

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0718.01 Esther van Mourik x4215

**HOUSE BILL 21-1177**

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**HOUSE SPONSORSHIP**

**Valdez D. and Lynch**, Arndt, Pico

**SENATE SPONSORSHIP**

**Moreno and Woodward**, Kirkmeyer, Zenzinger

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**House Committees**  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE INCLUSION OF USE TAX EXEMPTIONS FOR CERTAIN**  
102                    **EXISTING SALES TAX EXEMPTIONS IN ORDER TO MAKE THE**  
103                    **EXEMPTIONS COMPATIBLE WITH FUNDAMENTAL PRINCIPLES OF**  
104                    **SALES AND USE TAX.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Statutory Revision Committee.** All of the current law sections presented in the bill provide sales tax exemptions for specific items. None of the sales tax exemptions in the bill authorize corresponding use tax

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

exemptions. As a result, an item could conceivably become subject to use tax the instant the tax-exempt sale occurs. Most statutory sales tax exemptions have corresponding use tax exemptions to prevent this. Consequently, the bill addresses defects in statute by clarifying that an item that is subject to a sales tax exemption is actually exempt from both sales and use tax and makes those statutory sections compatible with the fundamental principles of use tax and Colorado supreme court decisions on the subject.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-707, **amend**  
3 (2) introductory portion; and **add** (2)(f) and (2)(g) as follows:

4 **39-26-707. Food, meals, beverages, and packaging -**  
5 **definitions.** (2) The following shall be exempt from taxation under the  
6 provisions of part 2 of this ~~article~~ ARTICLE 26:

7 (f) THE STORAGE, USE, OR CONSUMPTION OF ALL FOOD PURCHASED  
8 WITH FOOD STAMPS. FOR PURPOSES OF THIS SUBSECTION (2)(f), "FOOD"  
9 HAS THE SAME MEANING AS PROVIDED IN 7 U.S.C. SEC. 2012, AS SUCH  
10 SECTION EXISTS ON OCTOBER 1, 1987, OR IS THEREAFTER AMENDED.

11 (g) THE STORAGE, USE, OR CONSUMPTION OF ALL FOOD PURCHASED  
12 WITH FUNDS PROVIDED BY THE SPECIAL SUPPLEMENTAL FOOD PROGRAM  
13 FOR WOMEN, INFANTS, AND CHILDREN, AS PROVIDED FOR IN 42 U.S.C. SEC.  
14 1786. FOR THE PURPOSES OF THIS SUBSECTION (2)(g), "FOOD" HAS THE  
15 SAME MEANING AS PROVIDED IN 42 U.S.C. SEC. 1786, AS SUCH SECTION  
16 EXISTS ON OCTOBER 1, 1987, OR IS THEREAFTER AMENDED.

17 **SECTION 2.** In Colorado Revised Statutes, 39-26-711.5, **amend**  
18 (1) introductory portion as follows:

19 **39-26-711.5. Aircraft - use outside state.** (1) The sale, STORAGE,  
20 USE, AND CONSUMPTION of a new or used aircraft shall be exempt from  
21 taxation under the provisions of part 1 AND PART 2 of this ~~article~~ ARTICLE

1 26 if:

2 **SECTION 3.** In Colorado Revised Statutes, 39-26-717, **add** (3)  
3 as follows:

4 **39-26-717. Drugs and medical and therapeutic devices -**  
5 **definitions.** (3) THE STORAGE, USE, OR CONSUMPTION OF ANY ITEM THAT  
6 IS EXEMPT FROM SALES TAX BY OPERATION OF SUBSECTION (2) OF THIS  
7 SECTION IS EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF  
8 THIS ARTICLE 26.

9 **SECTION 4.** In Colorado Revised Statutes, 39-26-718, **add** (2)  
10 as follows:

11 **39-26-718. Charitable organizations - association or**  
12 **organization of parents and teachers of public school students.**  
13 (2) THE STORAGE, USE, OR CONSUMPTION OF ANY ITEM THAT IS EXEMPT  
14 FROM SALES TAX BY OPERATION OF SUBSECTION (1)(b) OR (1)(c) OF THIS  
15 SECTION IS EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF  
16 THIS ARTICLE 26.

17 **SECTION 5.** In Colorado Revised Statutes, 39-26-725, **add** (4)  
18 as follows:

19 **39-26-725. Sales related to a school - definitions.** (4) THE  
20 STORAGE, USE, OR CONSUMPTION OF ANY ITEM THAT IS EXEMPT FROM  
21 SALES TAX BY OPERATION OF SUBSECTION (2) OF THIS SECTION IS EXEMPT  
22 FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE 26.

23 **SECTION 6.** In Colorado Revised Statutes, 39-26-729, **add** (3)  
24 as follows:

25 **39-26-729. Retail sales of marijuana.** (3) THE STORAGE, USE, OR  
26 CONSUMPTION OF ANY RETAIL MARIJUANA THAT IS EXEMPT FROM SALES  
27 TAX BY OPERATION OF SUBSECTION (1) OF THIS SECTION IS EXEMPT FROM

1 TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS ARTICLE 26.

2           **SECTION 7. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly; except  
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
6 of the state constitution against this act or an item, section, or part of this  
7 act within such period, then the act, item, section, or part will not take  
8 effect unless approved by the people at the general election to be held in  
9 November 2022 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.