

HB1295_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

HB13-1295 be amended as follows:

- 1 Amend printed bill, page 3, line 11, strike "Bill 13- ____." and substitute
2 "Bill 13-1295."
- 3 Page 3, line 25, strike "37, OR 42," and substitute "37, 42, OR 43,".
- 4 Page 4, line 4, strike "BILL 13- ____." and substitute "BILL 13-1295."
- 5 Page 4, line 10, strike "BILL 13- ____" and substitute "BILL 13-1295."
- 6 Page 4, strike lines 17 through 27.
- 7 Page 5, strike lines 1 through 4 and substitute:
- 8 "(7.7) "REMOTE SELLER" MEANS A PERSON WHO MAKES A REMOTE
9 SALE; EXCEPT THAT A REMOTE SELLER DOES NOT INCLUDE A SMALL
10 SELLER AS DEFINED IN AN ACT OF CONGRESS THAT AUTHORIZES STATES TO
11 REQUIRE CERTAIN RETAILERS TO PAY, COLLECT, OR REMIT STATE OR LOCAL
12 SALES TAXES."
- 13 Page 5, line 10, strike "OCCURS" and substitute "IS MADE".
- 14 Page 7, strike lines 10 through 12 and substitute:
- 15 "(2) UPON THE EFFECTIVE DATE OF AN ACT OF CONGRESS THAT
16 AUTHORIZES STATES TO REQUIRE CERTAIN RETAILERS TO PAY, COLLECT,
17 OR REMIT STATE OR LOCAL SALES TAXES:
18 (a) (I) WITH RESPECT TO REMOTE SALES THERE IS".
- 19 Page 7, strike line 17 and substitute "SECTION 39-26-106. ANY
20 EXEMPTIONS WITH RESPECT TO PART 1 OF THIS ARTICLE AS SET FORTH IN
21 THIS TITLE ARE APPLICABLE.
22 (II) IN ADDITION TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a),
23 EVERY REMOTE SELLER SHALL COLLECT".
- 24 Page 7, strike lines 22 and 23 and substitute "SECTION. ANY EXEMPTIONS
25 WITH RESPECT TO PART 1 OF THIS ARTICLE AS SET FORTH IN THIS TITLE ARE
26 APPLICABLE."



- 1 Page 8, line 16, strike "29-2-110," and substitute "29-2-109,".
- 2 Page 8, line 20, strike "(2)" and substitute "(2), AND A COPY OF ANY
3 ORDINANCE OR RESOLUTION THAT CHANGES THE LOCAL TAXING
4 JURISDICTION'S BOUNDARIES,".
- 5 Page 10, strike line 23 and substitute:
- 6 " (II) EXCEPT AS PROVIDED IN SECTION 39-26-105.3 (8) (b) (III),
7 THE AMOUNT RETAINED BY A RETAILER TO COVER THE".
- 8 Page 10, line 25, strike "NOT EXCEED AN AMOUNT EQUAL TO" and
9 substitute "BE".
- 10 Page 13, strike lines 8 through 27.
- 11 Strike page 14.
- 12 Page 15, strike lines 1 through 8 and substitute:
- 13 "SECTION 6. In Colorado Revised Statutes, 39-26-105.3, amend
14 (7); and add (8), (9), and (10) as follows:
15 **39-26-105.3. Remittance of tax - electronic database - vendor**
16 **held harmless.** (7) ~~The executive director of the department of revenue~~
17 ~~shall promulgate rules for the administration of this section. Such rules~~
18 ~~shall be promulgated in accordance with article 4 of title 24, C.R.S.~~ THE
19 DEPARTMENT OF REVENUE SHALL PROVIDE INFORMATION TO REMOTE
20 SELLERS THAT INDICATES THE TAXABILITY OF PRODUCTS AND SERVICES
21 ALONG WITH ANY PRODUCT AND SERVICE EXEMPTIONS FROM SALES TAX
22 IN THE STATE. THE DEPARTMENT OF REVENUE SHALL ALSO PROVIDE TO
23 REMOTE SELLERS A SALES TAX RATE DATABASE AND A DATABASE OF
24 LOCAL TAXING JURISDICTION BOUNDARIES. THE DEPARTMENT OF REVENUE
25 SHALL NOTIFY REMOTE SELLERS AND CERTIFIED SOFTWARE PROVIDERS OF
26 ANY STATE OR LOCAL SALES TAX RATE CHANGE AT LEAST NINETY DAYS
27 BEFORE THE EFFECTIVE DATE OF SUCH A CHANGE. SUBSEQUENT TO ANY
28 SALES TAX RATE CHANGE, THE DEPARTMENT OF REVENUE SHALL UPDATE
29 THE INFORMATION DESCRIBED THIS SUBSECTION (7) ACCORDINGLY.
- 30 (8) (a) THE DEPARTMENT OF REVENUE SHALL MAKE AVAILABLE
31 FREE OF CHARGE SOFTWARE TO RETAILERS THAT:
- 32 (I) CALCULATES SALES TAXES DUE ON EACH TRANSACTION AT THE
33 TIME THE TRANSACTION IS COMPLETED;



