

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 15-1073.01 Gregg Fraser x4325

**HOUSE BILL 15-1386**

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**A BILL FOR AN ACT**

101      **CONCERNING THE STATE SALES AND USE TAX TREATMENT OF**  
102           **EQUIPMENT USED FOR WASTE DIVERSION OR RECYCLING, AND,**  
103           **IN CONNECTION THEREWITH, ALIGNING THE SALES AND USE TAX**  
104           **TREATMENT OF EQUIPMENT USED FOR WASTE DIVERSION OR**  
105           **RECYCLING WITH THE SALES AND USE TAX TREATMENT OF**  
106           **MACHINERY AND MACHINE TOOLS USED IN MANUFACTURING**  
107           **TANGIBLE PERSONAL PROPERTY.**

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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://www.leg.state.co.us/bills summaries>.)*

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

HOUSE  
3rd Reading Unamended  
May 4, 2015

HOUSE  
2nd Reading Unamended  
May 1, 2015

Under current law, machinery and machine tools used in manufacturing tangible personal property are exempt from the state sales and use tax; however, equipment used for waste reduction or recycling purposes is not. For the calendar year 2015, the bill allows a taxpayer who operates a recycling or composting facility that submits a recycling or composting facility annual report to the department of public health and environment to apply for a refund of any state sales tax or use tax paid for waste reduction or recycling equipment. The bill specifies the types of equipment to which the refund applies and specifies procedures for applying to the department of revenue to receive the refund. For the calendar years 2016 and 2017, the refund is changed from a refund to a sales and use tax exemption.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) Machinery and equipment used in the traditional  
5 manufacturing process are currently exempt from the state sales and use  
6 tax;

7 (b) Because recycling and reprocessing waste products use  
8 different methods to acquire, process, and transport needed materials,  
9 much of the machinery and equipment used in the recycling and  
10 reprocessing industry does not receive the same sales and use tax  
11 treatment as other equipment used in traditional manufacturing;

12 (c) Recycling is the process of extracting and remanufacturing  
13 discarded resources; and

14 (d) The intended purpose of the tax refund and exemption created  
15 in this section is to:

16 (I) Treat machinery and equipment used by a recycling facility or  
17 composting facility in the recycling and reprocessing of waste products  
18 the same as machinery and equipment used in the traditional

- 1 manufacturing process for state sales and use tax purposes; and
- 2 (II) Allow for-profit recyclers to have the same ability to purchase
- 3 equipment without sales and use tax that manufacturers, governmental
- 4 entities, and other recyclers have, in order to:
- 5 (A) Preserve and create new jobs in Colorado in the recycling, and
- 6 reprocessing industries;
- 7 (B) Secure a robust and reliable source of local materials and
- 8 supplies for recycled materials processors and manufacturers in the state;
- 9 (C) Ensure that recyclable materials are recycled in the state rather
- 10 than shipped to other states or countries for remanufacturing;
- 11 (D) Develop the recycled materials processing and manufacturing
- 12 industries in the state to provide additional economic benefits to the state
- 13 that are currently being lost to other states; and
- 14 (E) Encourage the diversion of additional useful recyclable
- 15 materials from landfill sites in the state.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 39-26-709.5 as

17 follows:

