

Senate Amendment to  
House File 625

H-1462

1 Amend House File 625, as passed by the House, as  
2 follows:

3 1. Page 1, before line 1 by inserting:

4 <DIVISION I  
5 SALES AND USE TAX

6 Section 1. Section 423.1, subsection 48, Code 2013,  
7 is amended to read as follows:

8 48. *a. "Retailer maintaining a place of business*  
9 *in this state"* or any like term includes any retailer  
10 having or maintaining within this state, directly  
11 or by a subsidiary, an office, distribution house,  
12 sales house, warehouse, or other place of business,  
13 or any representative operating within this state  
14 under the authority of the retailer or its subsidiary,  
15 irrespective of whether that place of business  
16 or representative is located here permanently or  
17 temporarily, or whether the retailer or subsidiary is  
18 admitted to do business within this state pursuant to  
19 chapter 490.

20 *b. (1) A retailer shall be presumed to be*  
21 *maintaining a place of business in this state, as*  
22 *defined in paragraph "a", if any person that has*  
23 *substantial nexus in this state, other than a person*  
24 *acting in its capacity as a common carrier, does any*  
25 *of the following:*

26 *(a) Sells a similar line of products as the*  
27 *retailer and does so under the same or similar business*  
28 *name.*

29 *(b) Maintains an office, distribution facility,*  
30 *warehouse, storage place, or similar place of business*  
31 *in this state to facilitate the delivery of property*  
32 *or services sold by the retailer to the retailer's*  
33 *customers.*

34 *(c) Uses trademarks, service marks, or trade*  
35 *names in this state that are the same or substantially*  
36 *similar to those used by the retailer.*

37 *(d) Delivers, installs, assembles, or performs*  
38 *maintenance services for the retailer's customers.*

39 *(e) Facilitates the retailer's delivery of*  
40 *property to customers in this state by allowing the*  
41 *retailer's customers to take delivery of property sold*  
42 *by the retailer at an office, distribution facility,*  
43 *warehouse, storage place, or similar place of business*  
44 *maintained by the person in this state.*

45 *(f) Conducts any other activities in this state*  
46 *that are significantly associated with the retailer's*  
47 *ability to establish and maintain a market in this*  
48 *state for the retailer's sales.*

49 *(2) The presumption established in this paragraph*  
50 *may be rebutted by a showing of proof that the*

1 person's activities in this state are not significantly  
2 associated with the retailer's ability to establish  
3 or maintain a market in this state for the retailer's  
4 sales.

5 Sec. \_\_\_\_\_. **NEW SECTION. 423.13A Administration —**  
6 **effectiveness of agreements with retailers.**

7 1. Notwithstanding any provision of this chapter  
8 to the contrary, any ruling, agreement, or contract,  
9 whether written or oral, express or implied, entered  
10 into after the effective date of this division of  
11 this Act between a retailer and a state agency that  
12 provides that a retailer is not required to collect  
13 sales and use tax in this state despite the presence  
14 in this state of a warehouse, distribution center, or  
15 fulfillment center that is owned and operated by the  
16 retailer or an affiliate of the retailer shall be null  
17 and void unless such ruling, agreement, or contract is  
18 approved, by resolution, by a majority vote of each  
19 house of the general assembly.

20 2. For purposes of this section, "*state agency*"  
21 means the executive branch, including any executive  
22 department, commission, board, institution, division,  
23 bureau, office, agency, or other entity of state  
24 government. "*State agency*" does not mean the general  
25 assembly, or the judicial branch as provided in section  
26 602.1102.

27 Sec. \_\_\_\_\_. Section 423.36, Code 2013, is amended by  
28 adding the following new subsection:

29 **NEW SUBSECTION. 1A. a.** Notwithstanding subsection  
30 1, if any person will make taxable sales of tangible  
31 personal property or furnish services to any state  
32 agency, that person shall, prior to the sale, apply  
33 for and receive a permit to collect sales or use tax  
34 pursuant to this section. A state agency shall not  
35 purchase tangible personal property or services from  
36 any person unless that person has a valid, unexpired  
37 permit issued pursuant to this section and is in  
38 compliance with all other requirements in this chapter  
39 imposed upon retailers, including but not limited to  
40 the requirement to collect and remit sales and use tax  
41 and file sales and use tax returns.

42 *b.* For purposes of this subsection, "*state*  
43 *agency*" means any executive, judicial, or legislative  
44 department, commission, board, institution, division,  
45 bureau, office, agency, or other entity of state  
46 government.

47 **DIVISION \_\_\_\_\_**

48 **SCHOOL TUITION ORGANIZATION TAX CREDIT>**

49 2. Page 1, line 22, before <Act> by inserting  
50 <division of this>

1 3. Page 1, line 24, before <Act> by inserting  
2 <division of this>  
3 4. Title page, by striking lines 1 through 3 and  
4 inserting <An Act relating to revenue and taxation,  
5 including retailers maintaining a place of business  
6 in this state for purposes of sales and use taxes,  
7 agreements relating to the collection of sales and use  
8 taxes, sales of tangible personal property and services  
9 to state agencies, modifying the school tuition  
10 organization income>  
11 5. Title page, line 4, by striking <credits> and  
12 inserting <credit>  
13 6. By renumbering as necessary.