1 (II) FILES SALES TAX RETURNS; AND
2 (III) UPDATES TO REFLECT ANY TAX RATE CHANGES FOR THE STATE
3 OR ANY LOCAL TAXING JURISDICTION.

4 (b) (I) THE DEPARTMENT OF REVENUE MAY CONTRACT WITH ONE
5 OR MORE CERTIFIED SOFTWARE PROVIDERS DESCRIBED IN PARAGRAPH (c)
6 OF THIS SUBSECTION (8), WITHOUT REGARD TO THE REQUIREMENTS IN THE
7 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., TO
8 PROVIDE THE SOFTWARE OR PROVIDE ACCESS TO THE SOFTWARE
9 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (8).

10 (II) A RETAILER MAY ELECT TO COLLECT AND REMIT SALES TAX ON
11 ITS OWN, WITHOUT USING THE SERVICES OF A CERTIFIED SOFTWARE
12 PROVIDER DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (8), OR MAY
13 ELECT TO USE THE SERVICES OF A CERTIFIED SOFTWARE PROVIDER.

14 (III) IN PROVIDING SOFTWARE FREE OF CHARGE AS DESCRIBED IN
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE CONTRACT NEGOTIATED
16 BETWEEN THE DEPARTMENT OF REVENUE AND THE CERTIFIED SOFTWARE
17 PROVIDERS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (8) MUST
18 PROVIDE THAT ALL OR A PORTION OF THE AMOUNT DESCRIBED IN SECTION
19 39-26-105 (1) (c) (II), MAY NOT BE RETAINED BY THE RETAILER ELECTING
20 TO UTILIZE THE SERVICES OF A CERTIFIED SOFTWARE PROVIDER BUT WILL
21 INSTEAD BE RETAINED BY THE CERTIFIED SOFTWARE PROVIDER AS
22 PAYMENT FOR ITS SERVICES.

23 (c) THE DEPARTMENT OF REVENUE SHALL ESTABLISH
24 CERTIFICATION PROCEDURES FOR PERSONS TO BE APPROVED AS CERTIFIED
25 SOFTWARE PROVIDERS, WHICH PROCEDURES SHALL INCLUDE A
26 REQUIREMENT THAT SOFTWARE PROVIDED BY CERTIFIED SOFTWARE
27 PROVIDERS BE CAPABLE OF CALCULATING AND FILING SALES AND USE
28 TAXES IN ALL STATES QUALIFIED UNDER THE PROPOSED FEDERAL
29 LEGISLATION KNOWN AS THE "MARKETPLACE FAIRNESS ACT OF 2013"
30 THAT, AS OF THE INTRODUCTION OF HOUSE BILL 13-1295, IS BEING
31 CONSIDERED IN CONGRESS.

32 (9) (a) RETAILERS ARE RELIEVED FROM LIABILITY TO THE STATE OR
33 LOCAL TAXING JURISDICTION FOR THE INCORRECT COLLECTION,
34 REMITTANCE, OR NONCOLLECTION OF SALES TAXES, INCLUDING ANY
35 PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT OF AN ERROR OR
36 OMISSION MADE BY A CERTIFIED SOFTWARE PROVIDER DESCRIBED IN
37 PARAGRAPH (c) OF SUBSECTION (8) OF THIS SECTION.

38 (b) CERTIFIED SOFTWARE PROVIDERS DESCRIBED IN PARAGRAPH
39 (c) OF SUBSECTION (8) OF THIS SECTION ARE RELIEVED FROM LIABILITY TO
40 THE STATE OR ANY LOCAL TAXING JURISDICTION FOR THE INCORRECT
41 COLLECTION, REMITTANCE, OR NONCOLLECTION OF SALES TAXES,



1 INCLUDING ANY PENALTIES OR INTEREST, IF THE LIABILITY IS THE RESULT
2 OF MISLEADING OR INACCURATE INFORMATION PROVIDED BY A RETAILER.

