

By: Sanford

H.B. No. 3787

Substitute the following for H.B. No. 3787:

By: Shaheen

C.S.H.B. No. 3787

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the application of the sales and use tax to certain
3 property and services.

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

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

7 (c) "Amusement services" does not include services provided
8 through coin-operated machines that are operated by the consumer.

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

11 Sec. 151.0045. "PERSONAL SERVICES". "Personal services"
12 means those personal services listed as personal services under
13 Group 721, Major Group 72 of the Standard Industrial Classification
14 Manual, 1972, and includes massage parlors, escort services, and
15 Turkish baths under Group 729 of said manual but does not include
16 any other services listed under Group 729 unless otherwise covered
17 under this chapter [~~Act~~], prepared by the statistical policy
18 division of the office on management and budget, office of the
19 president of the United States. The term does not include services
20 provided through coin-operated machines that are operated by the
21 consumer.

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

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

2 (1) tangible personal property or a taxable service to
3 a purchaser who acquires the property or service for the purpose of
4 reselling it [~~with or~~] as a taxable item as defined by Section
5 151.010 in the United States of America or a possession or territory
6 of the United States of America or in the United Mexican States in
7 the normal course of business in the form or condition in which it
8 is acquired or as an attachment to or integral part of other
9 tangible personal property or taxable service;

10 (2) tangible personal property to a purchaser for the
11 sole purpose of the purchaser's leasing or renting it in the United
12 States of America or a possession or territory of the United States
13 of America or in the United Mexican States in the normal course of
14 business to another person, but not if incidental to the leasing or
15 renting of real estate;

16 (3) tangible personal property to a purchaser who
17 acquires the property for the purpose of transferring it in the
18 United States of America or a possession or territory of the United
19 States of America or in the United Mexican States as an integral
20 part of a taxable service;

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

24 (5) [~~except as provided by Subsection (c),~~] tangible
25 personal property or a taxable service to a purchaser who acquires
26 the property or service for the purpose of transferring it as an
27 integral part of performing a contract, or a subcontract of a

1 contract, for the sale, other than the lease or rental, of tangible
2 personal property with an entity or organization exempted from the
3 taxes imposed by this chapter under Section 151.309 or 151.310 [~~the~~
4 ~~federal government~~] only if the purchaser:

5 (A) allocates and bills to the contract the cost
6 of the property or service as a direct or indirect cost; and

7 (B) transfers title to the property to the exempt
8 entity or organization [~~federal government~~] under the contract and
9 any applicable [~~federal~~] acquisition regulations.

10 (c) A sale for resale does not include the sale of tangible
11 personal property or a taxable service to a purchaser who acquires
12 the property or service for the purpose of performing a service not
13 listed as a taxable service under Section 151.0101 [~~service that is~~
14 ~~not taxed under this chapter~~], regardless of whether title
15 transfers to the service provider's customer, unless the tangible
16 personal property or taxable service is purchased for the purpose
17 of performing [~~reselling it to the United States in~~] a contract, or
18 a subcontract of a contract, for a service, including a taxable
19 service under Section 151.0101, with any branch of the Department
20 of Defense, Department of Homeland Security, Department of Energy,
21 National Aeronautics and Space Administration, Central
22 Intelligence Agency, National Security Agency, National Oceanic
23 and Atmospheric Administration, or National Reconnaissance Office
24 to the extent allocated and billed to the contract with the federal
25 government.

26 (e) A sale for resale does not include the sale of tangible
27 personal property to a purchaser who acquires the property for the

1 purpose of using, consuming, or expending it in, or incorporating
2 it into, an oil or gas well in the performance of an oil well service
3 taxable under Chapter 191.

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

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

12 (1) the repair, remodeling, maintenance, or
13 restoration is required by statute, ordinance, order, rule, or
14 regulation of any commission, agency, court, or political,
15 governmental, or quasi-governmental entity in order to protect the
16 environment or to conserve energy; and

17 (2) the charge for the labor is itemized separately
18 from the charge for materials furnished.

19 (b) The exemption provided by Subsection (a) does not apply
20 to the charge for materials furnished by the service provider to the
21 purchaser as part of the service.

22 (c) Sixty-five percent of a lump-sum charge for labor and
23 materials to repair, remodel, maintain, or restore tangible
24 personal property is exempted from the taxes imposed by this
25 chapter if:

26 (1) the repair, remodeling, maintenance, or
27 restoration is required under the circumstances described by

1 Subsection (a)(1); and
2 (2) the labor and materials are purchased for a health
3 care facility, as defined by Section 108.002, Health and Safety
4 Code, or for an oncology center.

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

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

9 SECTION 7. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect October 1, 2019.