

## CHAPTER 411

---

**TAXATION**

---

## SENATE BILL 03-317

BY SENATOR(S) Chlouber, Anderson, Fitz-Gerald, Owen, Teck, and Tupa;  
also REPRESENTATIVE(S) Young and Plant.

**AN ACT**

**CONCERNING THE REDUCTION OF THE AMOUNT THAT VENDORS ARE ALLOWED TO RETAIN AS PAYMENT FOR THE COLLECTION OF TAXES IMPOSED BY THE STATE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** 39-26-105 (1) (a) and (1) (e), Colorado Revised Statutes, are amended to read:

**39-26-105. Vendor liable for tax.** (1) (a) Except as provided in paragraphs (d) and (e) of this subsection (1), every retailer, also in this part 1 called "vendor", shall, irrespective of the provisions of section 39-26-106, be liable and responsible for the payment of an amount equivalent to three percent of all sales made prior to January 1, 2001, and two and ninety one-hundredths percent of all sales made on or after January 1, 2001, by the vendor of commodities or services as specified in section 39-26-104 and shall, before the twentieth day of each month, make a return to the executive director of the department of revenue for the preceding calendar month and remit an amount equivalent to said percentage on such sales to said executive director, less three and one-third percent of the sum so remitted FOR SALES OCCURRING PRIOR TO JULY 1, 2003, OR ON OR AFTER JULY 1, 2005, AND LESS TWO AND ONE-THIRD PERCENT OF THE SUM SO REMITTED FOR SALES OCCURRING ON OR AFTER JULY 1, 2003, BUT BEFORE JULY 1, 2005, to cover the vendor's expense in the collection and remittance of said tax; but, if any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the executive director, the vendor shall not be allowed to retain any amounts to cover such vendor's expense in collecting and remitting said tax, and an amount equivalent to the said percentage, plus the amount of any local vendor expense that may be allowed by the local government to the vendor, shall be remitted to the executive director by any such delinquent vendor. Such returns of the taxpayer or the taxpayer's duly

---

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

authorized agent shall contain such information and be made in such manner and upon such forms as the executive director shall prescribe. Any local vendor expense remitted to the executive director shall be deposited to the state general fund.

(e) For any state fiscal year commencing on or after July 1, 2000, every retailer or vendor who sells items upon which a sales tax is imposed at a rate of one one-hundredth of one percent pursuant to section 39-26-106(3) (a) shall be liable and responsible for the payment of an amount equivalent to the amount of sales tax imposed on such items less three and one-third percent FOR SALES OCCURRING PRIOR TO JULY 1, 2003, OR ON OR AFTER JULY 1, 2005, AND LESS TWO AND ONE-THIRD PERCENT FOR SALES OCCURRING ON OR AFTER JULY 1, 2003, BUT BEFORE JULY 1, 2005.

**SECTION 2.** 39-26-106 (2) (a), Colorado Revised Statutes, is amended to read:

**39-26-106. Schedule of sales tax.** (2) (a) Except as provided in paragraph (b) of this subsection (2), retailers shall add the tax imposed, or the average equivalent thereof, to the sale price or charge, showing such tax as a separate and distinct item, and when added such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts. The retailer shall be entitled, as collecting agent of the state, to apply and credit the amount of the retailer's collections against the rate to be paid by the retailer under the provisions of section 39-26-105, remitting any excess of collections over said rate less the three and one-third percent collection expense allowance FOR SALES OCCURRING PRIOR TO JULY 1, 2003, OR ON OR AFTER JULY 1, 2005, AND LESS TWO AND ONE-THIRD PERCENT COLLECTION EXPENSE ALLOWANCE FOR SALES OCCURRING ON OR AFTER JULY 1, 2003, BUT BEFORE JULY 1, 2005, to the executive director of the department of revenue in the retailer's next monthly sales tax return.

**SECTION 3.** 39-26-123 (2) (a) (I) (B), Colorado Revised Statutes, is amended to read:

**39-26-123. Receipts - disposition.** (2) (a) (I) (B) For purposes of this section, "net revenue" means the gross amount of sales and use tax receipts collected under the provisions of this article, less three and one-third percent of such amount retained by vendors for the collection and remittance of such tax pursuant to section 39-26-105 (1) (a) FOR SALES OCCURRING PRIOR TO JULY 1, 2003, OR ON OR AFTER JULY 1, 2005, AND LESS TWO AND ONE-THIRD PERCENT OF SUCH AMOUNT RETAINED BY VENDORS FOR THE COLLECTION AND REMITTANCE OF SUCH TAX PURSUANT TO SECTION 39-26-105 (1) (a) FOR SALES OCCURRING ON OR AFTER JULY 1, 2003, BUT BEFORE JULY 1, 2005.

**SECTION 4.** 39-28-104 (1), Colorado Revised Statutes, is amended to read:

**39-28-104. Evidence of payment of tax - credits - redemptions.** (1) Payment of the tax imposed by the provisions of this article shall be evidenced by the affixing of stamps to, or by an imprint or impression by suitable metering machines approved by the department on, packages containing cigarettes. The department shall procure stamps of such design and legend as it deems necessary and suitable for the purpose. The department shall sell such stamps for cash to licensed wholesalers at a discount

of four percent of their face value FOR SALES OCCURRING PRIOR TO JULY 1, 2003, OR ON OR AFTER JULY 1, 2005, AND THREE PERCENT OF THEIR FACE VALUE FOR SALES OCCURRING ON OR AFTER JULY 1, 2003, BUT BEFORE JULY 1, 2005, if payment is made on or before the tenth day of the month following the month in which the purchase is made to cover the licensed wholesaler's expense in the collection and remittance of such tax; but, if any licensed wholesaler is delinquent in remitting such payment, other than in unusual circumstances shown to the satisfaction of the executive director of the department, the licensed wholesaler shall not be allowed to retain any amounts to cover his expense in collecting and remitting said tax, and, in addition, the penalty imposed under section 39-28-108 (2) shall apply. The department shall keep accurate records of all stamps sold to each wholesaler. No wholesaler shall sell or transfer any stamps purchased pursuant to the provisions of this article.

**SECTION 5.** 39-28.5-106 (2), Colorado Revised Statutes, is amended to read:

**39-28.5-106. Returns and remittance of tax.** (2) Every distributor shall file a return with the department by the twentieth day of the month following the month reported and shall therewith remit the amount of tax due, less three and one-third percent of ~~the~~ ANY sum so remitted THAT CONSISTS OF TAX COLLECTED BEFORE JULY 1, 2003, OR ON OR AFTER JULY 1, 2005, AND LESS TWO AND ONE-THIRD PERCENT OF ANY SUM SO REMITTED THAT CONSISTS OF TAX COLLECTED ON OR AFTER JULY 1, 2003, BUT BEFORE JULY 1, 2005, to cover the distributor's expense in the collection and remittance of said tax. If any distributor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the executive director of the department, the distributor shall not be allowed to retain any amounts to cover his OR HER expense in collecting and remitting said tax, and in addition the penalty imposed under section 39-28.5-110 (2) (b) shall apply.

**SECTION 6. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2003, the sum of one hundred thirty-five thousand two hundred thirteen dollars (\$135,213) and 0.6 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 7. 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: June 5, 2003