

BILL ANALYSIS

C.S.H.B. 373
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, an individual who sells more than two taxable items in a twelve month period is subject to the Texas sales and use tax and must obtain a "retailer" permit as defined in Section 151.008 of the Tax Code. However, many Texans now sell their unneeded personal property through Internet auctions where listings of multiple personal items have become common practice. Existing law, unfortunately, does not sufficiently differentiate between business and personal sales, putting these non-business sellers in violation of the law if their items are purchased by Texas buyers.

C.S.H.B. 373 assures that the sale of personal property is understood as an "occasional sale" under the Tax Code so long as the items were bought for personal use or by family and the total receipts from such sales do not exceed \$3000 in a calendar year.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 373 expands the definition of an "occasional sale" to allow for the sale of taxable personal property by an individual if: (1) the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family; (2) the individual does not hold a permit issued under this chapter and is not required to obtain a permit as a "seller" or "retailer" as those terms are defined by Section 151.008; (3) the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property; and (4) the total receipts from sales of the individual's tangible personal property in a calendar year does not exceed \$3,000.

C.S.H.B. 373 takes effect July 1, 2007, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect September 1, 2007.

EFFECTIVE DATE

July 1, 2007, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 373 was drafted by the legislative council and has no substantive changes from the original, HB 373.