

CHAPTER 5

TAXATION

HOUSE BILL 10-1189

BY REPRESENTATIVE(S) Pommer, Benefield, Frangas, Gagliardi, Judd, Kagan, Labuda, Levy, Merrifield, Middleton, Weissmann;
also SENATOR(S) Heath.

AN ACT

CONCERNING THE ELIMINATION OF THE STATE SALES AND USE TAX EXEMPTION FOR DIRECT MAIL ADVERTISING MATERIALS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 39-26-102 (15), Colorado Revised Statutes, is amended to read:

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

(15) (a) (I) "Tangible personal property" means corporeal personal property. The term shall not be construed to include newspapers, as legally defined by section 24-70-102, C.R.S., preprinted newspaper supplements ~~which~~ THAT become attached to or inserted in and distributed with such newspapers, or direct mail advertising materials ~~which~~ THAT are distributed in Colorado by any person engaged solely and exclusively in the business of providing cooperative direct mail advertising; EXCEPT THAT, COMMENCING MARCH 1, 2010, FOR PURPOSES OF THE STATE SALES OR USE TAX, "TANGIBLE PERSONAL PROPERTY" SHALL INCLUDE DIRECT MAIL ADVERTISING MATERIALS THAT ARE DISTRIBUTED IN COLORADO BY ANY PERSON ENGAGED SOLELY AND EXCLUSIVELY IN THE BUSINESS OF PROVIDING COOPERATIVE DIRECT MAIL ADVERTISING.

(II) NO FUNDING RECEIVED FROM REVENUES RECEIVED AS A RESULT OF THE PASSAGE OF HOUSE BILL 10-1189, ENACTED IN 2010, SHALL BE USED TO FUND ADDITIONAL FULL-TIME EQUIVALENT STATE EMPLOYEES.

SECTION 2. Part 1 of article 21 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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

39-21-122. Revenue impact of 2010 tax legislation - tracking by department.

THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1189, ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

SECTION 3. Part 1 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-127. Legislation modifying the state sales tax base - no impact on local government sales tax bases - no expansion of local authority to levy sales tax.

(1) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR ANY OTHER PROVISION OF LAW, THE LEVYING OF SALES TAX ON, EXEMPTION FROM SALES TAX FOR, OR LOCAL OPTION TO LEVY SALES TAX ON OR PROVIDE AN EXEMPTION FROM SALES TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER THE SALES TAX ORDINANCE OR RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR MODIFICATION OF ANY SALES TAX EXEMPTION OR ANY OTHER LEGISLATIVE MODIFICATION OF THE STATE SALES TAX BASE RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

(a) HOUSE BILL 10-1189, ENACTED IN 2010.

(2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY SALES TAX.

SECTION 4. Part 2 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-212. Legislation modifying the state use tax base - no impact on local government use tax bases - no expansion of local authority to levy use tax.

(1) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR ANY OTHER PROVISION OF LAW, THE LEVYING OF USE TAX ON, EXEMPTION FROM USE TAX FOR, OR LOCAL OPTION TO LEVY USE TAX ON OR PROVIDE AN EXEMPTION FROM USE TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER THE USE TAX ORDINANCE OR RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR MODIFICATION OF ANY USE TAX EXEMPTION OR ANY OTHER LEGISLATIVE MODIFICATION OF THE STATE USE TAX BASE RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

(a) HOUSE BILL 10-1189, ENACTED IN 2010.

(2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY, MUNICIPALITY, SPECIAL

DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY USE TAX.

SECTION 5. 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 allocation to the taxation business group, taxation and compliance division, for the fiscal year beginning July 1, 2009, the sum of ninety-four thousand three hundred twenty-two dollars (\$94,322) and 0.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. 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: February 24, 2010