

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB284

Hearing Date: Thursday January 31, 2019
Committee On: Revenue
Introducer: McCollister
One Liner: Adopt the Remote Seller and Marketplace Facilitator Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Briese, Crawford, Friesen, Groene, Kolterman, Lindstrom,
Linehan, McCollister

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator John McCollister
Scott Lautenbaugh
Jim Otto

Ron Romero
James Plucknett
Lynn Rex
Sarah Curry
Renee Fry
John Hansen
Brandon Kauffman
Don Wesely
Joe Kohout
Jack Cheloha

Opponents:

Neutral:

Kim Robak

Representing:

Introducer
Nebraska Premium Tobacco Association
Nebraska Retail Federation, Nebraska Grocery Industry
Association
Nebraska Retail Federation
Four Star Card and Gift Gallery
League of Nebraska Municipalities
Platte Institute
OpenSky Policy Institute
Nebraska Farmers Union
City of Lincoln
Greater Nebraska Cities
United Cities of Sarpy County
City of Omaha

Representing:

Representing:

Pay Pal, First Data Corporation

Summary of purpose and/or changes:

The bill creates the Remote Seller and Marketplace Facilitator Act. It requires remote sellers (those without a physical presence in the state) and/or "marketplace facilitators" as defined in the bill to collect and remit sales tax if:

1. Gross revenue from sales into the state exceed \$100,000 in the previous or current calendar year; or
 2. Sales into the state exceed 200 or more separate transaction in the same time period.
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The bill relieves the marketplace facilitator of liability to collect and remit the correct amount of sales tax due if it can demonstrate that the error was caused by incorrect information from the marketplace seller, unless the two are related parties.

The bill specifies that these obligations will not be applied retroactively.

The bill contains a severance clause as well as an emergency clause and sets the operative date as July 1, 2019.

Explanation of amendments:

The amendment makes the following changes:

1. It creates two separate subsections to address the obligations of remote sellers and multivendor marketplace platform operators to collect and remit tax on sales into the state if they exceed the specified thresholds for "doing business in this state" despite the lack of a physical presence in the state;
2. Adds a provision under the definition of "doing business in this state" that includes "conducting operations in this state that exceed the limitations of the commerce clause and due process clause of the United States Constitution";
3. Clarifies the activities which, if conducted by a seller in this state, exceed the limitations of the United State Constitution;
4. Amends the definition of "gross receipts" to include the receipts of multivendor marketplace platform operators;
5. Amends the definitions under "Retailer" to include multivendor marketplace platform operators;
6. Clarifies that when the threshold are exceed for the first time, the seller must obtain a permit from the Department of Revenue and begin collecting and remitting sales tax on or before the first day of the second calendar month after the threshold(s) was exceeded;
7. Adds a credit for individual remote sellers who are collecting and remitting tax to the state for taxes collected and remitted by a multivendor marketplace platform operator on the same sales of tangible personal property. The bill as drafted contained such a credit for the multivendor marketplace platform operators in the event the individual seller has already collected and remitted the tax. Both such persons are jointly liable for the tax;
8. The amendment strikes references to other statutory chapters regarding Local Option Sales Taxes as those provisions are specifically incorporated under existing provisions of the Nebraska Revenue Act of 1967; and
9. Changes the operative date from July 1 to April 1, 2019.

Lou Ann Linehan, Chairperson