

2010 04/28/10

H.B. 2451 substituted & amended (10/2/10)

SENATE FILE 2319

BY COMMITTEE ON WAYS AND MEANS

(formerly 55B 2265)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the collection of the state sales, services
2 and use tax with respect to the sales of tangible personal
3 property by nonresidents who solicit such sales and providing
4 an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2319

1 Section 1. NEW SECTION. 422.59A CATALOG SALES.

2 1. For purposes of this section, unless the context other-
3 wise requires:

4 a. "Destination of sale" means the location to which a
5 seller of tangible personal property delivers that property or
6 causes that property to be delivered, to the purchaser of that
7 property or to the agent or designee of that purchaser, by any
8 means of delivery, including but not limited to the United
9 States postal service, a common carrier, or a contract
10 carrier.

11 b. "Person" means the same as defined in section
12 7701(a)(1) of the Internal Revenue Code.

13 c. "Soliciting of sales" means making known that a kind of
14 tangible personal property is for sale.

15 2. In the case of a person who may not constitutionally be
16 required, under any other section of this division or chapter
17 423, to collect the tax imposed under this division or under
18 chapter 423, the director shall require such person to collect
19 the tax imposed under this division or under chapter 423 with
20 respect to the sale of tangible personal property if all of
21 the following apply:

22 a. The destination of the sale is in this state.

23 b. The person meets the following conditions:

24 (1) The person engages in regular or systematic soliciting
25 of sales in the state.

26 (2) The person has gross receipts from the sale of such
27 tangible personal property in the one-year period ending
28 September 30 preceding the calendar year in which the sale
29 which is the subject of the tax occurs of over twelve million
30 five hundred thousand dollars in the United States or over
31 five hundred thousand dollars in this state.

32 3. The director shall not require a person who collects
33 the tax pursuant to this section to make an accounting for the
34 receipts of the tax on the basis of the geographical location
35 at which a taxable transaction occurs.

1 4. The director shall not require a person who is required
2 to collect the tax pursuant to this section to file more than
3 four sales tax returns reporting the amount of tax collected
4 or required to be collected in any one-year period or shall
5 not require such person to file a sales tax return or remit
6 the receipts of the tax more frequently than once in a
7 calendar quarter or before the expiration of the twenty-day
8 period beginning on the last day of the period for which the
9 sales tax return is required to be filed.

10 Sec. 2. This Act is effective upon the passage by Congress
11 and the enactment into law of an Act of Congress authorizing
12 the states and the District of Columbia to collect sales taxes
13 with respect to the sales of tangible personal property by
14 nonresident persons who solicit such sales.

15 EXPLANATION

16 The bill directs the director of the department of revenue
17 and finance to collect sales and use taxes on the sales of
18 tangible personal property by catalog companies.

19 The bill takes effect upon passage of an Act of Congress to
20 allow this state to so collect.

21 SUCCESSOR TO SSB 2265 (LSB 8358SC)

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SENATE FILE 2319

S-5894

1 Amend Senate File 2319 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 422.43, Code Supplement 1987,
5 is amended by adding the following new subsection:

6 . NEW SUBSECTION. 12. A tax of four percent is
7 imposed upon the gross receipts from all sales of
8 tangible personal property, consisting of goods,
9 wares, or merchandise, except as otherwise provided in
10 this division, sold at retail in the state to
11 consumers or users within the state by retailers that
12 meet any of the following criteria:

13 a. Solicit retail sales of tangible personal
14 property from residents of this state on a continuous,
15 regular, seasonal, or systematic basis by means of
16 advertising which is broadcast from or relayed from a
17 transmitter within this state.

18 b. Solicit orders from residents of this state for
19 tangible personal property by mail or otherwise, if
20 the solicitations are continuous, regular, or
21 systematic and if the retailer benefits from any
22 banking, financing, debt collection,
23 telecommunications, or marketing activities occurring
24 in this state or benefits from the location in this
25 state of authorized installation, servicing, or repair
26 facilities.

27 c. Are owned or controlled by the same interests
28 which own or control a retailer engaged in business in
29 the same or a similar line of business in this state.

30 d. Maintain or have a franchisee or licensee
31 operating under the retailer's trade name in this
32 state if the franchisee or licensee is required to
33 collect the tax imposed by this division or chapter
34 423.

