

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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

Business, Labor and Technology
Appropriations

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, AND MAKING AN**
104 **APPROPRIATION THEREFOR.**

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:

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.*

SENATE
Amended 2nd Reading
July 8, 2006

HOUSE
3rd Reading Unamended
July 7, 2006

HOUSE
Amended 2nd Reading
July 6, 2006

Fails to provide a correct taxpayer identification number;
or
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 FOR SERVICES TO ANY NATURAL PERSON THAT IS NOT
15 OTHERWISE SUBJECT TO STATE INCOME TAX WITHHOLDING BUT THAT
16 REQUIRES AN INFORMATION RETURN, INCLUDING BUT NOT LIMITED TO ANY
17 PAYMENT FOR WHICH INTERNAL REVENUE SERVICE FORM 1099 IS
18 REQUIRED, SHALL DEDUCT AND WITHHOLD STATE INCOME TAX AT THE
19 RATE OF FOUR AND SIXTY-THREE ONE-HUNDREDTHS PERCENT IF THE
20 PERSON WHO PERFORMED THE SERVICES:

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

23 (II) PROVIDES AN INTERNAL REVENUE SERVICE-ISSUED TAXPAYER

1 IDENTIFICATION NUMBER ISSUED FOR NONRESIDENT ALIENS.

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

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

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

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

27 (f) FOR PURPOSES OF THIS SUBSECTION (18), "VALIDATED SOCIAL

1 SECURITY NUMBER" MEANS A NUMBER THAT HAS BEEN CONFIRMED BY THE
2 PERSON OR EMPLOYER MAKING A PAYMENT TO A PERSON THROUGH THE
3 SOCIAL SECURITY NUMBER VERIFICATION SYSTEM MADE AVAILABLE BY
4 THE SOCIAL SECURITY ADMINISTRATION OR ANY OTHER EQUALLY
5 EFFECTIVE FORM OF THIRD-PARTY VERIFICATION APPROVED BY THE
6 DEPARTMENT OF REVENUE AS HAVING BEEN ASSIGNED BY THE
7 ADMINISTRATION TO THE PERSON TO WHOM PAYMENT IS MADE.

8 (g) FOR PURPOSES OF THIS SUBSECTION (18), "VALIDATED
9 TAXPAYER IDENTIFICATION NUMBER" MEANS A NUMBER THAT HAS BEEN
10 CONFIRMED BY THE PERSON OR EMPLOYER MAKING A PAYMENT TO A
11 PERSON THROUGH THE PORTAL DESCRIBED IN SECTION 24-37.5-107,
12 C.R.S., OR ANY OTHER EQUALLY EFFECTIVE FORM OF THIRD-PARTY
13 VERIFICATION APPROVED BY THE DEPARTMENT OF REVENUE AS HAVING
14 BEEN ASSIGNED BY THE INTERNAL REVENUE SERVICE TO THE PERSON TO
15 WHOM PAYMENT IS MADE AND AS NOT HAVING BEEN ASSIGNED AS A
16 TAXPAYER IDENTIFICATION NUMBER ISSUED FOR NONRESIDENT ALIENS.

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

19 **SECTION 3. Appropriation.** In addition to any other
20 appropriation, there is hereby appropriated, out of any moneys in the
21 general fund, not otherwise appropriated, to the department of department
22 of personnel and administration, for the fiscal year beginning July 1,
23 2006, the sum of one hundred eighteen thousand one hundred fifty-two
24 dollars (\$118,152) and 0.5 FTE, or so much thereof as may be necessary,
25 for the implementation of this act.

26 **SECTION 4. Effective date - applicability.** This act shall take
27 effect January 1, 2007, and shall apply to services performed and payment

1 obligations accrued on or after said date.

2 **SECTION 5. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.