

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 06B-2081.01 Jason Gelender

HOUSE BILL 06S-1015

HOUSE SPONSORSHIP

Kerr A. and Kerr J. and McGihon

SENATE SPONSORSHIP

Keller,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT A PERSON WITHHOLD COLORADO**
102 **INCOME TAX FROM A PAYMENT TO A PERSON OTHER THAN AN**
103 **EMPLOYEE FOR SERVICES PERFORMED.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires a person that makes a payment to another person for services performed and reports that payment on internal revenue service form 1099-MISC to deduct and withhold state income tax at the rate of 4.63% if the person who performed the services:

 Fails to provide a correct taxpayer identification number;
 or

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
July 7, 2006

HOUSE
Amended 2nd Reading
July 6, 2006

Provides an internal revenue service-issued taxpayer identification number issued for nonresident aliens.

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

2 **SECTION 1.** Part 1 of article 37.5 of title 24, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **24-37.5-107. Work eligibility verification portal.** THE OFFICE
6 SHALL, WITHIN EXISTING RESOURCES AND NO LATER THAN JANUARY 1,
7 2007, ESTABLISH A WORK ELIGIBILITY VERIFICATION PORTAL THAT
8 ENABLES A PERSON TO ACCESS A DATABASE TO VERIFY WHETHER A
9 TAXPAYER IDENTIFICATION NUMBER IS VALID.

10 **SECTION 2.** 39-22-604, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **39-22-604. Withholding tax - requirement to withhold - tax**
13 **lien - exemption from lien.** (18) (a) ANY PERSON WHO MAKES A
14 PAYMENT TO ANY PERSON THAT IS NOT OTHERWISE SUBJECT TO STATE
15 INCOME TAX WITHHOLDING BUT THAT REQUIRES AN INFORMATION
16 RETURN, INCLUDING BUT NOT LIMITED TO ANY PAYMENT FOR WHICH
17 INTERNAL REVENUE SERVICE FORM 1099 IS REQUIRED, SHALL DEDUCT AND
18 WITHHOLD STATE INCOME TAX AT THE RATE OF FOUR AND SIXTY-THREE
19 ONE-HUNDREDTHS PERCENT IF THE PERSON WHO PERFORMED THE
20 SERVICES:

21 (I) FAILS TO PROVIDE A VALIDATED TAXPAYER IDENTIFICATION
22 NUMBER; OR

23 (II) PROVIDES AN INTERNAL REVENUE SERVICE-ISSUED TAXPAYER
24 IDENTIFICATION NUMBER ISSUED FOR NONRESIDENT ALIENS.

25 (b) AN EMPLOYER WHO MAKES ANY PAYMENT FOR SERVICES TO A

1 NATURAL PERSON THAT IS NOT REPORTED ON ANY INFORMATION RETURN
2 SHALL DEDUCT AND WITHHOLD STATE INCOME TAX AT THE RATE OF FOUR
3 AND SIXTY-THREE ONE-HUNDREDTHS PERCENT, UNLESS THE EMPLOYER
4 MAKING PAYMENT HAS A VALIDATED TAXPAYER IDENTIFICATION NUMBER
5 FROM THE PERSON TO WHOM PAYMENT IS MADE.

6 (c) THE REQUIREMENT TO WITHHOLD AND DEDUCT PURSUANT TO
7 PARAGRAPH (a) OF THIS SUBSECTION (18) SHALL NOT APPLY TO AN
8 INDIVIDUAL WHO IS EXEMPT FROM FEDERAL WITHHOLDING PURSUANT TO
9 A PROPERLY FILED INTERNAL REVENUE SERVICE FORM 8233 IF A COPY OF
10 SUCH FORM HAS BEEN FILED WITH THE DEPARTMENT OF REVENUE.

11 (d) FOR PURPOSES OF ALL OTHER PROVISIONS OF THIS SECTION,
12 EXCLUDING PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, A
13 PERSON WHO DEDUCTS AND WITHHOLDS STATE INCOME TAX FROM A
14 PERSON WHO PERFORMS SERVICES PURSUANT TO THE PROVISIONS OF THIS
15 SUBSECTION (18) SHALL BE TREATED AS AN EMPLOYER WITHHOLDING AND
16 DEDUCTING WAGES FROM AN EMPLOYEE, AND SUCH OTHER PROVISIONS OF
17 THIS SECTION SHALL APPLY ACCORDINGLY. THIS PARAGRAPH (d) SHALL
18 NOT BE CONSTRUED AS MAKING THE PERSON WHO PERFORMED THE
19 SERVICES AN EMPLOYEE OF THE PERSON WHO DEDUCTS AND WITHHOLDS
20 STATE INCOME TAX FOR ANY OTHER PURPOSE IN LAW.

21 (e) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES TO
22 AUTHORIZE ANY AMOUNTS DEDUCTED AND WITHHELD PURSUANT TO THIS
23 SUBSECTION (18) TO BE PAID TO THE DEPARTMENT OF REVENUE AS PART
24 OF THE STATE INCOME TAX RETURN.

25 (f) FOR PURPOSES OF THIS SUBSECTION (18), "VALIDATED
26 TAXPAYER IDENTIFICATION NUMBER" MEANS A NUMBER THAT HAS BEEN
27 CONFIRMED BY THE PERSON OR EMPLOYER MAKING A PAYMENT TO A

1 PERSON THROUGH THE PORTAL DESCRIBED IN SECTION 24-37.5-107,
2 C.R.S., OR ANY OTHER EQUALLY EFFECTIVE FORM OF THIRD-PARTY
3 VERIFICATION APPROVED BY THE DEPARTMENT OF REVENUE AS HAVING
4 BEEN ASSIGNED BY THE INTERNAL REVENUE SERVICE TO THE PERSON TO
5 WHOM PAYMENT IS MADE AND AS NOT HAVING BEEN ASSIGNED AS A
6 TAXPAYER IDENTIFICATION NUMBER ISSUED FOR NONRESIDENT ALIENS.

7 (g) THIS SUBSECTION (18) SHALL BE ENFORCED WITHOUT REGARD
8 TO RACE, RELIGION, GENDER, ETHNICITY, OR NATIONAL ORIGIN.

9 **SECTION 3. Effective date - applicability.** This act shall take
10 effect January 1, 2007, and shall apply to services performed and payment
11 obligations accrued on or after said date.

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