

2015 -- H 5719

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO TAXATION

Introduced By: Representatives Filippi, Blazejewski, Reilly, Newberry, and Costa

Date Introduced: February 26, 2015

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 prewritten
5 computer software delivered electronically or by load and leave, sales of services as defined in §
6 44-18-7.3, and sales at auction of tangible personal property owned by the person or others.

7 (2) Every person making sales of tangible personal property including prewritten
8 computer software delivered electronically or by load and leave, or sales of services as defined in
9 § 44-18-7.3, through an independent contractor or other representative, if the retailer enters into
10 an agreement with a resident of this state, under which the resident, for a commission or other
11 consideration, directly or indirectly refers potential customers, ~~whether~~ to the retailer, excluding
12 by a link on an Internet website or otherwise, to the retailer, provided the cumulative gross
13 receipts from sales by the retailer to customers in the state who are referred to the retailer by all
14 residents with this type of an agreement with the retailer, is in excess of five thousand dollars
15 (\$5,000) during the preceding four (4) quarterly periods ending on the last day of March, June,
16 September and December. Such retailer shall be presumed to be soliciting business through such
17 independent contractor or other representative, which presumption may be rebutted by proof that
18 the resident with whom the retailer has an agreement did not engage in any solicitation in the
19 state on behalf of the retailer that would satisfy the nexus requirement of the United States

1 Constitution during such four (4) quarterly periods.

2 (3) Every person engaged in the business of making sales for storage, use, or other
3 consumption of: (1) tangible personal property, (ii) sales at auction of tangible personal property
4 owned by the person or others, prewritten computer software delivered electronically or by load
5 and leave, and (iv) services as defined in § 44-18-7.3.

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

8 (5) Every person engaged in the business of renting any living quarters in any hotel as
9 defined in § 42-63.1-2, rooming house, or tourist camp.

10 (6) Every person maintaining a business within or outside of this state who engages in
11 the regular or systematic solicitation of sales of tangible personal property, prewritten computer
12 software delivered electronically or by load and leave:

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

20 (ii) Telephone;

21 (iii) Computer assisted shopping networks; and

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would clarify the statutory language defining retailers that enter into agreements
- 2 with residents who refer potential customers to retailers by links to internet sites, as it relates to
- 3 the computation of sales and use taxes.
- 4 This act would take effect upon passage.

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