

By: Carona

S.B. No. 1533

A BILL TO BE ENTITLED

AN ACT

relating to municipal sales and use tax remittances by certain
retailers.

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

SECTION 1. Subdivision (3), Subsection (a), Section
321.002, Tax Code, is amended to read as follows:

(3)(A) [~~(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.

(B) An outlet, office, facility, or any location
that contracts with a retail or commercial business to process for
that business invoices, purchase orders, 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 legally due under [~~imposed by~~] this chapter or

1 exists solely to rebate a portion of the tax imposed by this chapter
2 to the contracting business. An outlet, office, facility, or
3 location does not exist to avoid the tax legally due under this
4 chapter or solely to rebate a portion of the tax imposed by this
5 chapter if the outlet, office, facility, or location provides
6 significant business services, beyond processing invoices, to the
7 contracting business, including logistics management, purchasing,
8 inventory control, or other vital business services.

9 (C) Notwithstanding any other provision of this
10 subdivision, a kiosk is not a "place of business of the retailer."
11 In this subdivision, "kiosk" means a small stand-alone area or
12 structure that:

13 (i) [~~A~~] is used solely to display
14 merchandise or to submit orders for taxable items from a data entry
15 device, or both;

16 (ii) [~~B~~] is located entirely within a
17 location that is a place of business of another retailer, such as a
18 department store or shopping mall; and

19 (iii) [~~C~~] at which taxable items are not
20 available for immediate delivery to a customer.

21 SECTION 2. The change in law made by this Act does not
22 affect tax liability accruing before the effective date of this
23 Act. That liability continues in effect as if this Act had not been
24 enacted, and the former law is continued in effect for the
25 collection of taxes due and for civil and criminal enforcement of
26 the liability for those taxes.

27 SECTION 3. This Act takes effect September 1, 2013.