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HOUSE BILL 08-1269

BY REPRESENTATIVE(S) White, Buescher, Gardner C., Lundberg, Marostica, Scanlan, Witwer, Curry, Frangas, Gagliardi, Jahn, Kerr A., Kerr J., Levy, Liston, Looper, Massey, Middleton, Roberts, Rose, Soper, Stafford, Summers, Todd, Lambert, and Romanoff;
also SENATOR(S) Gibbs, Cadman, Groff, Harvey, Isgar, Kester, Kopp, Renfroe, Sandoval, Schultheis, Schwartz, Shaffer, Spence, Taylor, Tochtrop, Tupa, and Wiens.

CONCERNING SALES AND USE TAX EXEMPTIONS FOR THE SALES AND USE OF
WOOD FROM SALVAGED TREES INFESTED IN COLORADO BY MOUNTAIN
PINE BEETLES.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that the mountain pine beetle is an insect native to the forests of western North America and is also known as the black hills beetle or the rocky mountain pine beetle. Mountain pine beetles primarily develop in pines such as ponderosa, lodgepole, scotch and limber pines, and less commonly affect bristlecone and piñon pines. These outbreaks can be devastating and have affected vast stands of pine trees in the central rocky mountain region.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) The general assembly further finds that the browning of Colorado's forests is also creating a unique wood product from the salvaged trees. Mountain pine beetles only infest directly under the bark of a pine tree. But a fungus, which the beetle carries with it, spreads throughout the sapwood weakening the tree's defenses and allowing the beetle to lay its eggs. The fungus leaves beetle-killed pines with a blue stain. Despite the residual blue stain, the wood is still useful for the same wood products as uninfested wood. Studies have found that the blue stain has no practical effects on strength properties, gluing characteristics, or adhesion of furniture finishes. In fact, a study found that the blue stain may cause some beneficial changes to product characteristics.

(3) The general assembly further finds that large-scale salvage operations in infested areas will produce an abundance of merchantable blue stain timber. In order to keep stable prices and minimize timber losses, new uses and markets for this timber must be identified.

(4) It is therefore the intent of the general assembly in enacting this section to provide Colorado with incentives to use the unique wood product from salvaged trees killed in Colorado by mountain pine beetles.

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

39-26-723. Colorado pine beetle products - repeal. (1) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2008, BUT PRIOR TO THE FISCAL YEAR COMMENCING ON JULY 1, 2013, THERE SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PARTS 1 AND 2 OF THIS ARTICLE ALL SALES, STORAGE, AND USE OF WOOD FROM SALVAGED TREES KILLED OR INFESTED IN COLORADO BY MOUNTAIN PINE BEETLES, INCLUDING BUT NOT LIMITED TO PRODUCTS SUCH AS LUMBER, FURNITURE BUILT FROM THE SALVAGED TREES, AND WOOD CHIPS OR WOOD PELLETS GENERATED FROM THE SALVAGED TREES.

(2) FOR PURPOSES OF THE EXEMPTION SPECIFIED IN SUBSECTION (1) OF THIS SECTION, A WHOLESALER SHALL CERTIFY ON A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE THAT A PRODUCT IS FROM SALVAGED TREES KILLED OR INFESTED IN COLORADO BY MOUNTAIN PINE BEETLES.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 3. 29-2-105 (1) (d), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

29-2-105. Contents of sales tax ordinances and proposals.

(1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in paragraph (d) of this subsection (1). Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d) (I) A PROVISION THAT THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE SHALL BE THE SAME AS THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO SECTION 39-26-104, C.R.S., EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (d). THE SALE OF TANGIBLE PERSONAL PROPERTY AND SERVICES TAXABLE PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE SAME SALES TAX EXEMPTIONS AS THOSE SPECIFIED IN PART 7 OF ARTICLE 26 OF TITLE 39, C.R.S.; EXCEPT THAT THE SALE OF THE FOLLOWING MAY BE EXEMPTED FROM A TOWN, CITY, OR COUNTY SALES TAX ONLY BY THE EXPRESS INCLUSION OF THE EXEMPTION EITHER AT THE TIME OF ADOPTION OF THE INITIAL SALES TAX ORDINANCE OR RESOLUTION OR BY AMENDMENT THERETO:

(A) THE EXEMPTION FOR SALES OF MACHINERY OR MACHINE TOOLS SPECIFIED IN SECTION 39-26-709 (1), C.R.S.;

(B) THE EXEMPTION FOR SALES OF ELECTRICITY, COAL, WOOD, GAS, FUEL OIL, OR COKE SPECIFIED IN SECTION 39-26-715 (1) (a) (II), C.R.S.;

(C) THE EXEMPTION FOR SALES OF FOOD SPECIFIED IN SECTION 39-26-707 (1) (e), C.R.S.;

(D) THE EXEMPTION FOR VENDING MACHINE SALES OF FOOD SPECIFIED IN SECTION 39-26-714 (2), C.R.S.;

