

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 12-0450.02 Ed DeCecco x4216

HOUSE BILL 12-1314

HOUSE SPONSORSHIP

Sonnenberg,

SENATE SPONSORSHIP

(None),

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN EXCEPTION TO THE REQUIREMENT TO FILE AN OIL**
102 **AND GAS SEVERANCE TAX RETURN FOR A PERSON WHO HAS LESS**
103 **THAN A CERTAIN AMOUNT WITHHELD.**

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>.)

Section 1 of the bill creates an exception to the requirement that everyone subject to the severance tax on oil and gas must file a return with the department of revenue. This exception applies to any person who has less than \$250 withheld by all unit operators and first purchasers in

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.

a taxable year.

Under current law, if any person fails to file a report related to the severance tax, the executive director of the department of revenue may estimate the amount of tax, interest, and penalties due and mail the estimate to the last-known address of the person. If, within 10 days of receiving the estimate, the person fails to file a correct report and payment, the estimate becomes the amount payable to the state. **Section 2** of the bill prohibits the executive director from sending the estimate to a person who is not required to file a return pursuant to section 1 of the bill.

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

SECTION 1. In Colorado Revised Statutes, 39-29-112, **amend** (1); and **add** (7) as follows:

39-29-112. Procedures and reports. (1) EXCEPT AS SET FORTH IN SUBSECTIONS (6) AND (7) OF THIS SECTION, every person subject to taxation under the provisions of this article shall make an annual return to the department of revenue, separate and apart from other returns required to be made under the provisions of articles 20 to 28 of this title, upon a form to be prescribed by the executive director. Such return shall be filed with the department of revenue on or before the fifteenth day of the fourth month following the end of the taxable year. Payment of the tax shown to be due shall be made at the time such return is filed. The executive director may grant a reasonable extension of time for filing returns and for paying the tax under such rules as he may prescribe. In the event of the failure to file the return within the time required or the extension of the time granted by the executive director, there shall be added to the tax a penalty as provided for in section 39-29-115.

(7) A PERSON IS NOT REQUIRED TO MAKE A SEPARATE, ANNUAL RETURN TO THE DEPARTMENT OF REVENUE FOR A TAXABLE YEAR

1 PURSUANT TO SUBSECTION (1) OF THIS SECTION IF:

2 (a) THE PERSON HAS LESS THAN TWO HUNDRED FIFTY DOLLARS
3 WITHHELD BY ALL UNIT OPERATORS OR FIRST PURCHASERS PURSUANT TO
4 SECTION 39-29-111 (1) FOR THE TAXABLE YEAR; AND

5 (b) THE AMOUNT OF WITHHOLDING IS GREATER THAN OR EQUAL TO
6 THE AMOUNT OF TAX LEVIED PURSUANT TO THIS ARTICLE THAT IS OWED BY
7 THE PERSON FOR THE TAXABLE YEAR.

8 **SECTION 2.** In Colorado Revised Statutes, 39-29-115, **amend**
9 (3) as follows:

10 **39-29-115. Penalties and interest.** (3) (a) EXCEPT AS SET FORTH
11 IN PARAGRAPH (b) OF THIS SUBSECTION (3), if any person fails, neglects,
12 or refuses to file a report required by this article, the executive director
13 may, upon such information as may be available to him, estimate the
14 amount of tax due for the period for which no report was filed, with
15 applicable penalties and interest, and mail such estimate to the last-known
16 address of such person. The amount so estimated, together with the
17 penalties and interest, shall become fixed, due, and payable, as if such
18 person had filed a report showing such amounts unless, within ten days
19 after receiving the estimate, such person files a true and correct report for
20 the period and pays the tax, penalty, and interest due thereon.

21 (b) THE EXECUTIVE DIRECTOR SHALL NOT SEND AN ESTIMATE FOR
22 A TAXABLE YEAR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3)
23 TO A PERSON WHO HAS LESS THAN TWO HUNDRED FIFTY DOLLARS
24 WITHHELD BY ALL UNIT OPERATORS OR FIRST PURCHASERS FOR THE
25 TAXABLE YEAR PURSUANT TO SECTION 39-29-111 (1), UNLESS THE
26 EXECUTIVE DIRECTOR HAS GOOD CAUSE TO BELIEVE THAT SUCH PERSON
27 DOES NOT QUALIFY FOR THE EXCEPTION TO THE FILING REQUIREMENT SET

1 FORTH IN SECTION 39-29-112 (7).

2 **SECTION 3. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2012 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.