

By: King of Parker

H.B. No. 3935

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the classification of certain entities as primarily
3 engaged in retail or wholesale trade for purposes of the franchise
4 tax.

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

6 SECTION 1. Section 171.002(c), Tax Code, is amended to read
7 as follows:

8 (c) A taxable entity is primarily engaged in retail or
9 wholesale trade only if:

10 (1) the total revenue from its activities in retail or
11 wholesale trade is greater than the total revenue from its
12 activities in trades other than the retail and wholesale trades;

13 (2) except as provided by Subsection (c-1), less than
14 50 percent of the total revenue from activities in retail or
15 wholesale trade comes from the sale of products it produces or
16 products produced by an entity that is part of an affiliated group
17 to which the taxable entity also belongs; and

18 (3) the taxable entity does not provide retail or
19 wholesale utilities, including [~~telecommunications services,~~
20 electricity⁷] or gas, but not including telecommunications
21 services.

22 SECTION 2. This Act applies only to a report originally due
23 on or after the effective date of this Act.

24 SECTION 3. This Act takes effect January 1, 2010.