18 **39-26-709.5. Waste reduction or recycling equipment - refund**

19 **- exemption - definitions.** (1) (a) FOR THE 2015 CALENDAR YEAR, A

20 TAXPAYER THAT OPERATES A RECYCLING FACILITY OR A COMPOSTING

21 FACILITY THAT SUBMITS A RECYCLING FACILITY ANNUAL REPORT OR

22 COMPOSTING FACILITY ANNUAL REPORT TO THE DEPARTMENT OF PUBLIC

23 HEALTH AND ENVIRONMENT IN CONNECTION WITH THE DEPARTMENT OF

24 PUBLIC HEALTH AND ENVIRONMENT'S ACTIVITIES CONDUCTED PURSUANT

25 TO SECTION 30-20-122 (1) (a) (V), C.R.S., IS ALLOWED TO CLAIM A

26 REFUND OF ALL STATE SALES AND USE TAXES LEVIED PURSUANT TO PARTS

27 1 AND 2 OF THIS ARTICLE UPON THE STORAGE, USE, CONSUMPTION, OR

1 SALE OF ANY WASTE REDUCTION OR RECYCLING EQUIPMENT.

2 (b) TO CLAIM THE REFUND ALLOWED BY PARAGRAPH (a) OF THIS  
3 SUBSECTION (1), A TAXPAYER MUST SUBMIT A REFUND APPLICATION TO  
4 THE DEPARTMENT OF REVENUE, ON A FORM PROVIDED BY THE  
5 DEPARTMENT, NO LATER THAN APRIL 1, 2016. ALONG WITH THE  
6 APPLICATION, THE TAXPAYER MUST PROVIDE PROOF OF THE STATE SALES  
7 AND USE TAXES PAID BY THE TAXPAYER IN 2015. A TAXPAYER MUST ALSO  
8 PROVIDE ANY ADDITIONAL INFORMATION WITH THE APPLICATION THAT  
9 THE DEPARTMENT REQUIRES BY RULE, WHICH MAY INCLUDE, WITHOUT  
10 LIMITATION, A DETAILED LIST OF THE MACHINERY OR EQUIPMENT AND  
11 USES THEREOF THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND  
12 ADDRESS OF AN INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH  
13 INFORMATION, AND A STATEMENT THAT THE TAXPAYER AGREES TO  
14 FURNISH RECORDS CONFIRMING SUCH INFORMATION TO THE DEPARTMENT  
15 UPON REQUEST. THE DEPARTMENT SHALL NOT REFUND ANY MONEYS TO A  
16 TAXPAYER UNLESS THE TAXPAYER HAS COMPLIED WITH THIS SUBSECTION  
17 (1).

18 (2) (a) FOR THE 2016 AND 2017 CALENDAR YEARS, A TAXPAYER  
19 THAT OPERATES A RECYCLING FACILITY OR A COMPOSTING FACILITY THAT  
20 SUBMITS A RECYCLING FACILITY ANNUAL REPORT OR COMPOSTING  
21 FACILITY ANNUAL REPORT TO THE DEPARTMENT OF PUBLIC HEALTH AND  
22 ENVIRONMENT IN CONNECTION WITH THE DEPARTMENT OF PUBLIC HEALTH  
23 AND ENVIRONMENT'S ACTIVITIES CONDUCTED PURSUANT TO SECTION  
24 30-20-122 (1) (a) (V), C.R.S., IS EXEMPT FROM ALL STATE SALES AND USE  
25 TAXES LEVIED PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE UPON THE  
26 STORAGE, USE, CONSUMPTION, OR SALE OF ANY WASTE REDUCTION OR  
27 RECYCLING EQUIPMENT.

1 (b) TO RECEIVE AN EXEMPTION UNDER THIS SUBSECTION (2), A  
2 DECLARATION OF ENTITLEMENT SHALL BE FILED BY THE PURCHASER WITH  
3 THE VENDOR OF THE WASTE REDUCTION OR RECYCLING EQUIPMENT, AND  
4 WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE.

5 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
6 REQUIRES:

7 (a) "MOTOR VEHICLE" MEANS A VEHICLE AS DEFINED IN SECTION  
8 42-1-102 (58), C.R.S.

9 (b) "RECOVERED MATERIALS" MEANS THOSE MATERIALS THAT  
10 HAVE BEEN SEPARATED, DIVERTED, OR REMOVED FROM THE WASTE  
11 STREAM FOR THE PURPOSE OF RECYCLING.

12 (c) "RECYCLING" MEANS ANY PROCESS BY WHICH WASTE OR  
13 MATERIALS THAT WOULD OTHERWISE BECOME WASTE ARE COLLECTED,  
14 SEPARATED, OR PROCESSED AND REVISED OR RETURNED FOR USE IN THE  
15 FORM OF RAW MATERIALS OR PRODUCTS, INCLUDING COMPOSTING.

