

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0738.01 Esther van Mourik

HOUSE BILL 10-1192

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HOUSE SPONSORSHIP

Pommer,

SENATE SPONSORSHIP

Heath,

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House Committees  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE STATE SALES AND USE TAX OF STANDARDIZED  
102 SOFTWARE.

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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>.)*

The bill repeals a special regulation promulgated by the department of revenue related to the type of software subject to sales or use tax.

The bill specifies that standardized software is included in the definition of tangible personal property and defines standardized

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.*

software.

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

2           **SECTION 1. Repeal of special regulation of the department**  
3 **of revenue.** (1) Special Regulation 7: Computer Software, which rule  
4 was adopted March 28, 2006, concerning the type of software subject to  
5 sales or use tax (1 CCR 201-5), is repealed, effective March 1, 2010.

6           (2) The office of legislative legal services shall forward a copy of  
7 House Bill 10-\_\_\_\_, enacted in 2010, to the secretary of state for purposes  
8 of informing the secretary of state of the general assembly's action  
9 repealing Special Regulation 7. The secretary of state shall delete Special  
10 Regulation 7 from the code of Colorado regulations and include an  
11 appropriate reference of such repeal in the code of Colorado regulations  
12 consistent with the provisions of section 24-4-103 (11), Colorado Revised  
13 Statutes.

14           **SECTION 2.** 39-26-102 (15), Colorado Revised Statutes, is  
15 amended, and the said 39-26-102 is further amended BY THE  
16 ADDITION OF A NEW SUBSECTION, to read:

17           **39-26-102. Definitions.** As used in this article, unless the context  
18 otherwise requires:

19           (13.5) (a) (I) "STANDARDIZED SOFTWARE" MEANS:

20           (A) COMPUTER SOFTWARE, INCLUDING PREWRITTEN UPGRADES,  
21 THAT IS NOT DESIGNED OR DEVELOPED TO THE SPECIFICATIONS OF A  
22 SPECIFIC PURCHASER; OR

23           (B) COMPUTER SOFTWARE DESIGNED AND DEVELOPED TO THE  
24 SPECIFICATIONS OF A SPECIFIC PURCHASER BUT THEN SOLD TO ANOTHER  
25 PURCHASER.

1 (II) "STANDARDIZED SOFTWARE" INCLUDES STANDARDIZED  
2 SOFTWARE THAT IS MODIFIED OR ENHANCED TO ANY DEGREE EVEN IF SUCH  
3 MODIFICATION OR ENHANCEMENT IS DESIGNED AND DEVELOPED TO THE  
4 SPECIFICATIONS OF A SPECIFIC PURCHASER. "STANDARDIZED SOFTWARE"  
5 SHALL NOT INCLUDE SOFTWARE THAT MODIFIES OR ENHANCES  
6 STANDARDIZED SOFTWARE IF THERE IS A REASONABLE, SEPARATELY  
7 STATED CHARGE, INVOICE, OR OTHER STATEMENT OF PRICE GIVEN TO THE  
8 PURCHASER FOR SUCH SOFTWARE THAT MODIFIES OR ENHANCES THE  
9 STANDARDIZED SOFTWARE.

10 (III) "STANDARDIZED SOFTWARE" INCLUDES THE COMBINATION OF  
11 TWO OR MORE STANDARDIZED SOFTWARE PROGRAMS OR PORTIONS  
12 THEREOF.

13 (b) FOR PURPOSES OF THIS SUBSECTION (13.5), "COMPUTER  
14 SOFTWARE" MEANS A SET OF CODED INSTRUCTIONS DESIGNED TO CAUSE  
15 A COMPUTER OR AUTOMATIC DATA PROCESSING HARDWARE TO PERFORM  
16 A TASK.

17 (15) (a) "Tangible personal property" means corporeal personal  
18 property. The term shall not be construed to include newspapers, as  
19 legally defined by section 24-70-102, C.R.S., preprinted newspaper  
20 supplements ~~which~~ THAT become attached to or inserted in and  
21 distributed with such newspapers, or direct mail advertising materials  
22 ~~which~~ THAT are distributed in Colorado by any person engaged solely and  
23 exclusively in the business of providing cooperative direct mail  
24 advertising.

25 (b) "TANGIBLE PERSONAL PROPERTY" INCLUDES STANDARDIZED  
26 SOFTWARE, INCLUDING BUT NOT LIMITED TO ELECTRONIC, TELEPHONIC, OR  
27 SIMILAR TRANSFERS OF SUCH SOFTWARE OR SUCH SOFTWARE

1 DOWNLOADED FROM THE INTERNET OR DELIVERED TO THE PURCHASER BY  
2 USE OF TANGIBLE STORAGE MEDIA WHERE THE TANGIBLE STORAGE MEDIA  
3 IS NOT PHYSICALLY TRANSFERRED TO THE PURCHASER. THE DEPARTMENT  
4 OF REVENUE MAY PROMULGATE RULES FOR APPORTIONING TAX IN THOSE  
5 INSTANCES IN WHICH STANDARDIZED SOFTWARE IS TRANSFERRED FOR USE  
6 IN MORE THAN ONE STATE.

7 **SECTION 3. Specified effective date.** This act shall take effect  
8 March 1, 2010.

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