

First Extraordinary Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

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

**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.

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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  
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 SOCIAL  
26 SECURITY NUMBER" MEANS A NUMBER THAT HAS BEEN CONFIRMED BY THE  
27 PERSON OR EMPLOYER MAKING A PAYMENT TO A PERSON THROUGH THE

1 SOCIAL SECURITY NUMBER VERIFICATION SYSTEM MADE AVAILABLE BY  
2 THE SOCIAL SECURITY ADMINISTRATION OR ANY OTHER EQUALLY  
3 EFFECTIVE FORM OF THIRD-PARTY VERIFICATION APPROVED BY THE  
4 DEPARTMENT OF REVENUE AS HAVING BEEN ASSIGNED BY THE  
5 ADMINISTRATION TO THE PERSON TO WHOM PAYMENT IS MADE.

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

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

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

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