

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 18-0171.02 Esther van Mourik x4215

HOUSE BILL 18-1083

HOUSE SPONSORSHIP

Kraft-Tharp and Sias, McKean

SENATE SPONSORSHIP

Tate and Williams A.,

House Committees

Business Affairs and Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A SALES AND USE TAX EXEMPTION FOR AIRCRAFT TO BE**
102 **USED BY ON-DEMAND AIR CARRIERS.**

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>.)

The bill creates a sales and use tax exemption for the purchase, storage, use, or consumption of an aircraft for use in interstate, intrastate, or foreign commerce by an on-demand air carrier if the aircraft is purchased by a person and then subsequently leased or subleased to an on-demand air carrier or if the aircraft is purchased by an on-demand air carrier.

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.

The bill specifies that a statutory town, city, or county may exempt the same items only by express inclusion of the exemption in its initial sales tax ordinance or resolution or by amendment thereto.

The bill requires any special district or other limited purpose governmental entity that is authorized by law to levy sales tax upon all transactions or incidents with respect to which the state levies sales tax to levy a tax on the purchase, storage, use, or consumption of aircraft for use in interstate, intrastate, or foreign commerce by an on-demand air carrier.

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:

4 (a) That the intended purpose of this act is to place additional
5 aircraft in commercial service in Colorado, which will increase jobs
6 related to their operation;

7 (b) A recent survey of several Colorado-based on-demand air
8 carriers reflected that, on average, each aircraft creates slightly more than
9 five jobs to support its operation;

10 (c) Colorado has a multitude of on-demand air carriers that will
11 have increased access to additional aircraft as a result of this exemption;

12 (d) The exemption will help current on-demand air carriers to
13 update their fleet with newer aircraft with enhanced safety features; and

14 (e) Colorado's rural communities will benefit through additional
15 service because service providers critical to rural communities, such as
16 medical support, rely on on-demand air carriers to access communities
17 with no commercial airline service.

18 **SECTION 2.** In Colorado Revised Statutes, 39-26-711, **amend**
19 (1) introductory portion and (2) introductory portion; and **add** (1)(c),
20 (2)(c), (3), and (4) as follows:

21 **39-26-711. Aircraft - tangible personal property - definition.**

1 (1) The following ~~shall be~~ ARE exempt from taxation under ~~the~~
2 ~~provisions of part 1 of this article~~ ARTICLE 26:

3 (c) (I) EFFECTIVE ~~JANUARY 1, 2019~~, THE PURCHASE OF AN
4 AIRCRAFT BY A PERSON, IF SUCH AIRCRAFT IS THEN LEASED OR SUBLEASED
5 FOR A TERM OF NOT LESS THAN TWENTY-FOUR MONTHS, FOR USE IN
6 INTERSTATE, INTRASTATE, OR FOREIGN COMMERCE BY AN ON-DEMAND AIR
7 CARRIER.

8 (II) EFFECTIVE ~~JANUARY 1, 2019~~, THE PURCHASE OF AN AIRCRAFT
9 BY AN ON-DEMAND AIR CARRIER FOR USE IN INTERSTATE, INTRASTATE, OR
10 FOREIGN COMMERCE BY SUCH ON-DEMAND AIR CARRIER.

11 (2) The following ~~shall be~~ ARE exempt from taxation under ~~the~~
12 ~~provisions of part 2 of this article~~ ARTICLE 26:

13 (c) (I) EFFECTIVE ~~JANUARY 1, 2019~~, THE STORAGE, USE, OR
14 CONSUMPTION OF AN AIRCRAFT, IF SUCH AIRCRAFT IS PURCHASED BY A
15 PERSON AND THEN LEASED OR SUBLEASED FOR A TERM OF NOT LESS THAN
16 TWENTY-FOUR MONTHS, FOR USE IN INTERSTATE, INTRASTATE, OR FOREIGN
17 COMMERCE BY AN ON-DEMAND AIR CARRIER.

18 (II) EFFECTIVE ~~JANUARY 1, 2019~~, THE STORAGE, USE, OR
19 CONSUMPTION OF AN AIRCRAFT IF SUCH AIRCRAFT IS PURCHASED BY AN
20 ON-DEMAND AIR CARRIER FOR USE IN INTERSTATE, INTRASTATE, OR
21 FOREIGN COMMERCE BY SUCH ON-DEMAND AIR CARRIER.

22 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) "LEASED" OR "SUBLEASED" MEANS THAT A WRITTEN CONTRACT
25 IS MEMORIALIZED IN WRITING AT THE TIME THAT THE AGREEMENT
26 BETWEEN THE PARTIES IS FIRST REACHED AND THAT THE WRITTEN
27 CONTRACT PROVIDES THAT THE:

1 (I) RIGHTFUL POSSESSOR OF AN AIRCRAFT CONVEYS THE RIGHT TO
2 EXCLUSIVELY USE AND OCCUPY THAT AIRCRAFT TO A LESSEE IN EXCHANGE
3 FOR CONSIDERATION;

4 (II) AIRCRAFT REMAINS IN FULL POSSESSION, CONTROL, AND
5 OPERATION OF THE LESSEE FOR THE CONTRACT TERM;

6 (III) CONTRACT IS THE RESULT OF AN ARM'S LENGTH
7 TRANSACTION; AND

8 (IV) LESSOR DOES NOT TAKE POSSESSION OR OTHERWISE USE THE
9 AIRCRAFT AT ANY TIME DURING THE CONTRACT TERM UNLESS THE LESSOR
10 CHARTERS THE AIRCRAFT FROM THE LESSEE AT THE MARKET RATE AND
11 PAYS ANY APPLICABLE TAX.

12 (b) "ON-DEMAND AIR CARRIER" MEANS AN ENTITY AUTHORIZED BY
13 THE FEDERAL AVIATION ADMINISTRATION TO OPERATE AN AIRCRAFT TO
14 TRANSPORT PEOPLE OR PROPERTY IN COMPLIANCE WITH THE
15 CERTIFICATION AND OPERATIONS REQUIREMENTS SET FORTH IN 14 CFR
16 125, 133, OR 135.

25 **SECTION 3.** In Colorado Revised Statutes, 29-2-105, **add**
26 (1)(d)(I)(P) as follows:

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

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

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

17 (P) THE ON-DEMAND AIR CARRIER EXEMPTIONS SET FORTH IN
18 SECTION 39-26-711 (1)(c) AND (2)(c).

19 **SECTION 4. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.