

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 564

Introduced by McCollister, 20.

Read first time January 18, 2017

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to adopt the Nebraska
- 2 Main Street Fairness Act; and to declare an emergency.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Nebraska Main Street Fairness Act.

3 Sec. 2. For purposes of the Nebraska Main Street Fairness Act:

4 (1) Delivered electronically has the same meaning as in section
5 77-2701.49;

6 (2) Department means the Department of Revenue;

7 (3) Remote seller means any person who sells tangible personal
8 property, products delivered electronically, or services for delivery
9 into Nebraska and who does not have a physical presence in this state;

10 (4) Service means a service described in subsection (4) of section
11 77-2701.16; and

12 (5) Tangible personal property has the same meaning as in section
13 77-2701.39.

14 Sec. 3. (1) Notwithstanding any other provision of law, a remote
15 seller shall be subject to the Nebraska Revenue Act of 1967, the Local
16 Option Revenue Act, and sections 13-319 and 13-2813, shall remit the
17 sales tax due under such acts and sections, and shall follow all
18 applicable procedures and requirements of law as if the remote seller had
19 a physical presence in this state if the remote seller meets either of
20 the following criteria in the previous or current calendar year:

21 (a) The remote seller's gross revenue from the sale of tangible
22 personal property, products delivered electronically, and services
23 delivered into Nebraska exceeds twenty-five thousand dollars; or

24 (b) The remote seller sold tangible personal property, products
25 delivered electronically, or services for delivery into Nebraska in two
26 hundred or more separate transactions.

27 (2) No remote seller who remits sales tax under this section shall
28 be liable to a purchaser who claims that the sales tax has been
29 overcollected because this section is later deemed unlawful.

30 (3) Nothing in this section affects the obligation of any purchaser
31 from this state to remit use tax as to any applicable transaction in

1 which the remote seller does not collect and remit an offsetting sales
2 tax.

3 Sec. 4. Each remote seller that meets the requirements of
4 subsection (1) of section 3 of this act but refuses to collect Nebraska
5 sales tax in accordance with such section shall:

6 (1) Notify Nebraska purchasers that sales or use tax is due on
7 certain purchases made from the remote seller and that the State of
8 Nebraska requires the purchaser to remit sales or use tax either by
9 filing a sales and use tax return or by paying the sales or use tax
10 through the individual income tax return that coincides with the calendar
11 year in which the purchase was made. Failure to provide the notice
12 required in this subdivision shall subject the remote seller to a penalty
13 of five dollars for each such failure unless the remote seller shows
14 reasonable cause for such failure;

15 (2) Send notification to all Nebraska purchasers by January 31 of
16 each year showing the total amount paid by the purchaser for Nebraska
17 purchases made from the remote seller in the previous calendar year and
18 such other information as the department shall require by rule and
19 regulation. Such notification shall include, if available, the dates of
20 purchases, the amounts of each purchase, and the category of the
21 purchase, including, if known by the remote seller, whether the purchase
22 is exempt or not exempt from taxation. The notification shall state that
23 the State of Nebraska requires sales or use tax to be paid on certain
24 Nebraska purchases made by the purchaser from the remote seller and that
25 the sales or use tax must be remitted either by filing a sales and use
26 tax return or by paying the sales or use tax through the individual
27 income tax return that coincides with the calendar year in which the
28 purchase was made. The notification shall be sent separately to all
29 Nebraska purchasers by first-class mail and shall not be included with
30 any other shipments. The notification shall include the words "Important
31 Tax Document Enclosed" on the exterior of the mailing. The notification

1 shall include the name of the remote seller. Failure to send the
2 notification required in this subdivision shall subject the remote seller
3 to a penalty of ten dollars for each such failure unless the remote
4 seller shows reasonable cause for such failure; and

5 (3) File an annual statement for each purchaser with the department
6 on such forms as are provided or approved by the department showing the
7 total amount paid for Nebraska purchases by such purchasers during the
8 preceding calendar year or any portion thereof, and such annual statement
9 shall be filed on or before March 1 of each year. The department may
10 require any remote seller that makes total Nebraska sales of more than
11 twenty-five thousand dollars in a year to file the annual statement
12 described in this subdivision electronically for that year. Failure to
13 file the annual statement required in this subdivision shall subject the
14 remote seller to a penalty of ten dollars for each purchaser that should
15 have been included in such annual statement unless the remote seller
16 shows reasonable cause for such failure.

17 Sec. 5. The department may adopt and promulgate rules and
18 regulations to carry out the Nebraska Main Street Fairness Act.

19 Sec. 6. Since an emergency exists, this act takes effect when
20 passed and approved according to law.