(E) THE EXEMPTION FOR SALES BY A CHARITABLE ORGANIZATION SPECIFIED IN SECTION 39-26-718 (1) (b), C.R.S.;

(F) THE EXEMPTION FOR SALES OF FARM EQUIPMENT AND FARM

EQUIPMENT UNDER LEASE OR CONTRACT SPECIFIED IN SECTION 39-26-716 (2) (b) AND (2) (c), C.R.S.;

(G) THE EXEMPTION FOR SALES OF LOW-EMITTING MOTOR VEHICLES, POWER SOURCES, OR PARTS USED FOR CONVERTING SUCH POWER SOURCES AS SPECIFIED IN SECTION 39-26-719 (1), C.R.S.;

(H) THE EXEMPTION FOR SALES OF PESTICIDES SPECIFIED IN SECTION 39-26-716 (2) (e), C.R.S.; AND

(I) THE EXEMPTION FOR SALES OF WOOD FROM SALVAGED TREES KILLED OR INFESTED IN COLORADO BY MOUNTAIN PINE BEETLES SPECIFIED IN SECTION 39-26-723, C.R.S.

(II) IF A TOWN, CITY, OR COUNTY SALES TAX EXPRESSLY INCLUDES ANY EXEMPTIONS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) BY AN AMENDMENT TO THE INITIAL SALES TAX ORDINANCE OR RESOLUTION, SUCH AMENDMENT SHALL BE ADOPTED IN THE SAME MANNER AS THE INITIAL ORDINANCE OR RESOLUTION.

(III) IN THE ABSENCE OF AN EXPRESS PROVISION FOR ANY EXEMPTION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), ALL SALES TAX ORDINANCES AND RESOLUTIONS SHALL BE CONSTRUED AS IMPOSING OR CONTINUING TO IMPOSE THE TOWN, CITY, OR COUNTY SALES TAX ON SUCH ITEMS.

SECTION 4. 29-2-106 (4) (a), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

29-2-106. Collection - administration - enforcement.

(4) (a) (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL, AT NO CHARGE, ADMINISTER, COLLECT, AND DISTRIBUTE THE SALES TAX OF ANY HOME RULE MUNICIPALITY UPON REQUEST OF THE GOVERNING BODY OF SUCH MUNICIPALITY:

(A) IF THE PROVISIONS OF THE SALES TAX ORDINANCE OF SAID MUNICIPALITY, OTHER THAN THOSE PROVISIONS RELATING TO LOCAL PROCEDURES FOLLOWED IN ADOPTING THE ORDINANCE, CORRESPOND TO THE REQUIREMENTS OF THIS ARTICLE FOR SALES TAXES IMPOSED BY COUNTIES, TOWNS, AND CITIES;

(B) IF NO USE TAX IS TO BE COLLECTED BY THE DEPARTMENT OF REVENUE EXCEPT AS PROVIDED IN SECTION 39-26-208, C.R.S.; AND

(C) WHETHER OR NOT THE ORDINANCE APPLIES THE SALES TAX TO THE EXEMPTIONS LISTED IN SECTION 29-2-105 (1) (d) (I).

(II) WHEN THE GOVERNING BODY OF ANY HOME RULE MUNICIPALITY REQUESTS THE DEPARTMENT OF REVENUE TO ADMINISTER, COLLECT, AND DISTRIBUTE THE SALES TAX OF SAID MUNICIPALITY AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), SAID GOVERNING BODY SHALL CERTIFY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT A TRUE COPY OF THE HOME RULE MUNICIPALITY'S SALES TAX ORDINANCE.

SECTION 5. The introductory portion to 29-2-109 (1), Colorado Revised Statutes, is amended to read:

29-2-109. Contents of use tax ordinances and proposals. (1) The use tax ordinance, resolution, or proposal of any town, city, or county adopted pursuant to this article shall be imposed only for the privilege of using or consuming in the town, city, or county any construction and building materials purchased at retail or for the privilege of storing, using, or consuming in the town, city, or county any motor and other vehicles, purchased at retail on which registration is required, or both. For the purposes of this subsection (1), the term "construction and building materials" shall not include parts or materials utilized in the fabrication, construction, assembly, or installation of passenger tramways, as defined in section 25-5-702 (4), C.R.S., by any ski area operator, as defined in section 33-44-103 (7), C.R.S., or any person fabricating, constructing, assembling, or installing a passenger tramway for a ski area operator. THE ORDINANCE, RESOLUTION, OR PROPOSAL MAY RECITE THAT THE USE TAX SHALL NOT APPLY TO THE STORAGE AND USE OF WOOD FROM SALVAGED TREES KILLED OR INFESTED IN COLORADO BY MOUNTAIN PINE BEETLES AS EXEMPTED FROM THE STATE USE TAX PURSUANT TO SECTION 39-26-723, C.R.S. The ordinance, resolution, or proposal shall recite that the use tax shall not apply:

SECTION 6. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO