

**AMENDMENTS TO TAXES, FEES, OR  
CHARGES**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Wayne A. Harper**

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**LONG TITLE**

**General Description:**

This bill amends the Revenue and Taxation title, the Repeal Dates part, and enacts uncodified material.

**Highlighted Provisions:**

This bill:

- ▶ provides legislative intent regarding the implementation of certain provisions enacted during the 2003 General Session, 2004 General Session, and 2004 Third Special Session, relating to taxes, fees, and charges;
- ▶ addresses amnesty for sellers relating to certain taxes, fees, or charges;
- ▶ provides a repeal date for the legislative intent language;
- ▶ requires the Revenue and Taxation Interim Committee to conduct a study; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2005.

**Utah Code Sections Affected:**

AMENDS:

**59-1-1201**, as enacted by Chapter 1, Laws of Utah 2004, Third Special Session

**59-12-121**, as last amended by Chapter 1, Laws of Utah 2004, Third Special Session



28 **63-55-259**, as last amended by Chapter 1, Laws of Utah 2004, Third Special Session

29 **Uncodified Material Affected:**

30 ENACTS UNCODIFIED MATERIAL



32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **59-1-1201** is amended to read:

34 **Part 12. Legislative Intent**

35 **59-1-1201. Legislative intent.**

36 It is the intent of the Legislature that the amendments, enactments, and repeals made by  
37 Chapter 312, Laws of Utah 2003, take effect as provided in Chapter 312, Laws of Utah 2003,  
38 and that the amendments, enactments, and repeals made by Chapter 255, Laws of Utah 2004,  
39 take effect as provided in Chapter 255, Laws of Utah 2004, except that it is the intent of the  
40 Legislature that:

41 [~~(1) (a) the amendments made by Section 7, Chapter 312, Laws of Utah 2003, and~~  
42 ~~Section 10, Chapter 255, Laws of Utah 2004, providing for the following definitions in Section~~  
43 ~~59-12-102 take effect on July 1, 2005:]~~

44 [~~(i) "drug";~~]

45 [~~(ii) "durable medical equipment";~~]

46 [~~(iii) "lease";~~]

47 [~~(iv) "mobility enhancing equipment";~~]

48 [~~(v) "prosthetic device";~~]

49 [~~(vi) "purchase price";~~]

50 [~~(vii) "rental"; and~~]

51 [~~(viii) "sales price"; and~~]

52 [~~(b) beginning on July 1, 2004, through June 30, 2005, the following definitions in~~  
53 ~~Section 59-12-102 that were deleted by Section 7, Chapter 312, Laws of Utah 2003, be~~  
54 ~~interpreted to be reinstated:]~~

55 [~~(i) "home medical equipment and supplies";~~]

56 [~~(ii) "medicine"; and~~]

57 [~~(iii) "purchase price";~~]

58 [~~(2)~~] (1) (a) the amendments made by Section 9, Chapter 312, Laws of Utah 2003, and

59 Section 11, Chapter 255, Laws of Utah 2004, to Section 59-12-103 take effect on July 1,  
 60 [2005] 2006, except that beginning on July 1, [2005] 2006, the dollar amount listed in  
 61 Subsection 59-12-103(7)(b)(ii) in Section 11, Chapter 255, Laws of Utah 2004, shall be  
 62 changed from \$8,779,673 to \$7,279,673; and

63 (b) subject to any amendments made to Section 59-12-103 during the 2005 General  
 64 Session, 2006 General Session, or any special session of the Legislature that occurs on or  
 65 before June 30, 2006, beginning on July 1, 2004, through June 30, [2005] 2006, Section  
 66 59-12-103 shall read as provided in Section 2 [of this bill], Chapter 1, Laws of Utah 2004,  
 67 Third Special Session;

68 [~~(3) the following amendments take effect on July 1, 2005:~~]

69 [~~(a) the amendments made by Section 12, Chapter 312, Laws of Utah 2003, to:~~]

70 [~~(i) Subsection 59-12-104(38) relating to sales or rentals of durable medical equipment~~  
 71 ~~or supplies;~~]

72 [~~(ii) Subsection 59-12-104(55) relating to sales or rentals of mobility enhancing~~  
 73 ~~equipment; and]~~

74 [~~(iii) Subsection 59-12-104(60) relating to sales of a prosthetic device; and]~~

75 [~~(b) the amendments made by Section 12, Chapter 312, Laws of Utah 2003, and~~  
 76 ~~Section 13, Chapter 255, Laws of Utah 2004, to Subsection 59-12-104(10) relating to:~~]

