

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 19, 2021**

**TO:** Honorable Morgan Meyer, Chair, House Committee on Ways & Means

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2398** by Meyer (Relating to the administration and collection of sales and use taxes and certain fees applicable to sales involving marketplace providers.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Health and Safety Code and the Tax Code relating to the administration and collection of sales and use taxes and certain fees applicable to sales involving marketplace providers.

The bill would amend Section 361.138 of the Health and Safety Code to require a marketplace provider that sells lead-acid batteries to collect the fee applicable to the sale.

The bill would amend Section 771.0712 of the Health and Safety Code to require marketplace providers to collect the prepaid 9-1-1 emergency service fee on the sale of prepaid wireless telecommunications services.

The bill would amend Section 151.0242 of the Tax Code to allow a marketplace provider to accept certification from the marketplace seller that the marketplace seller paid the tax due on the original purchase of a ticket or an admission document to an amusement service. The bill would also allow the marketplace provider to take the sales tax deduction generally allowed for the resale of tickets and admission documents to amusement services.

The bill would amend Section 151.304 of the Tax Code to clarify that the occasional sales exemption is not allowed on a taxable sale made by a marketplace seller through the marketplace.

The bill would amend Sections 321.203(e-1) and 323.203(e-1) of the Tax Code to clarify provisions regarding location of consummation of certain sales for purposes of local sales and use taxes.

The 86th Legislature passed legislation requiring marketplace providers to collect and remit state and local sales and use tax on all taxable orders delivered in Texas. This bill amends certain provisions of the Tax Code and the Health and Safety Code related to marketplace providers to clarify the statutes and codify current agency policy concerning marketplace providers; thus, the bill would have no significant fiscal implications.

The bill would take effect October 1, 2021.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JMc, KK, SD