

CHAPTER 257

TAXATION

HOUSE BILL 08-1013

BY REPRESENTATIVE(S) Sonnenberg, Gallegos, Gardner B., Gardner C., Kerr J., Lambert, Looper, Madden, Massey, Merrifield, Rice, Stafford, Summers, Rose, and Stephens;
also SENATOR(S) Morse, Bacon, Brophy, Gibbs, Groff, Keller, Kester, Mitchell S., Penry, Schultheis, Schwartz, Shaffer, Spence, Ward, Wiens, Williams, and Windels.

AN ACT**CONCERNING A SALES TAX EXEMPTION FOR A SALE RELATED TO A SCHOOL.**

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

SECTION 1. 29-2-105 (1) (d), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

29-2-105. Contents of sales tax ordinances and proposals. (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in paragraph (d) of this subsection (1). Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d) (I) A PROVISION THAT THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE SHALL BE THE SAME AS THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO SECTION 39-26-104, C.R.S., EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (d). THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE SAME SALES TAX EXEMPTIONS AS THOSE SPECIFIED IN PART 7 OF ARTICLE 26 OF TITLE 39, C.R.S.; EXCEPT THAT THE SALE OF THE FOLLOWING MAY BE EXEMPTED FROM A TOWN, CITY, OR COUNTY SALES TAX ONLY BY THE EXPRESS INCLUSION OF THE EXEMPTION EITHER AT THE TIME OF ADOPTION OF THE INITIAL SALES TAX ORDINANCE OR RESOLUTION OR BY AMENDMENT THERETO:

(A) THE EXEMPTION FOR SALES OF MACHINERY OR MACHINE TOOLS SPECIFIED IN

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

SECTION 39-26-709 (1), C.R.S.;

(B) THE EXEMPTION FOR SALES OF ELECTRICITY, COAL, WOOD, GAS, FUEL OIL, OR COKE SPECIFIED IN SECTION 39-26-715 (1) (a) (II), C.R.S.;

(C) THE EXEMPTION FOR SALES OF FOOD SPECIFIED IN SECTION 39-26-707 (1) (e), C.R.S.;

(D) THE EXEMPTION FOR VENDING MACHINE SALES OF FOOD SPECIFIED IN SECTION 39-26-714 (2), C.R.S.;

(E) THE EXEMPTION FOR SALES BY A CHARITABLE ORGANIZATION SPECIFIED IN SECTION 39-26-718 (1) (b), C.R.S.;

(F) THE EXEMPTION FOR SALES OF FARM EQUIPMENT AND FARM EQUIPMENT UNDER LEASE OR CONTRACT SPECIFIED IN SECTION 39-26-716 (2) (b) AND (2) (c), C.R.S.;

(G) THE EXEMPTION FOR SALES OF LOW-EMITTING MOTOR VEHICLES, POWER SOURCES, OR PARTS USED FOR CONVERTING SUCH POWER SOURCES AS SPECIFIED IN SECTION 39-26-719 (1), C.R.S.;

(H) THE EXEMPTION FOR SALES OF PESTICIDES SPECIFIED IN SECTION 39-26-716 (2) (e), C.R.S.; AND

(K) THE EXEMPTION FOR SALES THAT BENEFIT A COLORADO SCHOOL SPECIFIED IN SECTION 39-26-725, C.R.S.

(II) IF A TOWN, CITY, OR COUNTY SALES TAX EXPRESSLY INCLUDES ANY EXEMPTIONS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) BY AN AMENDMENT TO THE INITIAL SALES TAX ORDINANCE OR RESOLUTION, SUCH AMENDMENT SHALL BE ADOPTED IN THE SAME MANNER AS THE INITIAL ORDINANCE OR RESOLUTION.

(III) IN THE ABSENCE OF AN EXPRESS PROVISION FOR ANY EXEMPTION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), ALL SALES TAX ORDINANCES AND RESOLUTIONS SHALL BE CONSTRUED AS IMPOSING OR CONTINUING TO IMPOSE THE TOWN, CITY, OR COUNTY SALES TAX ON SUCH ITEMS.

SECTION 2. 29-2-106 (4) (a), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

29-2-106. Collection - administration - enforcement. (4) (a) (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL, AT NO CHARGE, ADMINISTER, COLLECT, AND DISTRIBUTE THE SALES TAX OF ANY HOME RULE MUNICIPALITY UPON REQUEST OF THE GOVERNING BODY OF SUCH MUNICIPALITY:

(A) IF THE PROVISIONS OF THE SALES TAX ORDINANCE OF SAID MUNICIPALITY, OTHER THAN THOSE PROVISIONS RELATING TO LOCAL PROCEDURES FOLLOWED IN ADOPTING THE ORDINANCE, CORRESPOND TO THE REQUIREMENTS OF THIS ARTICLE FOR SALES TAXES IMPOSED BY COUNTIES, TOWNS, AND CITIES;

(B) IF NO USE TAX IS TO BE COLLECTED BY THE DEPARTMENT OF REVENUE EXCEPT AS PROVIDED IN SECTION 39-26-208, C.R.S.; AND

(C) WHETHER OR NOT THE ORDINANCE APPLIES THE SALES TAX TO THE EXEMPTIONS LISTED IN SECTION 29-2-105 (1) (d) (I).

(II) WHEN THE GOVERNING BODY OF ANY HOME RULE MUNICIPALITY REQUESTS THE DEPARTMENT OF REVENUE TO ADMINISTER, COLLECT, AND DISTRIBUTE THE SALES TAX OF SAID MUNICIPALITY AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SAID GOVERNING BODY SHALL CERTIFY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT A TRUE COPY OF THE HOME RULE MUNICIPALITY'S SALES TAX ORDINANCE.

SECTION 3. Part 7 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-725. Sales related to a school - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PARENT" MEANS A PARENT OF A STUDENT AS DEFINED IN PARAGRAPH (c) OF THIS SUBSECTION (1).

(b) "SALE THAT BENEFITS A COLORADO SCHOOL" MEANS A SALE OF A COMMODITY OR SERVICE FROM WHICH ALL PROCEEDS OF THE SALE, LESS ONLY THE ACTUAL COST OF THE COMMODITY OR SERVICE TO THE PERSON OR ENTITY DESCRIBED IN SUBSECTION (2) OF THIS SECTION, ARE DONATED TO A SCHOOL OR A SCHOOL-APPROVED STUDENT ORGANIZATION.

(c) "SCHOOL" MEANS A PUBLIC OR NONPUBLIC SCHOOL FOR STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE OR ANY PORTION THEREOF.

(d) "STUDENT" MEANS ANY PERSON ENROLLED IN A SCHOOL AS DEFINED IN PARAGRAPH (b) OF THIS SUBSECTION (1).

(2) ON OR AFTER SEPTEMBER 1, 2008, A SALE THAT BENEFITS A COLORADO SCHOOL SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS ARTICLE, IF THE SALE IS MADE BY ANY OF THE FOLLOWING:

(a) A SCHOOL;

(b) AN ASSOCIATION OR ORGANIZATION OF PARENTS AND SCHOOL TEACHERS;

(c) A BOOSTER CLUB OR OTHER CLUB, GROUP, OR ORGANIZATION WHOSE PRIMARY PURPOSE IS TO SUPPORT A SCHOOL ACTIVITY; OR

(d) A SCHOOL CLASS OR STUDENT CLUB, GROUP, OR ORGANIZATION.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS CREATING AN EXEMPTION, OR OTHERWISE AFFECTING AN EXISTING EXEMPTION, FOR A SALE TO A PERSON OR ENTITY DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 21, 2008