77 [~~(i) the deletion of the exemption for sales of medicine; and]~~

78 [~~(ii) the enactment of the exemption for amounts paid for a drug, syringe, or stoma~~  
 79 ~~supply;]~~

80 [~~(4)~~ (2) the amendments made by Section 14, Chapter 255, Laws of Utah 2004, to the  
 81 following take effect on July 1, [2005] 2006:

82 (a) Subsection 59-12-105(2) relating to reporting requirements for a seller that files a  
 83 simplified electronic return;

84 (b) Subsection 59-12-105(3)(b) relating to a requirement that a seller that files a  
 85 simplified electronic return file the report required by Subsection 59-12-105(2) electronically;  
 86 and

87 (c) Subsection 59-12-105(5) relating to a penalty imposed on a seller that files a  
 88 simplified electronic return if the seller fails to report the amounts required by Subsection  
 89 59-12-105(2);

90           ~~[(5)(a)]~~ (3) the amendments made by Section 15, Chapter 255, Laws of Utah 2004, to  
91 Subsection 59-12-107(5) relating to a tax collected by a seller that files a simplified electronic  
92 return take effect on July 1, ~~[2005]~~ 2006; ~~[and]~~

93           ~~[(b)(i) the amendments made by Section 17, Chapter 312, Laws of Utah 2003, to~~  
94 ~~Subsection 59-12-107(8) relating to bad debt take effect on July 1, 2005; and]~~

95           ~~[(ii) beginning on July 1, 2004, through June 30, 2005, Subsection 59-12-107(7)~~  
96 ~~relating to bad debt, which was deleted by Section 17, Chapter 312, Laws of Utah 2003, shall~~  
97 ~~be interpreted to be reinstated;]~~

98           ~~[(6)]~~ (4) the enactment of Section 59-12-107.1 relating to direct payment permits made  
99 by Section 18, Chapter 312, Laws of Utah 2003, and the amendments to Section 59-12-107.1  
100 relating to direct payment permits made by Section 16, Chapter 255, Laws of Utah 2004, take  
101 effect on July 1, ~~[2005]~~ 2006;

102           ~~[(7)]~~ (5) the enactment of Section 59-12-107.2 relating to certain goods or services  
103 concurrently available for use in more than one location made by Section 19, Chapter 312,  
104 Laws of Utah 2003, and the amendments to Section 59-12-107.2 relating to certain goods or  
105 services concurrently available for use in more than one location made by Section 17, Chapter  
106 255, Laws of Utah 2004, take effect on July 1, ~~[2005]~~ 2006;

107           ~~[(8)]~~ (6) the enactment of Section 59-12-107.3 relating to the collection, remittance,  
108 and payment of taxes on direct mail made by Section 20, Chapter 312, Laws of Utah 2003,  
109 takes effect on July 1, ~~[2005]~~ 2006;

110           (7) the enactment of Section 59-12-122, relating to a monetary allowance for a seller  
111 registered under the Streamlined Sales and Use Tax Agreement made by Section 23, Chapter  
112 255, Laws of Utah 2004, takes effect on July 1, 2006;

113           ~~[(9)]~~ (8) (a) the amendments made by Section 28, Chapter 312, Laws of Utah 2003, to  
114 Section 59-12-204 take effect on July 1, ~~[2005]~~ 2006; and

115           (b) subject to any amendments made to Section 59-12-204 during the 2005 General  
116 Session, 2006 General Session, or any special session of the Legislature that occurs on or  
117 before June 30, 2006, beginning on July 1, 2004, through June 30, ~~[2005]~~ 2006, Section  
118 59-12-204 shall read as provided in Section 5 ~~[of this bill]~~, Chapter 1, Laws of Utah 2004,  
119 Third Special Session;

120           ~~[(10)]~~ (9) (a) the amendments made by Section 24, Chapter 255, Laws of Utah 2004, to

121 Section 59-12-205 take effect on July 1, [~~2005~~] 2006; and

122 (b) subject to any amendments made to Section 59-12-205 during the 2005 General  
123 Session, 2006 General Session, or any special session of the Legislature that occurs on or  
124 before June 30, 2006, beginning on July 1, 2004, through June 30, [~~2005~~] 2006, Section  
125 59-12-205 shall read as provided in Section 6 [~~of this bill~~], Chapter 1, Laws of Utah 2004,  
126 Third Special Session;

127 [~~(H)~~] (10) (a) the repeal of Section 59-12-207 relating to the reporting and  
128 determination of the location of where a transaction is consummated made by Section 68,  
129 Chapter 312, Laws of Utah 2003, takes effect on July 1, [~~2005~~] 2006; and

