

By: Sanford

H.B. No. 3787

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) an admission or ticket to an amusement service.

(c) "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 under this chapter [~~Act~~], prepared by the statistical policy division of the office on management and budget, office of the

1 president of the United States. The term does not include services  
2 provided through coin-operated machines that are operated by the  
3 consumer.

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

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

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

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

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

27 (4) a taxable service performed on tangible personal

1 property that is held for sale by the purchaser of the taxable  
2 service; or

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

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

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

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

1 Agency, National Oceanic and Atmospheric Administration, or  
2 National Reconnaissance Office to the extent allocated and billed  
3 to the contract with the federal government.

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

9 SECTION 4. Section 151.302, Tax Code, is amended by adding  
10 Subsection (b-1) to read as follows:

11 (b-1) A taxable service used to perform a taxable service is  
12 not considered resold unless the purchaser acquires the service for  
13 the purpose of transferring it as an integral part of performing a  
14 taxable service.

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

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

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

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

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

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

10           (1) the repair, remodeling, maintenance, or  
11 restoration is required under the circumstances described by  
12 Subsection (a)(1); and

13           (2) the labor and materials are purchased for a health  
14 care facility, as defined by Section 108.002, Health and Safety  
15 Code, or for an oncology center.

16           SECTION 6. Section 151.335, Tax Code, is repealed.

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

20           SECTION 8. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect October 1, 2019.