

By: Watson
(Bohac)

S.B. No. 1539

Substitute the following for S.B. No. 1539:

By: Murphy

C.S.S.B. No. 1539

A BILL TO BE ENTITLED

AN ACT

relating to the application of the sales and use tax to certain property and services.

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

SECTION 1. Section 151.0028, Tax Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) "Amusement services" includes:

(1) membership in a private club or organization that provides entertainment, recreational, sports, dining, or social facilities to its members; and

(2) the purchase of an admission to an amusement service through the use of a coin-operated machine.

(c) Except as provided by Subsection (b), "amusement services" does not include services provided through coin-operated machines that are operated by the consumer.

SECTION 2. Section 151.0045, Tax Code, is amended to read as follows:

Sec. 151.0045. "PERSONAL SERVICES". "Personal services" means those personal services listed as personal services under Group 721, Major Group 72 of the Standard Industrial Classification Manual, 1972, and includes massage parlors, escort services, and Turkish baths under Group 729 of said manual but does not include any other services listed under Group 729 unless otherwise covered

1 under this chapter [~~Act~~], prepared by the statistical policy
2 division of the office on management and budget, office of the
3 president of the United States. The term does not include services
4 provided through coin-operated machines that are operated by the
5 consumer.

6 SECTION 3. Section 151.006, Tax Code, is amended by
7 amending Subsections (a) and (c) and adding Subsection (e) to read
8 as follows:

9 (a) "Sale for resale" means a sale of:

10 (1) tangible personal property or a taxable service to
11 a purchaser who acquires the property or service for the purpose of
12 reselling it [~~with or~~] as a taxable item as defined by Section
13 151.010 in the United States of America or a possession or territory
14 of the United States of America or in the United Mexican States in
15 the normal course of business in the form or condition in which it
16 is acquired or as an attachment to or integral part of other
17 tangible personal property or taxable service;

18 (2) tangible personal property to a purchaser for the
19 sole purpose of the purchaser's leasing or renting it in the United
20 States of America or a possession or territory of the United States
21 of America or in the United Mexican States in the normal course of
22 business to another person, but not if incidental to the leasing or
23 renting of real estate;

24 (3) tangible personal property to a purchaser who
25 acquires the property for the purpose of transferring it in the
26 United States of America or a possession or territory of the United
27 States of America or in the United Mexican States as an integral

1 part of a taxable service;

2 (4) a taxable service performed on tangible personal
3 property that is held for sale by the purchaser of the taxable
4 service; or

5 (5) except as provided by Subsection (c), tangible
6 personal property to a purchaser who acquires the property for the
7 purpose of transferring it as an integral part of performing a
8 contract, or a subcontract of a contract, with an entity or
9 organization exempted from the taxes imposed by this chapter under
10 Section 151.309 or 151.310 [~~the federal government~~] only if the
11 purchaser:

12 (A) allocates and bills to the contract the cost
13 of the property as a direct or indirect cost; and

14 (B) transfers title to the property to the exempt
15 entity or organization [~~federal government~~] under the contract and
16 applicable [~~federal~~] acquisition regulations.

17 (c) A sale for resale does not include the sale of tangible
18 personal property or a taxable service to a purchaser who acquires
19 the property or service for the purpose of performing a contract, or
20 a subcontract of a contract, for services with an entity or
21 organization exempted from the taxes imposed by this chapter under
22 Section 151.309 or 151.310 [~~service that is not taxed under this~~
23 ~~chapter~~], regardless of whether title transfers to the service
24 provider's customer, unless the tangible personal property or
25 taxable service is purchased for the purpose of reselling it to the
26 United States in a contract, or a subcontract of a contract, with
27 any branch of the Department of Defense, Department of Homeland

1 Security, Department of Energy, National Aeronautics and Space
2 Administration, Central Intelligence Agency, National Security
3 Agency, National Oceanic and Atmospheric Administration, or
4 National Reconnaissance Office to the extent allocated and billed
5 to the contract with the federal government.

6 (e) A sale for resale does not include the sale of tangible
7 personal property to a purchaser who acquires the property for the
8 purpose of using, consuming, or expending it in, or incorporating
9 it into, an oil or gas well in the performance of an oil well service
10 taxable under Chapter 191.

11 SECTION 4. Section 151.338, Tax Code, is amended to read as
12 follows:

13 Sec. 151.338. ENVIRONMENT AND CONSERVATION SERVICES. (a)
14 Subject to Subsections (b) and (c), labor to ~~[The services involved~~
15 ~~in the]~~ repair, remodel, maintain, or restore ~~[remodeling,~~
16 ~~maintenance, or restoration of]~~ tangible personal property is
17 exempted from the taxes imposed by ~~[are not taxable under]~~ this
18 chapter if:

19 (1) the amount of the charge for labor is separately
20 itemized; and

21 (2) the repair, remodeling, maintenance, or
22 restoration is required by statute, ordinance, order, rule, or
23 regulation of any commission, agency, court, or political,
24 governmental, or quasi-governmental entity in order to protect the
25 environment or to conserve energy.

26 (b) Except as provided by Subsection (c), the exemption
27 provided by this section does not apply to tangible personal

1 property transferred by the service provider to the purchaser as
2 part of the service.

3 (c) If the purchaser is a health care facility, as defined
4 by Section 108.002, Health and Safety Code, or an oncology center,
5 or if the purchase is made on behalf of an oncology center, and the
6 amount of the charge for labor is not separately itemized as
7 required by Subsection (a)(1), there is exempted from the taxes
8 imposed by this chapter 65 percent of the total lump-sum charge for
9 labor and tangible personal property transferred by the service
10 provider to the purchaser for the repair, remodeling, maintenance,
11 or restoration of tangible personal property if the repair,
12 remodeling, maintenance, or restoration is required under the
13 circumstances described by Subsection (a)(2).

14 SECTION 5. Section 151.335, Tax Code, is repealed.

15 SECTION 6. The amendments made by this Act are a
16 clarification of existing law and do not imply that existing law may
17 be construed as inconsistent with the law as amended by this Act.

18 SECTION 7. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2017.