130 (b) subject to any amendments made to Section 59-12-207 during the 2005 General  
131 Session, 2006 General Session, or any special session of the Legislature that occurs on or  
132 before June 30, 2006, beginning on July 1, 2004, through June 30, [~~2005~~] 2006, Section  
133 59-12-207 shall read as provided in Section 7 [~~of this bill~~], Chapter 1, Laws of Utah 2004,  
134 Third Special Session;

135 [~~(H2)~~] (11) the enactment of Section 59-12-207.1 relating to determining the location of  
136 certain transactions, apportioning certain transactions, and making reports to the State Tax  
137 Commission on those transactions made by Section 30, Chapter 312, Laws of Utah 2003, and  
138 the amendments to Section 59-12-207.1 relating to determining the location of certain  
139 transactions made by Section 25, Chapter 255, Laws of Utah 2004, take effect on July 1, [~~2005~~]  
140 2006;

141 [~~(H3)~~] (12) the enactment of Section 59-12-207.2 relating to determining the location of  
142 a transaction involving the sale of a motor vehicle, aircraft, watercraft, modular home,  
143 manufactured home, or mobile home made by Section 31, Chapter 312, Laws of Utah 2003,  
144 takes effect on July 1, [~~2005~~] 2006;

145 [~~(H4)~~] (13) the enactment of Section 59-12-207.3 relating to determining the location of  
146 a transaction involving the lease or rental of certain tangible personal property made by Section  
147 32, Chapter 312, Laws of Utah 2003, and the amendments to Section 59-12-207.3 relating to  
148 determining the location of a transaction involving the lease or rental of certain tangible  
149 personal property made by Section 26, Chapter 255, Laws of Utah 2004, take effect on July 1,  
150 [~~2005~~] 2006; and

151 [~~(H5)~~] (14) (a) beginning on July 1, 2004, through June 30, [~~2005~~] 2006, the following

152 subsections relating to prohibiting a sales and use tax from being imposed on any amounts paid  
153 or charged by a vendor lacking certain contacts with the state, which were deleted by Chapter  
154 312, Laws of Utah 2003 or Chapter 255, Laws of Utah 2004, shall be interpreted to be  
155 reinstated, except that the term "vendor" shall be interpreted to be changed to "seller" in those  
156 subsections:

- 157 (i) Subsection 59-12-401(1)(b)(iv);
- 158 (ii) Subsection 59-12-402(1)(b)(iv);
- 159 (iii) Subsection 59-12-501(1)(a)(ii)(B);
- 160 (iv) Subsection 59-12-502(1)(a)(ii)(B);
- 161 (v) Subsection 59-12-703(1)(a)(ii)(B);
- 162 (vi) Subsection 59-12-802(1)(b)(ii);
- 163 (vii) Subsection 59-12-804(1)(b)(ii);
- 164 (viii) Subsection 59-12-1001(1)(b)(ii);
- 165 (ix) Subsection 59-12-1302(4)(b);
- 166 (x) Subsection 59-12-1402(1)(a)(ii)(C); and
- 167 (xi) Subsection 59-12-1503(1)(b)(ii);
- 168 (b) beginning on July 1, 2004, through June 30, [~~2005~~] 2006, Subsection  
169 59-12-1102(1)(a)(ii)(B) relating to prohibiting a sales and use tax from being imposed on any  
170 amounts paid or charged by a vendor lacking certain contacts with the state unless all of the  
171 counties in the state impose a tax under Section 59-12-1102, which was deleted by Section 62,  
172 Chapter 312, Laws of Utah 2003, shall be interpreted to be reinstated, except that the term  
173 "vendor" shall be interpreted to be changed to "seller" in that subsection;

174 (c) the following subsections relating to determining the location of a transaction,  
175 which were enacted by Chapter 312, Laws of Utah 2003 or Chapter 255, Laws of Utah 2004,  
176 shall take effect on July 1, [~~2005~~] 2006:

- 177 (i) Subsection 59-12-401(1)(c);
- 178 (ii) Subsection 59-12-402(1)(c);
- 179 (iii) Subsection 59-12-501(1)(b);
- 180 (iv) Subsection 59-12-502(1)(b);
- 181 (v) Subsection 59-12-703(1)(b);
- 182 (vi) Subsection 59-12-802(1)(c);

183 (vii) Subsection 59-12-804(1)(c);  
 184 (viii) Subsection 59-12-1001(1)(c);  
 185 (ix) Subsection 59-12-1102(1)(b);  
 186 (x) Subsection 59-12-1302(4)(b);  
 187 (xi) Subsection 59-12-1402(1)(b); and  
 188 (xii) Subsection 59-12-1503(1)(c); and  
 189 (d) beginning on July 1, 2004, through June 30, [~~2005~~] 2006, the following language  
 190 shall be interpreted to be added as Subsection 59-12-1102(3)(e): "(e) Notwithstanding  
 191 Subsections (3)(a) and (b), if a county imposes a tax under this section on any amounts paid or  
 192 charged by a seller that collects a tax in accordance with Subsection 59-12-107(1)(b), the  
 193 revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).".

