

CHAPTER 258

TAXATION

HOUSE BILL 08-1358

BY REPRESENTATIVE(S) Rice, Balmer, Benefield, Buescher, Casso, Ferrandino, Fischer, Frangas, Gagliardi, Gallegos, Gardner B., Garza-Hicks, Green, Hodge, Jahn, Kerr A., Kerr J., King, Labuda, Liston, Looper, Madden, Marshall, Massey, May M., McFadyen, McGihon, McKinley, McNulty, Merrifield, Middleton, Peniston, Primavera, Roberts, Rose, Scanlan, Solano, Soper, Stephens, Summers, Swalm, Todd, Weissmann, Witwer, Levy, Lundberg, Stafford, Mitchell V., and Sonnenberg; also SENATOR(S) Ward, Bacon, Gibbs, Isgar, Johnson, Keller, Kester, Penry, Renfro, Romer, Shaffer, Spence, Takis, Tochtrop, Wiens, Williams, Cadman, Groff, Harvey, Kopp, Mitchell S., Morse, Schultheis, and Veiga.

AN ACT**CONCERNING SALES TAX RELATING TO A GROUP OF PARENTS AND TEACHERS OF PUBLIC SCHOOL STUDENTS.**

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SECTION 1. 29-2-105 (1) (d), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read: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

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

AMENDMENT THERETO:

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

(I) THE EXEMPTION FOR SALES BY AN ASSOCIATION OR ORGANIZATION OF PARENTS AND TEACHERS OF PUBLIC SCHOOL STUDENTS THAT IS A CHARITABLE ORGANIZATION AS SPECIFIED IN SECTION 39-26-718 (1) (c), 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. 39-26-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-102. Definitions. As used in this article, unless the context otherwise requires:

(6.8) "PUBLIC SCHOOL" MEANS A PUBLIC SCHOOL OF A SCHOOL DISTRICT IN THIS STATE OR AN INSTITUTE CHARTER SCHOOL.

SECTION 3. 39-26-718, Colorado Revised Statutes, is amended to read:

39-26-718. Charitable organizations - association or organization of parents and teachers of public school students. (1) The following shall be exempt from taxation under the provisions of part 1 of this article:

(a) All sales made to charitable organizations, in the conduct of their regular charitable functions and activities; except that any veterans' organization that qualifies as a charitable organization pursuant to section 39-26-102 (2.5) shall be exempt from taxation under the provisions of part 1 of this article only for the purpose of sponsoring a special event, meeting, or other function in the state of Colorado that is not part of the organization's regular activities in the state; ~~and~~

(b) (I) Effective July 1, 1995, all occasional sales by a charitable organization.

(II) For purposes of this paragraph (b), "occasional sales" means retail sales of tangible personal property, including concessions, for fund-raising purposes if:

(A) The sale of tangible personal property or concessions by the charitable organization takes place no more than twelve days, whether consecutive or not, during any one calendar year;

(B) The funds raised by the charitable organization through these sales are retained by the organization to be used in the course of the organization's charitable service; and

(C) The funds raised by the charitable organization through these sales do not exceed twenty-five thousand dollars during any one calendar year; AND

(c) ON OR AFTER SEPTEMBER 1, 2008, A SALE BY AN ASSOCIATION OR ORGANIZATION OF PARENTS AND TEACHERS OF PUBLIC SCHOOL STUDENTS THAT IS A CHARITABLE ORGANIZATION, IF THE ASSOCIATION OR ORGANIZATION USES THE FUNDS RAISED THROUGH THE SALE FOR THE BENEFIT OF A PUBLIC SCHOOL OR AN ORGANIZED PUBLIC SCHOOL ACTIVITY OR TO PAY THE REASONABLE EXPENSES OF THE ASSOCIATION OR ORGANIZATION.

SECTION 4. Effective date - applicability. (1) This act shall take effect September 1, 2008.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to sales made on or after the applicable effective date of this act.

Approved: May 21, 2008