

CHAPTER 104

GOVERNMENT - LOCAL

SENATE BILL 24-024

BY SENATOR(S) Bridges and Van Winkle, Liston, Priola;
also REPRESENTATIVE(S) Kipp and Taggart, Boesenecker, Marshall.

AN ACT

CONCERNING THE STANDARDIZATION OF LOCAL LODGING TAX, AND, IN CONNECTION THEREWITH,
ALIGNING REPORTING REQUIREMENTS RELATED TO REMITTANCE OF A LOCAL LODGING TAX TO
REPORTING REQUIREMENTS FOR REMITTANCE OF OTHER LOCAL TAXES.

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

SECTION 1. In Colorado Revised Statutes, **add** 29-2-116 as follows:

29-2-116. Lodging tax - statewide requirements and limitations - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

- (a) LOCAL TAXING JURISDICTIONS MAY IMPOSE A LOCAL LODGING TAX;
- (b) LOCAL LODGING TAXES ACROSS LOCAL TAXING JURISDICTIONS VARY VASTLY;
- (c) LOCAL TAXING JURISDICTIONS ALSO VARY ON REPORTING REQUIREMENTS FOR LOCAL LODGING OPERATORS AND ACCOMMODATION INTERMEDIARIES;
- (d) SUCH VARIATION ACROSS LOCAL TAXING JURISDICTIONS IS EXCEEDINGLY BURDENSOME ON LOCAL LODGING OPERATORS AND ACCOMMODATION INTERMEDIARIES;
- (e) IT IS OF STATEWIDE CONCERN TO HAVE UNIFORMITY ACROSS LOCAL TAXING JURISDICTIONS TO PROMOTE ACCURATE COMPLIANCE WITH THE COLLECTION AND REMITTANCE OF LOCAL LODGING TAXES; AND
- (f) IT IS ALSO OF STATEWIDE CONCERN TO STANDARDIZE REPORTING REQUIREMENTS TO PROMOTE UNIFORM AND CONSISTENT TREATMENT AMONG TAXPAYERS AND PREVENT DISPARATE TAX TREATMENT.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2) (a) FOR PURPOSES OF LOCAL TAX ADMINISTRATION OF REMOTE SALES, NO LOCAL TAXING JURISDICTION, INCLUDING ANY HOME RULE CITY, TOWN, OR CITY AND COUNTY, THAT IMPOSES A LOCAL LODGING TAX SHALL APPLY ADDITIONAL REPORTING REQUIREMENTS OR STANDARDS TO AN ACCOMMODATION'S INTERMEDIARY THAT ARE NOT SIMILARLY APPLIED TO ALL MARKETPLACE FACILITATORS, OBLIGATED TO COLLECT AND REMIT LOCALLY ADMINISTERED TAXES BY THE LOCAL TAXING JURISDICTION.

(b) NOTHING IN THIS SECTION PROHIBITS A LOCAL TAXING JURISDICTION FROM REQUESTING INFORMATION MAINTAINED BY AN ACCOMMODATION'S INTERMEDIARY THAT IS IN CONNECTION WITH AN AUDIT RELATED TO A LOCAL LODGING TAX IN ITS ORDINARY COURSE OF BUSINESS. NOTHING IN THIS SECTION PROHIBITS A LOCAL TAXING JURISDICTION FROM REQUESTING AND OBTAINING ADDITIONAL INFORMATION OR DATA FROM A MARKETPLACE FACILITATOR OR AN ACCOMMODATION'S INTERMEDIARY TO BE PROVIDED ON A VOLUNTARY BASIS. NOTHING IN THIS SECTION PROHIBITS A HOME RULE CITY, TOWN, OR CITY AND COUNTY, FOR PURPOSES UNRELATED TO THE ADMINISTRATION OF LOCAL TAXES, FROM PASSING AN ORDINANCE REGULATING A MARKETPLACE FACILITATOR OR AN ACCOMMODATION'S INTERMEDIARY, INCLUDING AN ORDINANCE GOVERNING THE ISSUANCE OF INFORMATION OR DATA BY A MARKETPLACE FACILITATOR OR ACCOMMODATION'S INTERMEDIARY TO THE HOME RULE CITY, TOWN, OR CITY AND COUNTY, UNLESS OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

