXES, OR THE ADDITION OF STATE FEES

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

AND TAXES TO THOSE ALREADY IMPOSED ON BUSINESS ACTIVITY, WILL TEND TO DISCOURAGE NEW INVESTMENT, REDUCE THE NUMBER OF JOBS AVAILABLE IN THE STATE, AND DISSUADE CONSUMERS AND EMPLOYERS FROM ENJOYING THE ECONOMIC, SOCIAL, AND ENVIRONMENTAL BENEFITS OFFERED BY USE OF THE INTERNET, INCLUDING BUT NOT LIMITED TO TELECOMMUTING, JUST-IN-TIME INVENTORY CONTROL, AND ADVANCE RESERVATION OF GOODS AND SERVICES;

(d) THE COST OF FORGOING THESE BENEFITS, EVEN PARTIALLY AND EVEN AT A LOCAL LEVEL, WILL BE BORNE BY ALL CITIZENS OF THE STATE IN THE FORM OF INCREASED TRAFFIC CONGESTION, AIR POLLUTION, A LOWER QUALITY OF LIFE, AND LOST TIME AND PRODUCTIVITY. THEREFORE, THIS ACT ADDRESSES A MATTER OF STATEWIDE CONCERN;

(e) UNTIL PENDING FEDERAL LEGISLATION RESOLVES ISSUES INVOLVING ELECTRONIC COMMERCE, INCLUDING WHETHER, AND TO WHAT EXTENT, STATE AND LOCAL TAXATION OF INTERNET ACCESS SERVICES WILL FURTHER THE INTERESTS OF ALL PARTICIPANTS IN THE NATIONAL ECONOMY, INCLUDING THE CITIZENS OF COLORADO, A MORATORIUM OF AT LEAST THREE YEARS IS APPROPRIATE ON THE IMPOSITION OF SUCH CHARGES, CONSISTENT WITH THE PENDING NATIONAL PLAN.

24-79-102. Limitation on sources of revenue. (1) FROM MAY 1, 1998, TO AND INCLUDING APRIL 30, 2001, THERE SHALL BE A TEMPORARY MORATORIUM DURING WHICH THE STATE SHALL NOT IMPOSE, ASSESS, OR COLLECT ANY TAX, REGULATION, FEE, OR CHARGE UPON:

(a) THE DIRECT CHARGES FOR PROVISION OF INTERNET ACCESS SERVICES; OR

(b) ANY PROVIDER OF INTERNET ACCESS SERVICES AS A MEANS OF COLLECTING SALES OR USE TAXES FROM PERSONS WHO PURCHASE TAXABLE PROPERTY OR SERVICES THROUGH USE OF THE INTERNET UNLESS SUCH PROVIDER ACTS AS A VENDOR OF TAXABLE PROPERTY OR SERVICES.

(2) AS USED IN THIS SECTION:

(a) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK CONSISTING OF FEDERAL AND NONFEDERAL, INTEROPERABLE, PACKET-CONTROLLED, SWITCHED DATA NETWORKS.

(b) "INTERNET ACCESS SERVICES" MEANS SERVICES THAT PROVIDE OR ENABLE COMPUTER ACCESS BY MULTIPLE USERS TO THE INTERNET.

SECTION 2. Article 1 of title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 10
LIMITATIONS ON SOURCES OF REVENUE

29-1-1001. Moratorium on taxes, fees, and charges - internet and on-line services. (1) (a) FROM MAY 1, 1998, TO AND INCLUDING APRIL 30, 2001, THERE SHALL BE A TEMPORARY MORATORIUM DURING WHICH NO STATUTORY OR HOME RULE CITY AND COUNTY, COUNTY, CITY, OR TOWN, NOR ANY POLITICAL SUBDIVISION OF THE

STATE, INCLUDING, WITHOUT LIMITATION, A SPECIAL PURPOSE AUTHORITY, SPECIAL DISTRICT, OR SCHOOL DISTRICT, SHALL IMPOSE, ASSESS, OR COLLECT ANY TAX, FEE, OR CHARGE, HOWEVER DESIGNATED, UPON THE DIRECT CHARGES FOR PROVISION OF INTERNET ACCESS SERVICES.

(b) PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL NOT APPLY TO TAXES ON INTERNET ACCESS SERVICES ACTUALLY COLLECTED AND ENFORCED BY A HOME RULE CITY ON OR BEFORE APRIL 15, 1998.

(c) PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL NOT APPLY TO ANY FRANCHISE FEE ON INTERACTIVE COMPUTER SERVICES DELIVERED VIA A CABLE TELEVISION SYSTEM UNLESS THE FEDERAL COMMUNICATIONS COMMISSION OR A COURT OF COMPETENT JURISDICTION DETERMINES THAT SUCH SERVICES ARE NOT CABLE SERVICES WITHIN THE MEANING OF 47 U.S.C. SEC. 522 (6).

(2) FROM MAY 1, 1998, TO AND INCLUDING APRIL 30, 2001, THERE SHALL BE A TEMPORARY MORATORIUM DURING WHICH NO PROVIDER OF INTERNET ACCESS SERVICES SHALL BE REQUIRED TO COLLECT SALES OR USE TAXES FROM PERSONS WHO PURCHASE TAXABLE PROPERTY OR SERVICES THROUGH USE OF THE INTERNET UNLESS SUCH PROVIDER ACTS AS A VENDOR OF TAXABLE PROPERTY OR SERVICES.

(3) AS USED IN THIS SECTION:

(a) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK CONSISTING OF FEDERAL AND NONFEDERAL, INTEROPERABLE, PACKET-CONTROLLED, SWITCHED DATA NETWORKS.

(b) "INTERNET ACCESS SERVICES" MEANS SERVICES THAT PROVIDE OR ENABLE COMPUTER ACCESS BY MULTIPLE USERS TO THE INTERNET.

SECTION 3. 39-26-114 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

39-26-114. Exemptions - disputes - credits or refunds. (1) (a) There shall be exempt from taxation under the provisions of this part 1 the following:

(XXVI) FROM MAY 1, 1998, TO AND INCLUDING APRIL 30, 2001, INTERNET ACCESS SERVICES, AS DEFINED IN SECTION 24-79-102 (2), C.R.S.

SECTION 4. 39-26-203 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-26-203. Exemptions. (1) This part 2 is declared to be supplementary to the "Emergency Retail Sales Tax Law of 1935", part 1 of this article, and shall not apply:

(ii) FROM MAY 1, 1998, TO AND INCLUDING APRIL 30, 2001, TO INTERNET ACCESS SERVICES, AS DEFINED IN SECTION 24-79-102 (2), C.R.S.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 1998