

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 15-0275.01 Gregg Fraser x4325

HOUSE BILL 15-1206

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REFUND OF STATE SALES AND USE TAXES PAID UPON**
102 **MACHINERY OR EQUIPMENT USED IN THE RECYCLING PROCESS.**

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>.)

For each of the calendar years 2015 through 2019, the bill allows a taxpayer to apply for a refund of any state sales tax or use tax paid for machinery or equipment used directly and primarily in the recycling or reprocessing of waste products. The bill specifies the types of machinery or equipment to which the refund applies and specifies procedures for applying to the department of revenue to receive the refund.

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.*

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Most machinery and equipment used in the traditional
5 manufacturing process is currently exempt from the state sales and use
6 tax;

7 (b) Because recycling and reprocessing waste products use
8 different methods to acquire, process, and transport needed materials,
9 much of the machinery and equipment used in the recycling and
10 reprocessing industry does not receive the same sales and use tax
11 treatment as other equipment used in traditional manufacturing; and

12 (c) The intended purpose of the tax refund created in this section
13 is to:

14 (I) Treat machinery and equipment used in the recycling and
15 reprocessing of waste products the same as machinery and equipment
16 used in the traditional manufacturing process for state sales and use tax
17 purposes;

18 (II) Preserve and create new jobs in Colorado in the recycling and
19 reprocessing industries;

20 (III) Secure a robust and reliable source of local materials and
21 supplies for recycled materials processors and manufacturers in the state;

22 (IV) Ensure that recyclable materials are recycled in the state
23 rather than shipped to other states or countries for remanufacturing;

24 (V) Develop the recycled materials processing and manufacturing
25 industries in the state to provide additional economic benefits to the state
26 that are currently being lost to other states; and

1 (VI) Encourage the diversion of additional useful recyclable
2 materials from landfill sites in the state.

3 **SECTION 2.** In Colorado Revised Statutes, **add** 39-26-729 as
4 follows:

5 **39-26-729. Refund for waste reduction or recycling equipment**
6 **- definition - repeal.** (1) FOR EACH CALENDAR YEAR COMMENCING ON OR
7 AFTER JANUARY 1, 2015, BUT PRIOR TO JANUARY 1, 2020, A TAXPAYER
8 THAT OPERATES A RECYCLING FACILITY OR A COMPOSTING FACILITY
9 REGISTERED WITH THE COLORADO DEPARTMENT OF HEALTH AND
10 ENVIRONMENT IS ALLOWED TO CLAIM A REFUND OF ALL STATE SALES
11 AND USE TAXES THE TAXPAYER PAYS PURSUANT TO PARTS 1 AND 2 OF THIS
12 ARTICLE UPON THE STORAGE, USE, CONSUMPTION, RENTAL, OR SALE OF
13 ANY WASTE REDUCTION OR RECYCLING EQUIPMENT.

14 (2) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (1) OF THIS
15 SECTION, A TAXPAYER MUST SUBMIT A REFUND APPLICATION TO THE
16 DEPARTMENT OF REVENUE, ON A FORM PROVIDED BY THE DEPARTMENT,
17 NO EARLIER THAN JANUARY 1 AND NO LATER THAN APRIL 1 OF THE
18 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE TAX IS
19 PAID. ALONG WITH THE APPLICATION, THE TAXPAYER MUST PROVIDE
20 PROOF OF THE STATE SALES AND USE TAXES PAID BY THE TAXPAYER IN THE
21 IMMEDIATELY PRECEDING CALENDAR YEAR. A TAXPAYER MUST ALSO
22 PROVIDE ANY ADDITIONAL INFORMATION WITH THE APPLICATION THAT
23 THE DEPARTMENT OF REVENUE REQUIRES BY RULE, WHICH MAY INCLUDE,
24 WITHOUT LIMITATION, A DETAILED LIST OF THE WASTE REDUCTION OR
25 RECYCLING EQUIPMENT AND USES THEREOF THAT SUPPORT A CLAIM FOR
26 A REFUND, THE NAME AND ADDRESSES OF AN INDIVIDUAL WHO MAINTAINS
27 RECORDS OF SUCH INFORMATION, AND A STATEMENT THAT THE TAXPAYER

1 AGREE TO FURNISH RECORDS CONFIRMING SUCH INFORMATION TO THE
2 DEPARTMENT OF REVENUE UPON REQUEST. THE DEPARTMENT SHALL NOT
3 REFUND ANY MONEYS TO A TAXPAYER UNLESS THE TAXPAYER HAS
4 COMPLIED WITH THIS SUBSECTION (2).