(c) WITH RESPECT TO ANY SALE IN A LOCAL TAXING JURISDICTION THAT HAS PASSED AN APPLICABLE MARKETPLACE FACILITATOR LAW, A LOCAL TAXING JURISDICTION SHALL SOLELY AUDIT MARKETPLACE FACILITATORS FOR SALES FACILITATED BY THE MARKETPLACE WHEN THE MARKETPLACE FACILITATOR IS FILING TAX RETURNS WITH THE LOCAL TAXING JURISDICTION. A LOCAL TAXING JURISDICTION SHALL NOT AUDIT OR OTHERWISE ASSESS TAX AGAINST MARKETPLACE SELLERS, MULTICHANNEL SELLERS, OR LODGING SUPPLIERS FOR SALES FACILITATED BY A MARKETPLACE FACILITATOR THAT HAS PROVIDED THE MARKETPLACE SELLERS, MULTICHANNEL SELLERS, OR LODGING SUPPLIERS CONFIRMATION THAT THE MARKETPLACE FACILITATOR IS RESPONSIBLE FOR REMITTING TAX. NOTHING IN THIS SECTION PROHIBITS A LOCAL TAXING JURISDICTION FROM AUDITING OR OTHERWISE ASSESSING TAX AGAINST MARKETPLACE SELLERS, MULTICHANNEL SELLERS, OR LODGING SUPPLIERS IF THE LOCAL TAXING JURISDICTION HAS NOT PASSED AN APPLICABLE MARKETPLACE FACILITATOR LAW OR THE MARKETPLACE FACILITATOR HAS FAILED TO CONFIRM THAT IT REMITS THE TAX.

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

(a) "ACCOMMODATIONS INTERMEDIARY" MEANS A MARKETPLACE FACILITATOR, AS DEFINED IN SECTION 39-26-102 (5.9), WHO FACILITATES THE SALES OF TRANSIENT LODGING CONSIDERED TO BE A SALE UNDER SECTION 39-26-102 (11) OR A SHORT-TERM RENTAL UNIT.

(b) "LOCAL TAXING JURISDICTION" MEANS ANY LOCAL TAXING JURISDICTION FOR WHICH THE DEPARTMENT OF REVENUE DOES NOT COLLECT, ADMINISTER, AND ENFORCE A LOCAL LODGING TAX.

(c) "LODGING SUPPLIER" MEANS AN OPERATOR OF A FACILITY PROVIDING ROOMS OR ACCOMMODATIONS FOR OVERNIGHT USE FURNISHED TO ANY PERSON WHO, FOR CONSIDERATION, USES, POSSESSES, OCCUPIES OR HAS THE RIGHT TO USE, POSSESS, OR OCCUPY ANY SUCH ROOM OR ACCOMMODATION IN A HOTEL, APARTMENT HOTEL, LODGING HOUSE, MOTEL, MOTOR HOTEL, GUEST HOUSE, GUEST RANCH, RESORT, MOBILE HOME, MOBILE HOME PARK, AUTO COURT, INN, TRAILER COURT, TRAILER PARK, HOTEL, OR SHORT-TERM RENTAL UNDER ANY CONCESSION, PERMIT, LEASE, CONTRACT, OR LICENSE TO USE OR ANY OTHER SIMILAR ARRANGEMENT.

(d) "MARKETPLACE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (5.8).

(e) "MARKETPLACE FACILITATOR" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (5.9).

(f) "MARKETPLACE SELLER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (6).

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2025; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect January 1, 2025, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: April 19, 2024