

HB 333 -- Sales Tax on Electronic Sales

Sponsor: Kelly (45)

This bill changes the laws regarding the collection of sales and use taxes relating to nexus with Missouri. In its main provisions, the bill:

(1) Revises the definition of "seller" to include any business that regularly or systematically solicits business in the state or solicits business in the state through an independent contractor or other representative for four quarterly periods, has cumulative gross receipts in excess of \$300,000, and has delivered more than 100 sales of property in the state unless the business can demonstrate to the Director of the Department of Revenue that it will not meet these requirements in the next four quarterly periods;

(2) Requires the revenue collected from the expanded "seller" definition to be deposited into the newly created Internet Sales Tax Fund to be used for compensation and benefits paid from the Second Injury Fund until the Director of the Division of Workers' Compensation within the Department of Labor and Industrial Relations certifies that all amounts owned and payable have been paid and any remaining funds revert to the General Revenue Fund and the Internet Sales Tax Fund is dissolved;

(3) Specifies that soliciting business through an independent contractor or other representative includes a business that enters into an agreement with a Missouri resident and the resident, for a commission or other consideration, directly or indirectly refers potential customers by a link on the Internet or otherwise to the seller if the cumulative gross receipts from sales by the seller to customers in Missouri who are referred by all residents with agreements with the seller exceeds \$10,000 during the preceding four quarters unless the seller can prove the resident with whom the seller has an agreement did not engage in any solicitation that would satisfy the nexus requirement of the United States Constitution during the four quarterly periods;

(4) Removes the provision regarding the sales and use tax exemption for retail sales made between Missouri and any other state and between Missouri and any foreign country;

(5) Revises the definition of "engages in business activities within this state" by adding the Internet as a media source to the list of advertising markets for sales and use tax purposes. The business must engage in the activity in this state for four quarterly periods, have cumulative gross receipts in excess of

\$300,000, and have delivered more than 100 sales of property in the state unless the business can demonstrate to the department director that it will not meet these requirements in the next four quarterly periods;

(6) Revises the definition of "vendor" to include a company that solicits business through the Internet; and

(7) Removes the provision exempting a vendor with less than \$500,000 total gross receipts in Missouri or \$12.5 million nationwide with no selling agents or place of business in the state from collecting the use tax.

Also, the bill specifies that a claim for compensation or benefits for an injury or death occurring before January 1, 2014, must be made against the Second Injury Fund before January 1, 2015 and no claim for an injury or death occurring after December 31, 2013, will be allowed. The State Auditor must submit an actuarial report detailing the solvency of the Second Injury Fund and the expected payout of the remaining liabilities of the fund by January 31, 2015 and every four years thereafter. When the State Auditor projects that the revenue generated by the Internet sales tax and the surcharge will satisfy all the remaining liabilities of the fund, the surcharge must be repealed by the General Assembly.