5 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "HOME SCRAP" MEANS MATERIALS OR BY-PRODUCTS
8 GENERATED FROM AND COMMONLY REUSED WITHIN AN ORIGINAL
9 MANUFACTURING PROCESS;

10 (b) "MOTOR VEHICLE" MEANS A VEHICLE AS DEFINED IN SECTION
11 42-1-102 (58), C.R.S.;

12 (c) "POSTCONSUMER WASTE" MEANS PRODUCTS OR OTHER
13 MATERIALS GENERATED BY A BUSINESS, GOVERNMENTAL ENTITY, OR
14 CONSUMER THAT HAVE SERVED THEIR INTENDED END USE AND HAVE BEEN
15 RECOVERED FROM OR OTHERWISE DIVERTED FROM THE SOLID WASTE
16 STREAM FOR THE PURPOSE OF RECYCLING;

17 (d) "PRECONSUMER MATERIAL" MEANS MATERIAL GENERATED
18 DURING ANY STEP IN THE PRODUCTION OF A PRODUCT AND RECOVERED OR
19 OTHERWISE DIVERTED FROM THE SOLID WASTE STREAM FOR THE PURPOSE
20 OF RECYCLING BUT DOES NOT INCLUDE HOME SCRAP;

21 (e) "RECOVERED MATERIALS" MEANS THOSE MATERIALS THAT
22 HAVE BEEN SEPARATED, DIVERTED, OR REMOVED FROM THE WASTE
23 STREAM FOR THE PURPOSE OF RECYCLING AND INCLUDES PRECONSUMER
24 MATERIAL AND POSTCONSUMER WASTE BUT NOT HOME SCRAP;

25 (f) "RECYCLING" MEANS THE SYSTEMATIC COLLECTING, SORTING,
26 DECONTAMINATING, AND RETURNING OF WASTE MATERIALS TO
27 COMMERCE AS COMMODITIES FOR USE OR EXCHANGE;

1 (g) "SOLID WASTE" MEANS ALL PUTRESCIBLE AND
2 NONPUTRESCIBLE WASTES IN SOLID OR SEMISOLID FORM, INCLUDING, BUT
3 NOT LIMITED TO, YARD OR FOOD WASTE, WASTE GLASS, WASTE METALS,
4 WASTE PLASTICS, WASTEPAPERS, WASTE PAPERBOARD, AND ALL OTHER
5 SOLID OR SEMISOLID WASTES RESULTING FROM INDUSTRIAL, COMMERCIAL,
6 AGRICULTURAL, COMMUNITY, AND RESIDENTIAL ACTIVITIES; AND

7 (h) (I) "WASTE REDUCTION OR RECYCLING EQUIPMENT" MEANS
8 NEW OR USED MACHINERY OR EQUIPMENT WHICH IS OPERATED OR USED
9 EXCLUSIVELY IN THE STATE TO COLLECT, SEPARATE, PROCESS, MODIFY,
10 CONVERT, OR TREAT SOLID WASTE SO THAT THE RESULTING PRODUCT MAY
11 BE USED AS A RAW MATERIAL OR FOR PRODUCTIVE USE OR TO
12 MANUFACTURE PRODUCTS CONTAINING RECOVERED MATERIALS. "WASTE
13 REDUCTION OR RECYCLING EQUIPMENT" INCLUDES DEVICES WHICH ARE
14 DIRECTLY CONNECTED WITH OR ARE AN INTEGRAL AND NECESSARY PART
15 OF SUCH MACHINERY OR EQUIPMENT AND ARE NECESSARY FOR SUCH
16 COLLECTION, SEPARATION, PROCESSING, MODIFICATION, CONVERSION,
17 TREATMENT, OR MANUFACTURING.

18 (II) "WASTE REDUCTION OR RECYCLING EQUIPMENT" DOES NOT
19 INCLUDE MOTOR VEHICLES.

20 (4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2021.

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly
24 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
25 if a referendum petition is filed pursuant to section 1 (3) of article V of
26 the state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2016 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.