

2010 -- H 7071

LC00068

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO TAXATION - SALES AND USE TAXES - LIABILITY AND  
COMPUTATION

Introduced By: Representatives Gallison, McNamara, and Serpa

Date Introduced: January 12, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-18-15 of the General Laws in Chapter 44-18 entitled "Sales and  
2 Use Taxes - Liability and Computation" is hereby amended to read as follows:

3 **44-18-15. "Retailer" defined.** -- (a) "Retailer" includes:

4 (1) Every person engaged in the business of making sales at retail, including sales at  
5 auction of tangible personal property owned by the person or others.

6 ~~(2) Every person making sales of tangible personal property through an independent~~  
7 ~~contractor or other representative, if the retailer enters into an agreement with a resident of this~~  
8 ~~state, under which the resident, for a commission or other consideration, directly or indirectly~~  
9 ~~refers potential customers, whether by a link on an Internet website or otherwise, to the retailer,~~  
10 ~~provided the cumulative gross receipts from sales by the retailer to customers in the state who are~~  
11 ~~referred to the retailer by all residents with this type of an agreement with the retailer, is in excess~~  
12 ~~of five thousand dollars (\$5,000) during the preceding four (4) quarterly periods ending on the~~  
13 ~~last day of March, June, September and December. Such retailer shall be presumed to be~~  
14 ~~soliciting business through such independent contractor or other representative, which~~  
15 ~~presumption may be rebutted by proof that the resident with whom the retailer has an agreement~~  
16 ~~did not engage in any solicitation in the state on behalf of the retailer that would satisfy the nexus~~  
17 ~~requirement of the United States Constitution during such four (4) quarterly periods.~~

18 ~~(3)~~ (2) Every person engaged in the business of making sales for storage, use, or other

1 consumption, or the business of making sales at auction of tangible personal property owned by  
2 the person or others for storage, use, or other consumption.

3 ~~(4)~~ (3) A person conducting a horse race meeting with respect to horses, which are  
4 claimed during the meeting.

5 ~~(5)~~ (4) Every person engaged in the business of renting any living quarters in any hotel,  
6 rooming house, or tourist camp.

7 ~~(6)~~ (5) Every person maintaining a business within or outside of this state who engages  
8 in the regular or systematic solicitation of sales of tangible personal property in this state by  
9 means of:

10 (i) Advertising in newspapers, magazines, and other periodicals published in this state,  
11 sold over the counter in this state or sold by subscription to residents of this state, billboards  
12 located in this state, airborne advertising messages produced or transported in the airspace above  
13 this state, display cards and posters on common carriers or any other means of public conveyance  
14 incorporated or operated primarily in this state, brochures, catalogs, circulars, coupons,  
15 pamphlets, samples, and similar advertising material mailed to, or distributed within this state to  
16 residents of this state;

17 (ii) Telephone;

18 (iii) Computer assisted shopping networks; and

19 (iv) Television, radio or any other electronic media, which is intended to be broadcast to  
20 consumers located in this state.

21 (b) When the tax administrator determines that it is necessary for the proper  
22 administration of chapters 18 and 19 of this title to regard any salespersons, representatives,  
23 truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers,  
24 or persons under whom they operate or from whom they obtain the tangible personal property  
25 sold by them, irrespective of whether they are making sales on their own behalf or on behalf of  
26 the dealers, distributors, supervisors, or employers, the tax administrator may so regard them and  
27 may regard the dealers, distributors, supervisors, or employers as retailers for purposes of  
28 chapters 18 and 19 of this title.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO TAXATION - SALES AND USE TAXES - LIABILITY AND  
COMPUTATION

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1           This act would change the definition of a retailer for sales and use tax purposes regarding  
2 sales and tangible personal property through an independent contractor or other representative, if  
3 the retailer enters into an agreement with a resident of this state, under which the resident, for a  
4 commission or other consideration, directly or indirectly refers potential customers, whether by a  
5 link on an Internet website or otherwise, to the retailer.

6           This act would take effect upon passage.

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