



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 12-0059

Date: January 25, 2012

Prime Sponsor(s): Rep. Becker

Bill Status: House Agriculture

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TITLE: CONCERNING THE CLASSIFICATION OF THE SALES OF CERTAIN ITEMS USED IN AGRICULTURAL PRODUCTION AS WHOLESALE SALES.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
General Fund - sales tax reduction	(\$85,468)	(\$88,374)
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: See the Local Government Impact section.		

Summary of Legislation

The bill classifies the sale of certain agricultural items as wholesale sales rather than retail sales. The effect of this classification change is that the items will not be subject to sales tax. The majority of items identified for use in agricultural production in HB12-1037, however, are already exempt from the collection of sales and use tax. The one exception is products used to enhance the activity of a pesticide and intended to be used with a pesticide as an aid to the application or effect of the pesticide. These products, collectively known as adjuvants, include any wetting agent, spreading agent, deposit builder, adhesive emulsifying agent, deflocculating agent, water modifier, or similar agent. Under current law, the sales of adjuvants is taxable. Agricultural items that would be classified as wholesale sales include:

- sales of agricultural compounds to be consumed by, administered to, or otherwise used in caring for livestock;
- sales of semen for agricultural or ranching purposes; and
- sales of pesticides that are registered by the Commissioner of Agriculture for use in the production of agricultural and livestock products.

Background

The Department of Revenue administers sales and use taxes for the state and for statutory cities and counties. Generally, all tangible personal property is taxable, unless specifically exempted through legislation. By classifying pesticides that are registered by the Commissioner of Agriculture for use in the production of agricultural and livestock products, these items will be exempt from the collection of sales and use tax.

State Revenue

Based on an analysis conducted by the Department of Revenue, General Fund revenue is projected to be reduced by \$85,468 in FY 2012-13, and by \$88,374 in FY 2013-14 through the classification of adjuvants as a wholesale sale. The increase in FY 2013-14 is due to inflation.

State Expenditures

Instructions for the state sales tax return will be revised to address the classification changes of affected agricultural items. Additionally, the informational material supplied to the public by the Department of Revenue on the department's website will be updated. These minimal changes will be absorbed with the department's budget.

Local Government Impact

Statutory cities and counties may opt to tax pesticides under current law. Currently, 147 of 152 statutory cities and 42 of 50 counties that impose a sales tax have chosen to tax pesticides. By classifying pesticides as a wholesale sale, these items would be exempt from sales and use tax by statutory cities and counties. The amount of revenue loss at the local level has not been estimated.

Departments Contacted

Local Affairs Revenue Legislative Council Staff

Omissions and Technical or Mechanical Defects

It is assumed that the tax law changes required by the bill will be effective July 1, 2012 to coincide with monthly and quarterly filings of sales tax returns.