35 Sec. 2. Section 422.69, Code 1987, is amended by
36 adding the following new subsection:

37 NEW SUBSECTION. 4. The director shall estimate
38 the amount of tax revenues collected as a result of
39 the sales tax imposed under section 422.43, subsection
40 12, and shall deposit a like amount in a "GAAP escrow
41 account" to be created within the general fund.
42 Amounts deposited in the GAAP escrow account shall be
43 used to implement generally accepted accounting
44 principles as required in 1986 Iowa Acts, chapter
45 1245, section 2046, as amended by 1986 Iowa Acts,
46 chapter 1238, section 59.

47 Sec. 3. Section 422B.8, unnumbered paragraph 1,
48 Code 1987, is amended to read as follows:

49 A local sales and services tax at the rate of not
50 more than one percent may be imposed by a county on

1 the gross receipts taxed by the state under chapter
2 422, division IV. A local sales and services tax
3 shall be imposed on the same basis as the state sales
4 and services tax and may not be imposed on the sale of
5 any property or on any service not taxed by the state,
6 except the tax shall not be imposed on the gross
7 receipts from the sale of motor fuel or special fuel
8 as defined in chapter 324, on the gross receipts from
9 the rental of rooms, apartments, or sleeping quarters
10 which are taxed under chapter 422A during the period
11 the hotel and motel tax is imposed, on the gross
12 receipts from the sale of natural gas or electric
13 energy in a city or county where the gross receipts
14 are subject to a franchise fee or user fee during the
15 period the franchise or user fee is imposed, on the
16 gross receipts upon which sales tax is imposed only
17 under section 422.43, subsection 12, and on the gross
18 receipts from the sale of a lottery ticket or share in
19 a lottery game conducted pursuant to chapter 99E.
20 ~~However, notwithstanding that the gross receipts from~~
21 ~~the sale or rental of the tangible personal property~~
22 ~~described in section 422.45, subsections 26 and 27 are~~
23 ~~taxable during the period beginning July 17, 1985 and~~
24 ~~ending June 30, 1987, a local sales and services tax~~
25 ~~shall not be imposed on the sale or rental of such~~
26 ~~property. A local sales and services tax is~~
27 ~~applicable to transactions within those incorporated~~
28 ~~and unincorporated areas of the county where it is~~
29 ~~imposed and shall be collected by all persons required~~
30 ~~to collect state gross receipts taxes. All cities~~
31 ~~contiguous to each other shall be treated as part of~~
32 ~~one incorporated area and the tax would be imposed in~~
33 ~~each of those contiguous cities only if the majority~~
34 ~~of those voting in the total area covered by the~~
35 ~~contiguous cities favor its imposition."~~
36 2. Title page, by striking lines 1 through 4 and
37 inserting the following: "An Act relating to the
38 imposition and collection of the state sales,
39 services, and use taxes by out-of-state retailers."

FILED MAR 29 1988

STATE OF IOWA

FISCAL NOTE

SENATE FILE 2319

LSB No. 8358s

Staff ID. PDD

In compliance with a written request received March 25, 1988, a fiscal note for SENATE FILE 2319 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2319 directs the director of the department of revenue and finance to collect sales and use taxes on the sales of tangible personal property by catalog companies. The bill takes effect upon passage of an Act of Congress to allow this state to so collect.

ASSUMPTIONS

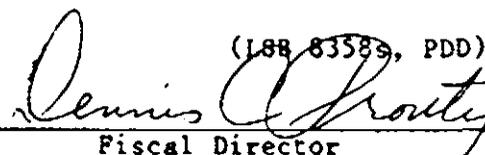
1. Estimates provided by the Advisory Commission on Intergovernmental Relations (ACIR) are valid. These estimates were adjusted to reflect estimated Iowa sales tax collections currently being collected from such retailers.
2. Any possible litigation which might delay collection of receipts is not considered here.
3. Congress will pass an act allowing states to collect this sales tax.

FISCAL EFFECT

The estimated annual increase in General Fund revenues is expected to range from \$17.0 to \$20.0 million.

Source: Department of Revenue and Finance

(LSB 8358s, PDD)



Fiscal Director

Legislative Fiscal Bureau

Date: _____

LSB

CRONSTAL, OH.
DRAKE
DIELEMAN

SSB 2265
WAYS - MEANS
New

SENATE FILE 2319
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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