

BILL ANALYSIS

C.S.H.B. 2313
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, nonprofit organizations are exempt from paying sales tax for purchases that relate to the purpose or mission of the organization. The law also exempts a taxable item sold by an exempt organization from the sales tax. For many of these qualifying nonprofit organizations, interested parties note, these tax-free sales are simply a fundraiser, but there are other organizations for which sales through a vending machine program constitute a primary purpose or mission of the organization. These nonprofit charitable organizations provide life skill and job skill services to Texans with intellectual or developmental disabilities by teaching them counting, taking inventory, stocking, and management skills through vending machine operations. The parties suggest that the requirement to calculate and remit sales tax on sales through these vending machines detracts from the charitable mission of the organizations and deprives them of needed resources that could be used to better serve Texans with special needs. C.S.H.B. 2313 seeks to provide for a limited sales tax exemption for certain nonprofit organizations that provide training and services to Texans with special needs through a vending machine program.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2313 amends the Tax Code to exempt the sale of tangible personal property through a vending machine from the sales and use tax if the sale is made by a nonprofit organization exempted from federal income tax under certain provisions of the federal Internal Revenue Code, the machine is owned by the nonprofit organization, and the machine is stocked and maintained by individuals with special needs as part of an independent life skills and education program operated by the nonprofit organization. The bill requires a nonprofit organization that makes such an exempted sale to maintain records demonstrating that the sale is eligible for the exemption.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2313 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3051 to read as follows:

Sec. 151.3051. SALES THROUGH CERTAIN VENDING MACHINES. The sale of tangible personal property through a vending machine is exempt from the taxes imposed by this chapter if the machine is:

(1) operated by a nonprofit organization that qualifies for an exemption under Section 151.310(a)(2); and

(2) stocked and maintained by individuals with special needs as part of an independent life skills and education program operated by the nonprofit organization.

SECTION 2. The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3051 to read as follows:

Sec. 151.3051. SALES THROUGH CERTAIN VENDING MACHINES. (a) The sale of tangible personal property through a vending machine is exempt from the taxes imposed by this chapter if:

(1) the sale is made by a nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code;

(2) the machine is owned by the nonprofit organization; and

(3) the machine is stocked and maintained by individuals with special needs as part of an independent life skills and education program operated by the nonprofit organization.

(b) A nonprofit organization that makes a sale exempt from taxation under this section must maintain records demonstrating that the sale is eligible for the exemption.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.