

By: Thompson

H.B. No. 3120

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the treatment of certain exempt organizations as agents
3 of suppliers or distributors of taxable items for purposes of the
4 sales and use tax.

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

6 SECTION 1. Section 151.024, Tax Code, is amended to read as
7 follows:

8 Sec. 151.024. PERSONS WHO MAY BE REGARDED AS RETAILERS. (a)
9 If the comptroller determines that it is necessary for the
10 efficient administration of this chapter to regard a salesman,
11 representative, peddler, or canvasser as the agent of a dealer,
12 distributor, supervisor, or employer under whom he operates or from
13 whom he obtains the tangible personal property that he sells,
14 whether or not the sale is made in his own behalf or for the dealer,
15 distributor, supervisor, or employer, the comptroller may so regard
16 the salesman, representative, peddler, or canvasser, and may regard
17 the dealer, distributor, supervisor, or employer as a retailer or
18 seller for the purpose of this chapter.

19 (b) Neither an organization described in Section
20 151.310(a)(1) or (a)(2) of this code nor an individual acting on
21 behalf of the organization is a salesman, representative, peddler,
22 or canvasser for purposes of Subsection (a) of this section.

23 SECTION 2. Section 151.310, Tax Code, is amended by adding
24 Subsection (f) to read as follows:

1 (f) An organization described in Subsection (a)(1) or
2 (a)(2) of this section is the seller of a taxable item under
3 Subsection (c) of this section if the organization obtains the
4 taxable item in a transaction that is a purchase, as that term is
5 defined in Section 151.005(a)(1) of this chapter. A contract,
6 purchase order, invoice, shipping document, payment instrument,
7 receipt, or other document that evidences a transfer of title or
8 possession to the organization for consideration is evidence of a
9 purchase by the organization.

10 SECTION 3. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2011.