

By: Meyer

H.B. No. 2398

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration and collection of sales and use
3 taxes and certain fees applicable to sales involving marketplace
4 providers.

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

6 SECTION 1. Effective July 1, 2022, Section 361.138(a),
7 Health and Safety Code, is amended by adding Subdivision (2-a) to
8 read as follows:

9 (2-a) "Marketplace provider" has the meaning assigned
10 by Section 151.0242(a), Tax Code.

11 SECTION 2. Effective July 1, 2022, Sections 361.138(b),
12 (c), and (i), Health and Safety Code, are amended to read as
13 follows:

14 (b) A wholesale or retail battery dealer who sells or offers
15 to sell, or a marketplace provider who processes sales of or
16 payments for, lead-acid batteries not for resale shall collect at
17 the time and place of sale a fee for each nonexempt lead-acid
18 battery sold, according to the following schedule:

19 (1) for a lead-acid battery with a capacity of less
20 than 12 volts, a fee of \$2;

21 (2) for a lead-acid battery with a capacity of 12 or
22 more volts, a fee of \$3.

23 (c) A dealer or marketplace provider required to collect a
24 fee under this section:

1 (1) shall list as a separate item on an invoice a fee
2 due under this section; and

3 (2) except as provided by Subsection (d), on or before
4 the 20th day of the month following the end of each calendar month
5 and on a form and in the manner prescribed by the comptroller, shall
6 file a report with and shall remit to the comptroller the amount of
7 fees collected during the preceding calendar month.

8 (i) A dealer or marketplace provider required to collect a
9 fee under this section may retain 2-1/2 cents from each fee the
10 person [dealer] collects. A dealer or marketplace provider shall
11 account for amounts retained under this subsection in the manner
12 prescribed by the comptroller.

13 SECTION 3. Effective July 1, 2022, Section [771.0712](#), Health
14 and Safety Code, is amended by adding Subsection (e) to read as
15 follows:

16 (e) A marketplace provider, as defined by Section
17 [151.0242](#)(a), Tax Code, shall:

18 (1) collect on behalf of the seller the fee imposed by
19 this section on a sale made through the marketplace; and

20 (2) after making the deduction authorized to be made
21 by a seller under Subsection (a), remit the fee to the comptroller
22 in the same manner a seller remits collected fees under this
23 section.

24 SECTION 4. Section [151.0242](#), Tax Code, is amended by adding
25 Subsection (1) to read as follows:

26 (1) A marketplace seller who places a ticket or other
27 admission document for sale through a marketplace must certify to

1 the marketplace provider that the taxes imposed by this chapter on
2 the original purchase of the ticket or admission document were
3 paid. A marketplace provider who in good faith accepts a
4 marketplace seller's certification under this subsection may take
5 the deduction provided by Section 151.432 on behalf of the
6 marketplace seller.

7 SECTION 5. Section 151.304, Tax Code, is amended by adding
8 Subsection (h) to read as follows:

9 (h) This section does not apply to the sale of a taxable item
10 made by a marketplace seller through a marketplace, as those terms
11 are defined by Section 151.0242(a).

12 SECTION 6. Section 321.203(e-1), Tax Code, is amended to
13 read as follows:

14 (e-1) Except as otherwise provided by Subsection (f), (g),
15 (g-1), (g-2), (g-3), (h), (i), (j), (k), (m), or (n)
16 [Notwithstanding any other provision of this section], a sale of a
17 taxable item made by a marketplace seller through a marketplace as
18 provided by Section 151.0242 is consummated at the location in this
19 state to which the item is shipped or delivered or at which
20 possession is taken by the purchaser.

21 SECTION 7. Section 323.203(e-1), Tax Code, is amended to
22 read as follows:

23 (e-1) Except as otherwise provided by Subsection (f), (g),
24 (g-1), (g-2), (g-3), (h), (i), (j), (k), or (m) [Notwithstanding
25 any other provision of this section], a sale of a taxable item made
26 by a marketplace seller through a marketplace as provided by
27 Section 151.0242 is consummated at the location in this state to

1 which the item is shipped or delivered or at which possession is
2 taken by the purchaser.

3 SECTION 8. A change in law made by this Act does not affect
4 tax liability accruing before the effective date of the change in
5 law. That liability continues in effect as if this Act had not been
6 enacted, and the former law is continued in effect for the
7 collection of taxes due and for civil and criminal enforcement of
8 the liability for those taxes.

9 SECTION 9. Except as otherwise provided by this Act, this
10 Act takes effect October 1, 2021.