

HOUSE BILL 85

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 67; Chapter 72 of the Public Acts of 2011; Chapter 157 of the Public Acts of 2019; Chapter 193 of the Public Acts of 2017; Chapter 273 of the Public Acts of 2015; Chapter 480 of the Public Acts of 2013; Chapter 530 of the Public Acts of 2009 and Chapter 602 of the Public Acts of 2007, relative to sales tax.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Chapter 602 of the Public Acts of 2007, as amended by Chapter 530 of the Public Acts of 2009, and as further amended by Chapter 72 of the Public Acts of 2011, and as further amended by Chapter 480 of the Public Acts of 2013, and as further amended by Chapter 273 of the Public Acts of 2015, and as further amended by Chapter 193 of the Public Acts of 2017, and as further amended by Chapter 157 of the Public Acts of 2019, is amended by deleting Sections 127 through 178.

SECTION 2. Tennessee Code Annotated, Section 67-6-102(71), is amended by deleting the language "units of dollars" and substituting instead the language "units or dollars".

SECTION 3. Tennessee Code Annotated, Section 67-6-102(85)(A)(vi), is amended by deleting the subdivision in its entirety and substituting instead the following:

(vi) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been sold by the seller as a single product or piece of merchandise as part of a bundled transaction;

SECTION 4. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following as new, appropriately designated subdivisions:

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(A) "Bundled transaction":

(i) Means the retail sale of two (2) or more products, except real property and services to real property, that are otherwise distinct and identifiable products and that are sold for one (1) nonitemized price; and

(ii) Does not include:

(a) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(b) The retail sale of services where one (1) service is provided that is essential to the use or receipt of a second service, and the first service is provided exclusively in connection with the second service, and the true object of the transaction is the second service; or

(c) The sale of any products in which the sales price varies or is negotiable based on the purchaser's selection of which products are included in the transaction; and

(B) For purposes of this subdivision ():

(i) "Distinct and identifiable products" does not include:

(a) Packaging, such as containers, boxes, sacks, bags, and bottles, or other materials, such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof.

Examples of packaging that are incidental or immaterial include

grocery sacks, shoeboxes, dry cleaning garment bags, and express delivery envelopes and boxes;

(b) A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or

(c) Items included in the sales price; and

(ii) "One (1) nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list;

SECTION 5. Tennessee Code Annotated, Section 67-6-905(a)(10), is amended by adding the language ", except for a prepaid wireless calling service," immediately after the language "a telecommunications service".

SECTION 6. Tennessee Code Annotated, Section 67-6-905(a), is amended by adding the following language as new, appropriately designated subdivisions:

() "Prepaid calling service" means the right to exclusively access telecommunications services that must be paid for in advance and that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

() "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service, as well as other non-telecommunications services, including the download of digital products delivered electronically, content, and ancillary services, that must be paid for in advance and that is sold in predetermined unit or dollars of which the number declines with use in a known amount;

SECTION 7. Section 1 of this act shall take effect upon becoming law, the public welfare requiring it. All other sections of this act shall take effect on July 1, 2021, the public welfare requiring it.