



General Assembly

February Session, 2012

Raised Bill No. 400

LCO No. 2140

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Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING THE TAXATION OF DIGITAL PRODUCTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of subsection (a) of section 12-407 of the
2 2012 supplement to the general statutes is repealed and the following
3 is substituted in lieu thereof (*Effective July 1, 2012, and applicable to sales*
4 *occurring on or after said date*):

5 (2) "Sale" and "selling" mean and include:

6 (A) Any transfer of title, exchange or barter, conditional or
7 otherwise, in any manner or by any means whatsoever, of tangible
8 personal property for a consideration;

9 (B) Any withdrawal, except a withdrawal pursuant to a transaction
10 in foreign or interstate commerce, of tangible personal property from
11 the place where it is located for delivery to a point in this state for the
12 purpose of the transfer of title, exchange or barter, conditional or
13 otherwise, in any manner or by any means whatsoever, of the property
14 for a consideration;

15 (C) The producing, fabricating, processing, printing or imprinting of
16 tangible personal property for a consideration for consumers who
17 furnish either directly or indirectly the materials used in the
18 producing, fabricating, processing, printing or imprinting, including,
19 but not limited to, sign construction, photofinishing, duplicating and
20 photocopying;

21 (D) The furnishing and distributing of tangible personal property
22 for a consideration by social clubs and fraternal organizations to their
23 members or others;

24 (E) The furnishing, preparing, or serving for a consideration of food,
25 meals or drinks;

26 (F) A transaction whereby the possession of property is transferred
27 but the seller retains the title as security for the payment of the price;

28 (G) A transfer for a consideration of the title of tangible personal
29 property which has been produced, fabricated or printed to the special
30 order of the customer, or of any publication, including, but not limited
31 to, sign construction, photofinishing, duplicating and photocopying;

32 (H) A transfer for a consideration of the occupancy of any room or
33 rooms in a hotel or lodging house for a period of thirty consecutive
34 calendar days or less;

35 (I) The rendering of certain services, as defined in subdivision (37)
36 of this subsection, for a consideration, exclusive of such services
37 rendered by an employee for the employer;

38 (J) The leasing or rental of tangible personal property of any kind
39 whatsoever, including, but not limited to, motor vehicles, linen or
40 towels, machinery or apparatus, office equipment and data processing
41 equipment, provided for purposes of this subdivision and the
42 application of sales and use tax to contracts of lease or rental of
43 tangible personal property, the leasing or rental of any motion picture
44 film by the owner or operator of a motion picture theater for purposes

45 of display at such theater shall not constitute a sale within the meaning
46 of this subsection;

47 (K) The rendering of telecommunications service, as defined in
48 subdivision (26) of this subsection, for a consideration on or after
49 January 1, 1990, exclusive of any such service rendered by an employee
50 for the employer of such employee, subject to the provisions related to
51 telecommunications service in accordance with section 12-407a;

52 (L) (i) The rendering of community antenna television service, as
53 defined in subdivision (27) of this subsection, for a consideration on or
54 after January 1, 1990, exclusive of any such service rendered by an
55 employee for the employer of such employee. For purposes of this
56 chapter, "community antenna television service" includes service
57 provided by a holder of a certificate of cable franchise authority
58 pursuant to section 16-331p, and service provided by a community
59 antenna television company issued a certificate of video franchise
60 authority pursuant to section 16-331e for any service area in which it
61 was not certified to provide community antenna television service
62 pursuant to section 16-331 on or before October 1, 2007;

63 (ii) The rendering of certified competitive video service, as defined
64 in subdivision (38) of this subsection, for consideration on or after
65 October 1, 2007, exclusive of any such service rendered by an
66 employee for the employer of such employee;

67 (M) The transfer for consideration of space or the right to use any
68 space for the purpose of storage or mooring of any noncommercial
69 vessel, exclusive of dry or wet storage or mooring of such vessel
70 during the period commencing on the first day of November in any
71 year to and including the thirtieth day of April of the next succeeding
72 year;

73 (N) The sale for consideration of naming rights to any place of
74 amusement, entertainment or recreation within the meaning of
75 subdivision (3) of section 12-540;

76 (O) The transfer for consideration of a prepaid telephone calling
77 service, as defined in subdivision (34) of this subsection, and the
78 recharge of a prepaid telephone calling service, provided, if the sale or
79 recharge of a prepaid telephone calling service does not take place at
80 the retailer's place of business and an item is shipped by the retailer to
81 the customer, the sale or recharge shall be deemed to take place at the
82 customer's shipping address, but, if such sale or recharge does not take
83 place at the retailer's place of business and no item is shipped by the
84 retailer to the customer, the sale or recharge shall be deemed to take
85 place at the customer's billing address or the location associated with
86 the customer's mobile telephone number; [and]

87 (P) The furnishing by any person, for a consideration, of space for
88 storage of tangible personal property when such person is engaged in
89 the business of furnishing such space, but "sale" and "selling" do not
90 mean or include the furnishing of space which is used by a person for
91 residential purposes. As used in this subparagraph, "space for storage"
92 means secure areas, such as rooms, units, compartments or containers,
93 whether accessible from outside or from within a building, that are
94 designated for the use of a customer, where the customer can store and
95 retrieve property, including self-storage units, mini-storage units and
96 areas by any other name to which the customer has either unlimited
97 free access or free access within reasonable business hours or upon
98 reasonable notice to the service provider to add or remove property,
99 but does not mean the rental of an entire building, such as a
100 warehouse. For purposes of this subparagraph, furnishing space for
101 storage shall not include general warehousing and storage, where the
102 warehouse typically handles, stores and retrieves a customer's
103 property using the warehouse's staff and equipment and does not
104 allow the customer free access to the storage space and shall not
105 include accepting specific items of property for storage, such as
106 clothing at a dry cleaning establishment or golf bags at a golf club; and

107 (Q) The electronic transfer, for a consideration, of any digital
108 product, as defined in subdivision (42) of this subsection, that grants to

109 a purchaser a right or license to use, retain or make a copy of such
 110 digital product.

111 Sec. 2. Subsection (a) of section 12-407 of the 2012 supplement to the
 112 general statutes is amended by adding subdivision (42) as follows
 113 *(Effective July 1, 2012, and applicable to sales occurring on or after said date):*

114 (NEW) (42) "Digital product" means an electronically transferred
 115 digital audio-visual work, digital audio work, including a ringtone, or
 116 digital book, and includes a digital code that provides a purchaser
 117 with a right to obtain the product. "Digital product" does not include
 118 video programming services, including video on demand television
 119 services, broadcasting services or content to provide such services, or
 120 computer and data processing services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012, and applicable to sales occurring on or after said date</i>	12-407(a)(2)
Sec. 2	<i>July 1, 2012, and applicable to sales occurring on or after said date</i>	12-407(a)

Statement of Purpose:

To include digital movies, books, music, ringtones, audio and video works and similar downloadable products as subject to the sales and use tax.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]