16 (d) "RECYCLING FACILITY OR A COMPOSTING FACILITY" DOES NOT  
17 MEAN A FACILITY THAT ENGAGES IN:

18 (I) ANY FORM OF WASTE-TO-ENERGY PROCESS INCLUDING BUT NOT  
19 LIMITED TO PYROLYSIS, GASIFICATION, PLASMA ARC, OR ANY OTHER  
20 WASTE CONVERSION TECHNOLOGY;

21 (II) THE BENEFICIAL USE OF SOLID WASTES AS CLASSIFIED BY THE  
22 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, INCLUDING THE  
23 PROCESSING OF BIOSOLIDS AND ACTIVITIES REGULATED UNDER SECTION  
24 25-8-205 (1) (e), C.R.S.; OR

25 (III) INDUSTRIAL RECYCLING OPERATIONS AS CLASSIFIED BY THE  
26 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

27 (e) "SOLID WASTE" MEANS ALL PUTRESCIBLE AND

1 NONPUTRESCIBLE WASTES IN SOLID OR SEMISOLID FORM, INCLUDING, BUT  
2 NOT LIMITED TO, YARD OR FOOD WASTE, WASTE GLASS, WASTE METALS,  
3 WASTE PLASTICS, WASTEPAPERS, WASTE PAPERBOARD, AND ALL OTHER  
4 SOLID OR SEMISOLID WASTES RESULTING FROM INDUSTRIAL, COMMERCIAL,  
5 AGRICULTURAL, COMMUNITY, AND RESIDENTIAL ACTIVITIES.

6 (f) (I) "WASTE REDUCTION OR RECYCLING EQUIPMENT" MEANS  
7 NEW OR USED MACHINERY OR EQUIPMENT THAT IS OPERATED OR USED  
8 EXCLUSIVELY IN THE STATE TO COLLECT, SEPARATE, PROCESS, MODIFY,  
9 CONVERT, OR TREAT SOLID WASTE SO THAT THE RESULTING PRODUCT MAY  
10 BE USED AS A RAW MATERIAL OR FOR PRODUCTIVE USE OR TO  
11 MANUFACTURE PRODUCTS CONTAINING RECOVERED MATERIALS. "WASTE  
12 REDUCTION OR RECYCLING EQUIPMENT" INCLUDES DEVICES THAT ARE  
13 DIRECTLY CONNECTED WITH OR ARE AN INTEGRAL AND NECESSARY PART  
14 OF SUCH MACHINERY OR EQUIPMENT AND ARE NECESSARY FOR SUCH  
15 COLLECTION, SEPARATION, PROCESSING, MODIFICATION, CONVERSION, OR  
16 TREATMENT.

17 (II) "WASTE REDUCTION OR RECYCLING EQUIPMENT" DOES NOT  
18 INCLUDE A MOTOR VEHICLE.

19 **SECTION 3.** In Colorado Revised Statutes, 29-2-105, **add** (1) (d)  
20 (I) (O) as follows:

21 **29-2-105. Contents of sales tax ordinances and proposals -**  
22 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,  
23 city, or county adopted pursuant to this article shall be imposed on the  
24 sale of tangible personal property at retail or the furnishing of services,  
25 as provided in paragraph (d) of this subsection (1). Any countywide or  
26 incorporated town or city sales tax ordinance or proposal shall include the  
27 following provisions:

1 (d) (I) A provision that the sale of tangible personal property and  
2 services taxable pursuant to this article shall be the same as the sale of  
3 tangible personal property and services taxable pursuant to section  
4 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).  
5 The sale of tangible personal property and services taxable pursuant to  
6 this article shall be subject to the same sales tax exemptions as those  
7 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of  
8 the following may be exempted from a town, city, or county sales tax only  
9 by the express inclusion of the exemption either at the time of adoption  
10 of the initial sales tax ordinance or resolution or by amendment thereto:

11 (O) THE EXEMPTION FOR SALES OF WASTE REDUCTION OR  
12 RECYCLING EQUIPMENT SPECIFIED IN SECTION 39-26-709.5 (2), C.R.S.

13 **SECTION 4. Act subject to petition - effective date.** This act  
14 takes effect at 12:01 a.m. on the day following the expiration of the  
15 ninety-day period after final adjournment of the general assembly (August  
16 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a  
17 referendum petition is filed pursuant to section 1 (3) of article V of the  
18 state constitution against this act or an item, section, or part of this act  
19 within such period, then the act, item, section, or part will not take effect  
20 unless approved by the people at the general election to be held in  
21 November 2016 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor.