



General Assembly

January Session, 2013

Raised Bill No. 1117

LCO No. 4453



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING THE TAXATION OF DIGITAL DOWNLOADS, BOATS AND MARIJUANA, AND EXPANDING THE TAX CREDITS AVAILABLE UNDER THE NEIGHBORHOOD ASSISTANCE ACT.

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2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2013, and applicable to sales occurring on or after*
4 *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, exclusive of business
108 to business transactions, of any specified digital product, as defined in
109 subdivision (42) of this subsection, that grants to a purchaser a right or
110 license to use, retain or copy such digital product, regardless of
111 whether the seller has granted the purchaser a right of permanent use
112 and regardless of whether the purchaser's right of use is conditioned
113 upon continued payment.

114 Sec. 2. Subsection (a) of section 12-407 of the general statutes is
115 amended by adding subdivision (42) as follows (*Effective July 1, 2013,*
116 *and applicable to sales occurring on or after said date*):

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

124 Sec. 3. Subparagraph (D) of subdivision (1) of section 12-408 of the
125 general statutes is repealed and the following is substituted in lieu
126 thereof (*Effective July 1, 2013, and applicable to sales occurring on or after*
127 *said date*):

128 (D) (i) With respect to the sales of computer and data processing
129 services occurring on or after July 1, 1997, and prior to July 1, 1998, at
130 the rate of five per cent, on or after July 1, 1998, and prior to July 1,
131 1999, at the rate of four per cent, on or after July 1, 1999, and prior to
132 July 1, 2000, at the rate of three per cent, on or after July 1, 2000, and
133 prior to July 1, 2001, at the rate of two per cent, on or after July 1, 2001,
134 at the rate of one per cent, and, on or after July 1, 2013, at the rate of
135 one per cent, provided the sale and use is by and to a business entity,
136 and such services are to be used directly in or by a business, and (ii)

137 with respect to sales of Internet access services, on and after July 1,
138 2001, such services shall be exempt from such tax;

139 Sec. 4. Subparagraph (E) of subdivision (1) of section 12-411 of the
140 general statutes is repealed and the following is substituted in lieu
141 thereof (*Effective July 1, 2013*):

142 (E) With respect to the acceptance or receipt in this state of
143 computer and data processing services purchased from any retailer for
144 consumption or use in this state occurring on or after July 1, 1997, and
145 prior to July 1, 1998, at the rate of five per cent of such services, on or
146 after July 1, 1998, and prior to July 1, 1999, at the rate of four per cent of
147 such services, on or after July 1, 1999, and prior to July 1, 2000, at the
148 rate of three per cent of such services, on or after July 1, 2000, and prior
149 to July 1, 2001, at the rate of two per cent of such services, on and after
150 July 1, 2001, at the rate of one per cent of such services, and, on or after
151 July 1, 2013, at the rate of one per cent, provided the sale and use is by
152 and to a business entity, and such services are to be used directly in or
153 by a business, and (ii) with respect to the acceptance or receipt in this
154 state of Internet access services, on or after July 1, 2001, such services
155 shall be exempt from tax;

156 Sec. 5. Subparagraph (H) of subdivision (1) of section 12-408 of the
157 general statutes is repealed and the following is substituted in lieu
158 thereof (*Effective from passage and applicable to sales occurring on or after*
159 *said date*):

160 (H) With respect to the sale of (i) a motor vehicle for a sales price
161 exceeding fifty thousand dollars, at a rate of seven per cent on the
162 entire sales price, (ii) [a vessel for a sales price exceeding one hundred
163 thousand dollars, at a rate of seven per cent on the entire sales price,
164 (iii)] jewelry, whether real or imitation, for a sales price exceeding five
165 thousand dollars, at a rate of seven per cent on the entire sales price,
166 and [(iv)] (iii) an article of clothing or footwear intended to be worn on
167 or about the human body, a handbag, luggage, umbrella, wallet or

168 watch for a sales price exceeding one thousand dollars, at a rate of
169 seven per cent on the entire sales price. For purposes of this
170 subparagraph, "motor vehicle" shall have the meaning provided in
171 section 14-1, but shall not include a motor vehicle subject to the
172 provisions of subparagraph (C) of this subdivision, a motor vehicle
173 having a gross vehicle weight rating over twelve thousand five
174 hundred pounds, or a motor vehicle having a gross vehicle weight
175 rating of twelve thousand five hundred pounds or less that is not used
176 for private passenger purposes, but is designed or used to transport
177 merchandise, freight or persons in connection with any business
178 enterprise and issued a commercial registration or more specific type
179 of registration by the Department of Motor Vehicles;

180 Sec. 6. Subparagraph (H) of subdivision (1) of section 12-411 of the
181 general statutes is repealed and the following is substituted in lieu
182 thereof (*Effective from passage and applicable to sales occurring on or after*
183 *said date*):