194 Section 2. Section **59-12-121** is amended to read:

195 **59-12-121. Amnesty.**

196 (1) As used in this section, "amnesty" means that a seller is not required to pay the  
 197 following amounts that the seller would otherwise be required to pay:

198 (a) a tax, fee, or charge under:

199 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

200 (ii) Section 19-6-714;

201 (iii) Section 19-6-805;

202 (iv) Section 69-2-5.5; or

203 (v) this chapter;

204 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

205 (c) interest on a tax, fee, or charge described in Subsection (1)(a).

206 (2) The commission shall grant a seller amnesty under this section if:

207 (a) the seller was not licensed under Section 59-12-106 at any time during the  
 208 12-month period prior to July 1, [~~2005~~] 2006;

209 (b) the seller obtains a license under Section 59-12-106 within a 12-month period  
 210 beginning on July 1, [~~2005~~] 2006; and

211 (c) the seller is registered under the agreement within a 12-month period beginning on  
 212 July 1, [~~2005~~] 2006.

213 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:

214 (a) collected by the seller;  
215 (b) remitted to the commission by the seller;  
216 (c) that the seller is required to remit to the commission on the seller's purchases; or  
217 (d) arising from a transaction that occurred within a time period that is under audit by  
218 the commission if:

219 (i) the seller has received notice of the commencement of an audit prior to obtaining a  
220 license under Section 59-12-106; and

221 (ii) (A) the audit described in Subsection (3)(d)(i) has not been completed; or  
222 (B) the seller has not exhausted all administrative and judicial remedies in connection  
223 with the audit described in Subsection (3)(d)(i).

224 (4) (a) Except as provided in Subsection (4)(b), amnesty granted to a seller by the  
225 commission under this section:

226 (i) applies to the time period during which a seller was not licensed under Section  
227 59-12-106; and

228 (ii) remains in effect if, for a period of three years, the seller:

229 (A) remains registered under the agreement;

230 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge  
231 described in Subsection (1)(a); and

232 (C) remits to the commission all taxes, fees, or charges described in Subsection  
233 (4)(a)(ii).

234 (b) Notwithstanding Subsection (4)(a), a seller may not be granted amnesty under this  
235 section if with respect to a tax, fee, or charge for which the seller would otherwise be granted  
236 amnesty under this section, the seller commits:

237 (i) fraud; or

238 (ii) an intentional misrepresentation of a material fact.

239 (5) (a) If a seller does not meet the requirements of Subsection (4)(a)(ii), the  
240 commission shall require the seller to pay the amounts described in Subsection (1) that the  
241 seller would have otherwise been required to pay.

242 (b) Notwithstanding Section 59-12-110, and for purposes of requiring a seller to pay an  
243 amount described in Subsection (5)(a), the time period for the commission to make an  
244 assessment under Section 59-12-110 shall be extended for an additional three years.



245 Section 3. Section **63-55-259** is amended to read:

246 **63-55-259. Repeal dates, Title 59.**

247 (1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, [~~2005~~] 2006.

248 (2) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.

249 Section 4. **Revenue and Taxation Interim Committee study.**

250 During the 2005 interim, the State Tax Commission shall report to the Legislative  
251 Management Committee regarding whether to request the governor to call a special session of  
252 the Legislature if the State Tax Commission recommends that the Legislature enact an earlier  
253 effective date for the provisions of this bill that take effect on July 1, 2006, as a result of:

254 (1) the existence of appropriate software; or

255 (2) amendments to the Streamlined Sales and Use Tax Agreement.

256 Section 5. **Effective date.**

257 This bill takes effect on July 1, 2005.

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**Legislative Review Note**  
**as of 2-14-05 4:45 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0107**

**Amendments to Taxes, Fees, or Charges**

*16-Feb-05*

*7:08 AM*

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**State Impact**

Passage of this bill would have no fiscal impact.

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**Individual and Business Impact**

Business costs could be delayed a year because of the postponement of the sourcing requirements.

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**Office of the Legislative Fiscal Analyst**