

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 21-1265

BY REPRESENTATIVE(S) Mullica and Van Winkle, Bacon, Benavidez, Bernett, Bird, Bockenfeld, Boesenecker, Caraveo, Carver, Catlin, Cutter, Duran, Esgar, Exum, Froelich, Geitner, Gonzales-Gutierrez, Herod, Hooton, Jackson, Jodeh, Kipp, Lontine, Luck, Lynch, McCluskie, McCormick, McKean, McLachlan, Michaelson Jenet, Neville, Ortiz, Pelton, Ricks, Roberts, Sandridge, Snyder, Soper, Sullivan, Titone, Valdez A., Valdez D., Van Beber, Will, Williams, Woodrow, Woog, Young;
also SENATOR(S) Pettersen and Woodward, Bridges, Buckner, Cooke, Danielson, Gardner, Ginal, Hisey, Kirkmeyer, Kolker, Lee, Liston, Lundeen, Moreno, Priola, Rankin, Rodriguez, Simpson, Smallwood, Story, Winter, Garcia.

CONCERNING A TEMPORARY DEDUCTION FROM STATE NET TAXABLE SALES FOR CERTAIN RETAILERS IN THE STATE IN ORDER TO ALLOW SUCH RETAILERS TO RETAIN THE RESULTING SALES TAX COLLECTED AS ASSISTANCE FOR LOST REVENUE AS A RESULT OF THE ECONOMIC DISRUPTIONS DUE TO THE PRESENCE OF CORONAVIRUS DISEASE 2019 (COVID-19) IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 1. In Colorado Revised Statutes, 39-26-105, **amend** (1.3)(a)(III), (1.3)(a)(V), (1.3)(b)(I), and (1.3)(b)(II) introductory portion; and **add** (1.3)(a)(I.3), (1.3)(a)(I.5), (1.3)(a)(I.7), (1.3)(c.5), and (1.3)(f.5) as follows:

39-26-105. Vendor liable for tax - definitions - repeal.
(1.3) (a) As used in this subsection (1.3), unless the context otherwise requires:

(I.3) "CATERING INDUSTRY" MEANS ESTABLISHMENTS, NOT INCLUDING THE MOBILE FOOD SERVICES INDUSTRY OR THE FOOD SERVICES CONTRACTOR INDUSTRY, THAT ARE PRIMARILY ENGAGED IN PROVIDING SINGLE EVENT-BASED FOOD SERVICES FOR EVENTS SUCH AS GRADUATION PARTIES, WEDDING RECEPTIONS, BUSINESS OR RETIREMENT LUNCHEONS, OR TRADE SHOWS AND THAT HAVE EQUIPMENT AND VEHICLES TO TRANSPORT MEALS AND SNACKS TO EVENTS OR TO PREPARE FOOD AT AN OFF-PREMISE SITE. "CATERING INDUSTRY" INCLUDES BANQUET HALLS WITH CATERING STAFF.

(I.5) "FOOD SERVICES CONTRACTOR INDUSTRY" MEANS ESTABLISHMENTS, NOT INCLUDING THE CATERING INDUSTRY, THAT ARE PRIMARILY ENGAGED IN PROVIDING FOOD SERVICES, FOR THE CONVENIENCE OF THE CONTRACTING ORGANIZATION OR THE CONTRACTING ORGANIZATION'S CUSTOMERS, AT INSTITUTIONAL, GOVERNMENTAL, COMMERCIAL, OR INDUSTRIAL LOCATIONS OF OTHERS, BASED ON CONTRACTUAL ARRANGEMENTS WITH THESE TYPES OF ORGANIZATIONS FOR A SPECIFIED PERIOD OF TIME, SUCH AS AIRLINE FOOD SERVICE CONTRACTORS; FOOD CONCESSION CONTRACTORS AT SPORTING, ENTERTAINMENT, OR CONVENTION FACILITIES; OR CAFETERIA FOOD SERVICES CONTRACTORS AT SCHOOLS, HOSPITALS, OR GOVERNMENT OFFICES.

(I.7) "HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE" MEANS A RESTAURANT OR OTHER EATING PLACES INDUSTRY ESTABLISHMENT OR AN ALCOHOLIC BEVERAGES DRINKING PLACES INDUSTRY ESTABLISHMENT LOCATED ON THE PREMISES OF AN ESTABLISHMENT PRIMARILY ENGAGED IN PROVIDING SHORT-TERM LODGING FACILITIES AND KNOWN AS A HOTEL, MOTOR HOTEL, RESORT HOTEL, MOTEL, BED-AND-BREAKFAST INN, TOURIST HOME, GUEST HOUSE, YOUTH HOSTEL, OR HOUSEKEEPING CABIN, INCLUDING A HOTEL FACILITY WITH A CASINO ON THE PREMISES. "HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE" INCLUDES THE SALE OF SINGLE

EVENT-BASED FOOD SERVICES DESCRIBED IN SUBSECTION (1.3)(a)(I.3) OF THIS SECTION ON THE PREMISES OF THE ESTABLISHMENT. "HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE" DOES NOT INCLUDE SALES OF ROOMS OR ACCOMMODATIONS, GIFTS AND SUNDRIES, RECREATIONAL SERVICES, CONFERENCE ROOMS, CONVENTION SERVICES, LAUNDRY SERVICES, PARKING, AND OTHER SERVICES.