184 (H) With respect to the sale of (i) a motor vehicle for a sales price
185 exceeding fifty thousand dollars, at a rate of seven per cent on the
186 entire [purchase] sales price, (ii) [a vessel for a sales price exceeding
187 one hundred thousand dollars, at a rate of seven per cent on the entire
188 purchase price, (iii)] jewelry, whether real or imitation, for a sales price
189 exceeding five thousand dollars, at a rate of seven per cent on the
190 entire [purchase] sales price, and [(iv)] (iii) an article of clothing or
191 footwear intended to be worn on or about the human body, a handbag,
192 luggage, umbrella, wallet or watch for a sales price exceeding one
193 thousand dollars, at a rate of seven per cent on the entire [purchase]
194 sales price. For purposes of this subparagraph, "motor vehicle" shall
195 have the meaning provided in section 14-1, but shall not include a
196 motor vehicle subject to the provisions of subparagraph (C) of this
197 subdivision, a motor vehicle having a gross vehicle weight rating over
198 twelve thousand five hundred pounds, or a motor vehicle having a
199 gross vehicle weight rating of twelve thousand five hundred pounds
200 or less that is not used for private passenger purposes, but is designed

201 or used to transport merchandise, freight or persons in connection
202 with any business enterprise and issued a commercial registration or
203 more specific type of registration by the Department of Motor
204 Vehicles;

205 Sec. 7. Section 12-633 of the general statutes is repealed and the
206 following is substituted in lieu thereof (*Effective from passage*):

207 The Commissioner of Revenue Services shall grant a credit against
208 any tax due under the provisions of chapter 207, 208, 209, 210, 211 or
209 212 in an amount not to exceed sixty per cent of the total cash amount
210 invested during the taxable year by the business firm in programs
211 operated or created pursuant to proposals approved pursuant to
212 section 12-632, provided a tax credit not to exceed one hundred per
213 cent of the total cash amount invested during the taxable year by the
214 business firm may be allowed for investment in certain energy
215 conservation or neighborhood assistance projects as provided in
216 subdivisions (1), [and] (2) and (3) of section 12-635, as amended by this
217 act.

218 Sec. 8. Section 12-635 of the general statutes is repealed and the
219 following is substituted in lieu thereof (*Effective from passage*):

220 The Commissioner of Revenue Services shall grant a credit against
221 any tax due under the provisions of chapter 207, 208, 209, 210, 211 or
222 212: (1) In an amount not to exceed one hundred per cent of the total
223 cash amount invested during the taxable year by the business firm in
224 programs operated or created pursuant to proposals approved
225 pursuant to section 12-632 for energy conservation projects directed
226 toward properties occupied by persons, at least seventy-five per cent
227 of whom are at an income level not exceeding one hundred fifty per
228 cent of the poverty level for the year next preceding the year during
229 which such tax credit is to be granted; (2) in an amount [equal to] not
230 to exceed one hundred per cent of the total cash amount invested
231 during the taxable year by the business firm in programs operated or

232 created pursuant to proposals approved pursuant to section 12-632 for
233 energy conservation projects at properties owned or occupied by
234 charitable corporations, foundations, trusts or other entities as
235 determined under regulations adopted pursuant to this chapter; [or]
236 (3) in an amount not to exceed one hundred per cent of the total cash
237 amount invested during the taxable year by the business firm for
238 neighborhood assistance provided to a distressed municipality, as
239 defined in subsection (b) of section 32-9p, or (4) in an amount not to
240 exceed sixty per cent of the total cash amount invested during the
241 taxable year by the business firm (A) in employment and training
242 programs directed at youths, at least seventy-five per cent of whom are
243 at an income level not exceeding one hundred fifty per cent of the
244 poverty level for the year next preceding the year during which such
245 tax credit is to be granted; (B) in employment and training programs
246 directed at handicapped persons as determined under regulations
247 adopted pursuant to this chapter; (C) in employment and training
248 programs for unemployed workers who are fifty years of age or older;
249 (D) in education and employment training programs for recipients in
250 the temporary family assistance program; or (E) in child care services.
251 Any other program which serves persons at least seventy-five per cent
252 of whom are at an income level not exceeding one hundred fifty per
253 cent of the poverty level for the year next preceding the year during
254 which such tax credit is to be granted and which meets the standards
255 for eligibility under this chapter shall be eligible for a tax credit under
256 this section in an amount equal to sixty per cent of the total cash
257 invested by the business firm in such program.

