

1-1 By: Nelson S.B. No. 477
 1-2 (In the Senate - Filed January 27, 2021; March 9, 2021, read
 1-3 first time and referred to Committee on Finance; March 30, 2021,
 1-4 reported favorably by the following vote: Yeas 15, Nays 0;
 1-5 March 30, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Buckingham	X			
1-11 Campbell	X			
1-12 Creighton	X			
1-13 Hancock	X			
1-14 Huffman	X			
1-15 Kolthorst	X			
1-16 Nichols	X			
1-17 Perry	X			
1-18 Schwertner	X			
1-19 Taylor	X			
1-20 West	X			
1-21 Whitmire	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to the administration and collection of sales and use
 1-26 taxes and certain fees applicable to sales involving marketplace
 1-27 providers.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 361.138(a), Health and Safety Code, is
 1-30 amended by adding Subdivision (2-a) to read as follows:

1-31 (2-a) "Marketplace provider" has the meaning assigned
 1-32 by Section 151.0242(a), Tax Code.

1-33 SECTION 2. Sections 361.138(b), (c), and (i), Health and
 1-34 Safety Code, are amended to read as follows:

1-35 (b) A wholesale or retail battery dealer who sells or offers
 1-36 to sell, or a marketplace provider who processes sales of or
 1-37 payments for, lead-acid batteries not for resale shall collect at
 1-38 the time and place of sale a fee for each nonexempt lead-acid
 1-39 battery sold, according to the following schedule:

1-40 (1) for a lead-acid battery with a capacity of less
 1-41 than 12 volts, a fee of \$2;

1-42 (2) for a lead-acid battery with a capacity of 12 or
 1-43 more volts, a fee of \$3.

1-44 (c) A dealer or marketplace provider required to collect a
 1-45 fee under this section:

1-46 (1) shall list as a separate item on an invoice a fee
 1-47 due under this section; and

1-48 (2) except as provided by Subsection (d), on or before
 1-49 the 20th day of the month following the end of each calendar month
 1-50 and on a form and in the manner prescribed by the comptroller, shall
 1-51 file a report with and shall remit to the comptroller the amount of
 1-52 fees collected during the preceding calendar month.

1-53 (i) A dealer or marketplace provider required to collect a
 1-54 fee under this section may retain 2-1/2 cents from each fee the
 1-55 person [dealer] collects. A dealer or marketplace provider shall
 1-56 account for amounts retained under this subsection in the manner
 1-57 prescribed by the comptroller.

1-58 SECTION 3. Section 771.0712, Health and Safety Code, is
 1-59 amended by adding Subsection (e) to read as follows:

1-60 (e) A marketplace provider, as defined by Section
 1-61 151.0242(a), Tax Code, shall:

2-1 (1) collect on behalf of the seller the fee imposed by
2-2 this section on a sale made through the marketplace; and

2-3 (2) after making the deduction authorized to be made
2-4 by a seller under Subsection (a), remit the fee to the comptroller
2-5 in the same manner a seller remits collected fees under this
2-6 section.

2-7 SECTION 4. Section 151.0242, Tax Code, is amended by adding
2-8 Subsection (1) to read as follows:

2-9 (1) A marketplace seller who places a ticket or other
2-10 admission document for sale through a marketplace must certify to
2-11 the marketplace provider that the taxes imposed by this chapter on
2-12 the original purchase of the ticket or admission document were
2-13 paid. A marketplace provider who in good faith accepts a
2-14 marketplace seller's certification under this subsection may take
2-15 the deduction provided by Section 151.432 on behalf of the
2-16 marketplace seller.

2-17 SECTION 5. Section 151.304, Tax Code, is amended by adding
2-18 Subsection (h) to read as follows:

2-19 (h) This section does not apply to the sale of a taxable item
2-20 made by a marketplace seller through a marketplace, as those terms
2-21 are defined by Section 151.0242(a).

2-22 SECTION 6. Section 321.203(e-1), Tax Code, is amended to
2-23 read as follows:

2-24 (e-1) Except as otherwise provided by Subsection (f), (g),
2-25 (g-1), (g-2), (g-3), (h), (i), (j), (k), (m), or (n)
2-26 [~~Notwithstanding any other provision of this section~~], a sale of a
2-27 taxable item made by a marketplace seller through a marketplace as
2-28 provided by Section 151.0242 is consummated at the location in this
2-29 state to which the item is shipped or delivered or at which
2-30 possession is taken by the purchaser.

2-31 SECTION 7. Section 323.203(e-1), Tax Code, is amended to
2-32 read as follows:

2-33 (e-1) Except as otherwise provided by Subsection (f), (g),
2-34 (g-1), (g-2), (g-3), (h), (i), (j), (k), or (m) [~~Notwithstanding~~
2-35 ~~any other provision of this section~~], a sale of a taxable item made
2-36 by a marketplace seller through a marketplace as provided by
2-37 Section 151.0242 is consummated at the location in this state to
2-38 which the item is shipped or delivered or at which possession is
2-39 taken by the purchaser.

2-40 SECTION 8. The changes in law made by this Act do not affect
2-41 tax liability accruing before the effective date of this Act. That
2-42 liability continues in effect as if this Act had not been enacted,
2-43 and the former law is continued in effect for the collection of
2-44 taxes due and for civil and criminal enforcement of the liability
2-45 for those taxes.

2-46 SECTION 9. This Act takes effect October 1, 2021.

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