3 (c) RETAILERS AND CERTIFIED SOFTWARE PROVIDERS DESCRIBED
4 IN PARAGRAPH (c) OF SUBSECTION (8) OF THIS SECTION ARE RELIEVED
5 FROM LIABILITY TO THE STATE OR ANY LOCAL TAXING JURISDICTION FOR
6 INCORRECT COLLECTION, REMITTANCE, OR NONCOLLECTION OF SALES
7 TAXES, INCLUDING ANY PENALTIES OR INTEREST, IF THE LIABILITY IS THE
8 RESULT OF INCORRECT INFORMATION OR SOFTWARE PROVIDED BY THE
9 DEPARTMENT OF REVENUE.

10 (d) RETAILERS AND CERTIFIED SOFTWARE PROVIDERS DESCRIBED
11 IN PARAGRAPH (c) OF SUBSECTION (8) OF THIS SECTION ARE RELIEVED
12 FROM LIABILITY FOR COLLECTING SALES TAXES AT THE IMMEDIATELY
13 PRECEDING EFFECTIVE STATE AND LOCAL RATES DURING THE NINETY-DAY
14 NOTICE PERIOD DESCRIBED IN SUBSECTION (7) OF THIS SECTION IF THE
15 REQUIRED NOTICE IS NOT PROVIDED.

16 (10) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
17 SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION.
18 SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF
19 TITLE 24, C.R.S."

20 Page 15, line 13, strike "BEFORE" and substitute "ON OR BEFORE".

21 Page 15, line 14, strike "A RETURN" and substitute "AN ELECTRONIC
22 RETURN".

23 Page 15, line 16, strike "INCLUDE" and substitute "ELECTRONICALLY
24 MAKE".

25 Page 15, strike line 27.

26 Page 16, strike lines 1 and 2 and substitute:

27 "(b) THE DEPARTMENT OF REVENUE SHALL BE THE SOLE ENTITY
28 WITHIN THE STATE THAT IS RESPONSIBLE FOR AUDITING REMOTE
29 SELLERS."

30 Page 17, line 16, after "EMPLOYEE" insert "OF THE LOCAL TAXING
31 JURISDICTION".

32 Page 17, strike line 22 and substitute "SHALL PRESCRIBE A STANDARD
33 ELECTRONIC SALES TAX REPORTING FORM".



1 Page 18, after line 20 insert:

2 "SECTION 9. In Colorado Revised Statutes, 29-2-106, amend
3 (2) as follows:

4 29-2-106. Collection - administration - enforcement. (2) The
5 effective date of any countywide sales tax or city or town sales tax
6 adopted under the provisions of this article shall be either January 1 or
7 July 1 following the date of the election in which such county sales tax
8 proposal is approved; and notice of the adoption of any county sales tax
9 proposal shall be submitted by the county clerk and recorder or by the
10 clerk of the city council or board of trustees of a city or town to the
11 executive director of the department of revenue at least forty-five days
12 prior to the effective date of such tax. If such a sales tax proposal is
13 approved at an election held less than forty-five days prior to the January
14 1 or July 1 following the date of election, such tax shall not be effective
15 until the next succeeding January 1 or July 1 AS SET FORTH IN SECTION
16 39-26-104 (2) (c), C.R.S."

17 Renumber succeeding sections accordingly.

18 Page 21, strike line 2 and substitute:

19 "SECTION 14. Effective date. (1) Except as otherwise provided
20 in this section, this act takes effect July 1, 2014.

21 (2) Section 6 of this act takes effect only if the proposed federal
22 legislation known as the "Marketplace Fairness Act of 2013" that, as of
23 the introduction of House Bill 13-1295, is being considered in congress
24 is enacted and takes effect either upon the effective date of this act or the
25 effective date of the "Marketplace Fairness Act of 2013", whichever is
26 later. The department of revenue shall send the revisor of statutes written
27 notice that this requirement has been met within thirty days of enactment
28 of the "Marketplace Fairness Act of 2013" by congress.

29 (3) Section 9 of this act takes effect only if congress enacts an act
30 that authorizes states to require certain retailers to pay, collect, or remit
31 state or local sales taxes and takes effect either upon the effective date of
32 this act or the effective date of such act of congress, whichever is later.
33 The department of revenue shall send the revisor of statutes written notice
34 that this requirement has been met within thirty days of enactment of such
35 an act by congress."

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