

By: Rose

H.B. No. 3406

Substitute the following for H.B. No. 3406:

By: Grusendorf

C.S.H.B. No. 3406

A BILL TO BE ENTITLED

AN ACT

relating to declaratory relief for businesses in this state for liability for sales and use taxes of other states.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 37, Civil Practice and Remedies Code, is amended by adding Section 37.0055 to read as follows:

Sec. 37.0055. DECLARATIONS RELATING TO LIABILITY FOR SALES AND USE TAXES OF ANOTHER STATE. (a) A district court has original jurisdiction of a proceeding seeking a declaratory judgment that involves:

(1) a party seeking declaratory relief that is a business that is:

(A) organized under the laws of this state or is otherwise owned by a resident of this state; or

(B) otherwise qualified to do business in this state; and

(2) a responding party that:

(A) is an official of another state; and

(B) asserts a claim that the party seeking declaratory relief is required to collect sales or use taxes for that state based on conduct of the business that occurs in whole or in part within this state.

(b) A business described by Subsection (a)(1) is entitled to declaratory relief on the issue of whether the requirement of

1 another state that the business collect and remit sales or use taxes
2 to that state constitutes an undue burden on interstate commerce
3 under Section 8, Article I, United States Constitution.

4 (c) In determining whether to grant declaratory relief to a
5 business under this section, a court shall consider:

6 (1) the factual circumstances of the business's
7 operations that give rise to the demand by the other state; and

8 (2) the decisions of other courts interpreting Section
9 8, Article I, United States Constitution.

10 SECTION 2. Section 37.0055, Civil Practice and Remedies
11 Code, as added by this Act, applies only to a cause of action that
12 accrues on or after the effective date of this Act. A cause of
13 action that accrues before the effective date of this Act is
14 governed by the law in effect at the time the action accrued, and
15 the former law is continued in effect for that purpose.

16 SECTION 3. This Act takes effect September 1, 2005.