258 Sec. 9. Subdivision (2) of section 21a-408 of the general statutes is
259 repealed and the following is substituted in lieu thereof (*Effective July*
260 *1, 2013*):

261 (2) "Debilitating medical condition" means (A) cancer, glaucoma,
262 positive status for human immunodeficiency virus or acquired
263 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,
264 damage to the nervous tissue of the spinal cord with objective

265 neurological indication of intractable spasticity, epilepsy, cachexia,
266 wasting syndrome, Crohn's disease, posttraumatic stress disorder,
267 pain that is treated by a pain management specialist, as such terms are
268 defined in section 38a-492i or (B) any medical condition, medical
269 treatment or disease approved by the Department of Consumer
270 Protection pursuant to regulations adopted under section 21a-408m;

271 Sec. 10. (NEW) (*Effective July 1, 2013*) (a) For purposes of this section,
272 "producer" means a person licensed as a producer pursuant to section
273 21a-408i of the general statutes, and "dispensary" means a person
274 licensed as a dispensary pursuant to section 21a-408h of the general
275 statutes.

276 (b) There shall be paid to the Commissioner of Revenue Services by
277 each producer a tax of two hundred fifty dollars on each pound of
278 marijuana delivered to a dispensary.

279 (c) Each producer shall, on or before the last day of each calendar
280 month, file with the commissioner a return, on forms to be prescribed
281 and furnished by said commissioner and signed by the producer under
282 penalty of false statement, showing, for the preceding calendar month
283 or any portion thereof during which such taxpayer was a producer, (1)
284 the total number of pounds of marijuana delivered to a licensed
285 dispensary during such calendar month or portion thereof, (2) the
286 amount of the tax payable for such calendar month or portion thereof,
287 as provided in subsection (b) of this section, and (3) such additional
288 information as the commissioner requires for the proper
289 administration of this section.

290 (d) (1) The tax imposed by this section shall be due and payable on
291 the last day of each calendar month or portion thereof during which
292 such taxpayer was a producer. Upon the filing of the return required
293 by subsection (c) of this section, the producer shall forward to the
294 commissioner the amount shown by such return to be due to the state.

295 (2) If any producer fails to pay such amount within the time

296 required, there shall be imposed a penalty equal to ten per cent of such
297 amount of tax due and unpaid, or fifty dollars, whichever is greater.
298 The tax shall bear interest at the rate of one per cent per month or
299 fraction thereof, from the due date of such tax to the date of payment.

300 (3) If no return has been filed within three months after the time
301 specified under the provisions of this section, the commissioner may
302 make such return at any time thereafter, according to the best
303 information obtainable and according to the form prescribed. There
304 shall be added to the tax imposed upon the basis of such return, an
305 amount equal to ten per cent of such tax, or fifty dollars, whichever is
306 greater. The tax shall bear interest at the rate of one per cent per month
307 or fraction thereof, from the due date of such tax until the date of
308 payment. No taxpayer shall be subject to a penalty under both
309 subdivision (2) of this subsection and this subdivision.

310 (4) Subject to the provisions of section 12-3a of the general statutes,
311 the commissioner may waive all or part of the penalties provided
312 under this section when it is proven to the commissioner's satisfaction
313 that the failure to pay any tax on time was due to reasonable cause and
314 was not intentional or due to neglect.

315 (e) The provisions of sections 12-548 to 12-554, inclusive, of the
316 general statutes and section 12-555a of the general statutes, shall apply
317 to the provisions of this section in the same manner and with the same
318 force and effect as if the language of sections 12-548 to 12-554,
319 inclusive, of the general statutes and section 12-555a of the general
320 statutes had been incorporated in full into this section and had
321 expressly referred to the tax imposed under this section.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>July 1, 2013, and applicable to sales occurring on or after said date</i>	12-407(a)(2)
Sec. 2	<i>July 1, 2013, and applicable to sales occurring on or after said date</i>	12-407(a)
Sec. 3	<i>July 1, 2013, and applicable to sales occurring on or after said date</i>	12-408(1)(D)
Sec. 4	<i>July 1, 2013</i>	12-411(1)(E)
Sec. 5	<i>from passage and applicable to sales occurring on or after said date</i>	12-408(1)(H)
Sec. 6	<i>from passage and applicable to sales occurring on or after said date</i>	12-411(1)(H)
Sec. 7	<i>from passage</i>	12-633
Sec. 8	<i>from passage</i>	12-635
Sec. 9	<i>July 1, 2013</i>	21a-408(2)
Sec. 10	<i>July 1, 2013</i>	New section

Statement of Purpose:

To impose sales and use tax on specified digital products, except for those sold or purchased in a business-to-business transaction, to repeal the luxury tax on the sale of boats costing over one hundred thousand dollars, to provide a tax credit under the Neighborhood Assistance Act to organizations providing assistance in distressed municipalities, to add "pain" to the definition of "debilitating medical condition" for purposes of the palliative use of marijuana, and to impose a tax on each pound of marijuana provided to a licensed dispensary.

[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.]