

Amend **HB 590** (senate committee printing) by adding the following new appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 321.002, Tax Code, is amended to read as follows:

Sec. 321.002. DEFINITIONS.

(a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business [~~engaged in activities to which this chapter applies~~] to process for that business invoices, purchase orders, [~~or~~] bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is

a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151.

SECTION _____. SECTION _____ as added by this amendment takes effect September 1, 2011.