

By: Patrick, Dan

S.B. No. 852

A BILL TO BE ENTITLED

AN ACT

relating to the collection and allocation of local sales and use taxes.

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

SECTION 1. Sections 321.203(c) and (d), Tax Code, are amended to read as follows:

(c) If a retailer has more than one place of business in this state, a sale of a taxable item by the retailer is consummated at the ~~[retailer's]~~ place of business of the retailer:

(1) from which the retailer ships or delivers the item, if:

(A) the purchaser or lessee did not place the order or agree to pay for the item in person at a place of business of the retailer; and

(B) the retailer ships or delivers the item to a point designated by the purchaser or lessee; ~~or~~

(2) where the purchaser or lessee places the order or agrees to pay for the item, if the purchaser or lessee:

(A) places the order or agrees to pay for the item in person at a place of business of the retailer; and

(B) does not take possession of or remove the item from a place of business of the retailer; or

(3) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of

1 and removes the item from a place of business of the retailer.

2 (d) If Subsection (c) does not apply ~~[neither the possession~~
3 ~~of a taxable item is taken at nor shipment or delivery of the item is~~
4 ~~made from the retailer's place of business in this state]~~, the sale
5 is consummated at:

6 (1) the ~~[retailer's]~~ place of business of the retailer
7 in this state where the order is received; or

8 (2) if the order is not received at a place of business
9 of the retailer, the place of business from which the retailer's
10 agent or employee who took the order operates.

11 SECTION 2. Sections 323.203(c) and (d), Tax Code, are
12 amended to read as follows:

13 (c) If a retailer has more than one place of business in this
14 state, a sale of a taxable item by the retailer is consummated at
15 the ~~[retailer's]~~ place of business of the retailer:

16 (1) from which the retailer ships or delivers the
17 item, if:

18 (A) the purchaser or lessee did not place the
19 order or agree to pay for the item in person at a place of business
20 of the retailer; and

21 (B) the retailer ships or delivers the item to a
22 point designated by the purchaser or lessee; [or]

23 (2) where the purchaser or lessee places the order or
24 agrees to pay for the item, if the purchaser or lessee:

25 (A) places the order or agrees to pay for the item
26 in person at a place of business of the retailer; and

27 (B) does not take possession of or remove the

1 item from a place of business of the retailer; or

2 (3) where the purchaser or lessee takes possession of
3 and removes the item, if the purchaser or lessee takes possession of
4 and removes the item from a place of business of the retailer.

5 (d) If Subsection (c) does not apply ~~[neither the possession~~
6 ~~of a taxable item is taken at nor shipment or delivery of the item is~~
7 ~~made from the retailer's place of business in this state]~~, the sale
8 is consummated at:

9 (1) the ~~[retailer's]~~ place of business of the retailer
10 in this state where the order is received; or

11 (2) if the order is not received at a place of business
12 of the retailer, the place of business from which the retailer's
13 agent or employee who took the order operates.

14 SECTION 3. The change in law made by this Act does not
15 affect tax liability accruing before the effective date of this
16 Act. That liability continues in effect as if this Act had not been
17 enacted, and the former law is continued in effect for the
18 collection of taxes due and for civil and criminal enforcement of
19 the liability for those taxes.

20 SECTION 4. This Act takes effect July 1, 2009, if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for effect on that
24 date, this Act takes effect September 1, 2009.