(III) (A) "Qualifying retailer" means, FOR THE SPECIFIED SALES TAX PERIOD IN SUBSECTION (1.3)(a)(V)(A) OF THIS SECTION, a retailer doing business in the state that timely files sales tax returns as required under subsection (1)(b) of this section and section 39-26-109, and that operates in the alcoholic beverages drinking places industry, the restaurant and other eating places industry, or the mobile food services industry.

(B) "QUALIFYING RETAILER" MEANS, FOR THE SPECIFIED SALES TAX PERIOD IN SUBSECTION (1.3)(a)(V)(B) OF THIS SECTION, A RETAILER DOING BUSINESS IN THE STATE THAT TIMELY FILES SALES TAX RETURNS AS REQUIRED UNDER SUBSECTION (1)(b) OF THIS SECTION AND SECTION 39-26-109, AND THAT OPERATES IN THE ALCOHOLIC BEVERAGES DRINKING PLACES INDUSTRY, THE CATERING INDUSTRY, THE FOOD SERVICES CONTRACTOR INDUSTRY, THE RESTAURANT AND OTHER EATING PLACES INDUSTRY, OR THE MOBILE FOOD SERVICES INDUSTRY, OR THAT OPERATES A HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE.

(V) (A) "Specified sales tax period" means sales made in November 2020, December 2020, January 2021, and February 2021, for which monthly returns must be filed pursuant to subsection (1)(b) of this section, on December 21, 2020, January 20, 2021, February 22, 2021, and March 22, 2021, respectively.

(B) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.3)(a)(V)(B), "SPECIFIED SALES TAX PERIOD" MEANS SALES MADE IN JUNE 2021, JULY 2021, AND AUGUST 2021, FOR WHICH MONTHLY RETURNS MUST BE FILED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, ON JULY 20, 2021, AUGUST 20, 2021, AND SEPTEMBER 20, 2021, RESPECTIVELY.

(b) (I) A qualifying retailer in the alcoholic beverages drinking places industry, or in the restaurant and other eating places industry, IN THE FOOD SERVICES CONTRACTOR INDUSTRY, OR OPERATING A HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE may deduct from state net taxable

sales the lesser of state net taxable sales or seventy thousand dollars and retain the resulting sales tax collected for each month in the specified sales tax period.

(II) One deduction described in subsection (1.3)(b)(I) of this section is allowed per month for each of up to five fixed physical premises that are properly licensed under section 39-26-103 (2)(a), to a qualifying retailer in the alcoholic beverages drinking places industry, or in the restaurant and other eating places industry, IN THE FOOD SERVICES CONTRACTOR INDUSTRY, OR OPERATING A HOTEL-OPERATED RESTAURANT, BAR, OR CATERING SERVICE. No deduction is allowed for:

(c.5) A QUALIFYING RETAILER IN THE CATERING INDUSTRY MAY DEDUCT FROM STATE NET TAXABLE SALES THE LESSER OF AGGREGATE STATE NET TAXABLE SALES FOR ALL EVENTS OR SEVENTY THOUSAND DOLLARS, AND RETAIN THE RESULTING STATE SALES TAX COLLECTED FOR EACH MONTH IN THE SPECIFIED SALES TAX PERIOD.

(f.5) TO THE EXTENT INFORMATION IS AVAILABLE AND WITHOUT CHANGING THE SALES TAX RETURN FORM, THE DEPARTMENT OF REVENUE SHALL INCLUDE A REPORT TO ITS COMMITTEE OF REFERENCE AT A HEARING HELD IN JANUARY 2022 PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" SPECIFYING:

(I) THE SALES TAX REVENUE THE STATE DID NOT COLLECT AS A RESULT OF THE DEDUCTION ALLOWED IN THIS SUBSECTION (1.3); AND

(II) HOW MANY RETAILERS ELECTED TO TAKE ADVANTAGE OF THE DEDUCTION ALLOWED IN THIS SUBSECTION (1.3).

SECTION 2. Appropriation. (1) For the 2021-22 state fiscal year, \$101,600 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$1,600 for use by the executive director's office for personal services related to administration and support; and

(b) \$100,000 for use by taxation services for personal services.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO