

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0735.01 Esther van Mourik

HOUSE BILL 10-1189

HOUSE SPONSORSHIP

Pommer,

SENATE SPONSORSHIP

Heath,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

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

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/billsummaries>.)

Commencing March 1, 2010, the bill eliminates the state sales and use tax exemption for direct mail advertising materials that are distributed in Colorado by any person engaged in the business of providing cooperative direct mail advertising. The bill allows a local government

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
February 1, 2010

HOUSE
Amended 2nd Reading
January 29, 2010

or political subdivision of the state to continue to exempt such direct mail advertising materials from local sales or use tax.

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

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

4 **39-26-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (15) "Tangible personal property" means corporeal personal
7 property. The term shall not be construed to include newspapers, as
8 legally defined by section 24-70-102, C.R.S., preprinted newspaper
9 supplements ~~which~~ THAT become attached to or inserted in and
10 distributed with such newspapers, or direct mail advertising materials
11 ~~which~~ THAT are distributed in Colorado by any person engaged solely and
12 exclusively in the business of providing cooperative direct mail
13 advertising; EXCEPT THAT, COMMENCING MARCH 1, 2010, THROUGH JUNE
14 30, 2013, FOR PURPOSES OF THE STATE SALES OR USE TAX, "TANGIBLE
15 PERSONAL PROPERTY" SHALL INCLUDE DIRECT MAIL ADVERTISING
16 MATERIALS THAT ARE DISTRIBUTED IN COLORADO BY ANY PERSON
17 ENGAGED SOLELY AND EXCLUSIVELY IN THE BUSINESS OF PROVIDING
18 COOPERATIVE DIRECT MAIL ADVERTISING.

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

23
24 **SECTION 2.** Part 1 of article 21 of title 39, Colorado Revised
25 Statutes, is amended BY THE ADDITION OF A NEW SECTION to

1 read:

2 **39-21-122. Revenue impact of 2010 tax legislation - tracking**
3 **by department.** THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL
4 REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1189,
5 ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS
6 AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY
7 REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE
8 STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

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

12 **39-26-127. Legislation modifying the state sales tax base - no**
13 **impact on local government sales tax bases - no expansion of local**
14 **authority to levy sales tax.** (1) NOTWITHSTANDING THE PROVISIONS OF
15 SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR
16 ANY OTHER PROVISION OF LAW, THE LEVYING OF SALES TAX ON,
17 EXEMPTION FROM SALES TAX FOR, OR LOCAL OPTION TO LEVY SALES TAX
18 ON OR PROVIDE AN EXEMPTION FROM SALES TAX FOR ANY TANGIBLE
19 PERSONAL PROPERTY OR SERVICES UNDER THE SALES TAX ORDINANCE OR
20 RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT,
21 AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION
22 OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION,
23 SUSPENSION, OR MODIFICATION OF ANY SALES TAX EXEMPTION OR ANY
24 OTHER LEGISLATIVE MODIFICATION OF THE STATE SALES TAX BASE
25 RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

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

27 (2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT

1 BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY,
2 MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL
3 GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY SALES
4 TAX.

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

8 **39-26-212. Legislation modifying the state use tax base - no**
9 **impact on local government use tax bases - no expansion of local**
10 **authority to levy use tax. (1) NOTWITHSTANDING THE PROVISIONS OF**
11 **SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR**
12 **ANY OTHER PROVISION OF LAW, THE LEVYING OF USE TAX ON, EXEMPTION**
13 **FROM USE TAX FOR, OR LOCAL OPTION TO LEVY USE TAX ON OR PROVIDE**
14 **AN EXEMPTION FROM USE TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR**
15 **SERVICES UNDER THE USE TAX ORDINANCE OR RESOLUTION OF ANY**
16 **COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL**
17 **GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE**
18 **AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR**
19 **MODIFICATION OF ANY USE TAX EXEMPTION OR ANY OTHER LEGISLATIVE**
20 **MODIFICATION OF THE STATE USE TAX BASE RESULTING FROM THE**
21 **ENACTMENT OF ANY OF THE FOLLOWING BILLS:**

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

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

27 **SECTION 5. Appropriation.** In addition to any other

1 appropriation, there is hereby appropriated, out of any moneys in the
2 general fund not otherwise appropriated, to the department of revenue, for
3 allocation to the taxation business group, taxation and compliance
4 division, for the fiscal year beginning July 1, 2009, the sum of ninety-four
5 thousand three hundred twenty-two dollars (\$94,322) and 0.9 FTE, or so
6 much thereof as may be necessary, for the implementation of this act.

7 **SECTION 6. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.