

**2015 DRAFTING REQUEST**

**Bill**

Received: **9/25/2014** Received By: **jkreye**  
Wanted: **As time permits** Same as LRB:  
For: **Administration-Budget** By/Representing: **Wimmer**  
May Contact: Drafter: **jkreye**  
Subject: **Tax, Other - sales** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email:  
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**  
**sbostatlanguage@webapps.wi.gov**

---

**Pre Topic:**

DOA:.....Wimmer, BB0082 -

---

**Topic:**

Exclude certain distribution facilities from retailer definition

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 9/29/2014			_____			
/P1	jkreye 1/21/2015	kfollett 9/29/2014	jmurphy 9/29/2014	_____	lparisi 9/29/2014		State S&L Tax
/P2		kfollett	rschlue	_____			State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		1/21/2015	1/22/2015	_____			S&L Tax
/P3	jkreye 1/27/2015			_____	srose 1/22/2015		State S&L Tax
/P4		jdye 1/27/2015	rschluet 1/27/2015	_____	lparisi 1/27/2015		State S&L Tax

FE Sent For:

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/P2		kfollett	rschluet	_____			State

*1/24/15  
jkreye* *rschluet  
1/24/15*

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		1/21/2015	1/22/2015	_____			S&L Tax
/P3				_____	srose		State
				_____	1/22/2015		S&L Tax

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/P1		kfollett 9/29/2014	jmurphy 9/29/2014		lparisi 9/29/2014		State S&L Tax

FE Sent For:

*Handwritten notes:*  
1/3/14  
1/21  
2/14/14  
**<END>**

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**Pre Topic:**

DOA:.....Wimmer, BB0082 -

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**Topic:**

Exclude certain distribution facilities from retailer definition ✓

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**Instructions:**

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	jkreye	1P/15F 9/29	1P/15F 9/29	<u>Jan</u> 9/29			

FE Sent For:

<END>

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Wanted: **As time permits** Same as LRB:  
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/?	jkreye			_____			
				_____			

FE Sent For:

<END>

**Kreye, Joseph**

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**From:** Hanaman, Cathlene  
**Sent:** Thursday, September 25, 2014 4:02 PM  
**To:** Kreye, Joseph; Shovers, Marc  
**Subject:** FW: Statutory Language Drafting Request - BB0082  
**Attachments:** Sales Tax - Exclude Distribution Facilities from Retailer Definition.pdf

---

**From:** robert.wimmer@wisconsin.gov [mailto:robert.wimmer@wisconsin.gov]  
**Sent:** Thursday, September 25, 2014 4:01 PM  
**To:** Hanaman, Cathlene  
**Cc:** Ziegler, Paul - DOA; Wimmer, Robert C - DOA; Connor, Christopher B - DOA  
**Subject:** Statutory Language Drafting Request - BB0082

Biennial Budget: 2015-17

Topic: Definition of Retailer for Certain Sales and Use Tax Purposes

Tracking Code: BB0082

SBO Team: TLGED

SBO Analyst: Wimmer, Robert  
Phone: 608-266-7597  
E-mail: [robert.wimmer@wisconsin.gov](mailto:robert.wimmer@wisconsin.gov)

Agency Acronym: DOR

Agency Number: 566

Priority: High

Intent:

Revise the definition of retailer in the sales and use tax law to allow a person to operate a distribution facility and make certain sales without the penalty of owing tax on such sales.

Attachments: True

Please send completed drafts to [SBOSatlanguage@webapps.wi.gov](mailto:SBOSatlanguage@webapps.wi.gov)



**TITLE:** Definition of Retailer for Sales and Use Tax Purposes – Exclude Operator of Distribution Facility Selling on Behalf of Third-Party Seller

**DESCRIPTION OF CURRENT LAW AND PROBLEM**

Under current law and administrative code provisions, a person may be liable for the payment of sales tax if the person is acting for a known or disclosed principal, has possession of tangible personal property owned by the principal, and makes sales of such property. The person's liability may arise if the principal is engaged in the full or part-time business of selling tangible personal property and the principal fails to pay the tax. (Section 77.51(13)(c), Wis. Stats., and sec. Tax 11.55(2)(a), Wis. Adm. Code (May 2010 Register))

The potential of owing tax on such sales may discourage a person from operating a distribution center in Wisconsin, where it would take possession of tangible personal property owned by third-party sellers and act as a seller of such property.

**RECOMMENDATION FOR ACTION**

Revise the definition of "retailer" in the sales and use tax law to allow a person to operate a distribution facility and make sales of tangible personal property and items under sec. 77.52(1)(b), Wis. Stats., on behalf of third-party sellers, without potentially owing tax on such sales.

**IMPACT ON JOBS CREATION**

This will have a positive impact on jobs creation, since businesses will be more likely to build distribution facilities in Wisconsin.

**FISCAL EFFECT**

The fiscal effect will be minimal, as it reflects current business practice.

**DRAFTING INSTRUCTIONS**

Create a new subsection in sec. 77.51, Wis. Stats., to read as follows:

(13b) (a) Except as provided in par. (b), "retailer" does not include a person or the person's affiliates making sales of tangible personal property or items under s. 77.52(1)(b) when all of the following apply:

1. The person or any of its affiliates operates a distribution facility.
2. The person or any of its affiliates sells the tangible personal property or items under s. 77.52(1)(b) on behalf of the third-party seller.
3. The third-party seller owns the tangible personal property or items under s. 77.52(1)(b) and is disclosed to the customer as the seller.
4. Neither the person nor any of its affiliates makes any sales for which the customer takes possession of the tangible personal property or items under s. 77.52(1)(b) at a location operated by the person or any of its affiliates.

(18r)  
(b) Par. (a) does not apply to sales at auction, sales of motor vehicles, aircraft, snowmobiles, recreational vehicles, as defined in s. 340.01(48r), trailers, semitrailers, all-terrain vehicles, utility terrain vehicles, or boats registered or titled, or required to be registered or titled, under the laws of this state or of the United States, or sales of tangible personal property or items under s. 77.52(1)(b) owned or previously owned by the operator of the distribution facility or any of its affiliates.

(c) In this subsection, "distribution facility" means an establishment where tangible personal property is stored and processed for delivery to customers and where no retail sales of the property are made.

(d) In this subsection, "affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(e) In this subsection, a person controls another person if that person holds at least a 50 percent ownership interest in the other person.

(f) In this subsection, "third-party seller" means a person who owns tangible personal property or items under s. 77.52(1)(b) who has entered into a contract with a person described in par. (a) for the sale of such tangible personal property or items under s. 77.52(1)(b) and who is not an affiliate of the person described in par. (a).  
(18)

**EFFECTIVE DATE AND/OR INITIAL APPLICABILITY**

Day after publication.

**INTERESTED/AFFECTED PARTIES**

Businesses considering building distribution facilities in Wisconsin.

**DOR CONTACT PERSON**

Diane Hardt, Division Administrator  
(608) 266-6798

**PREPARED BY**

Janet Abrams and Mike Hinnendael



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0310/P1  
JK...

DOA:.....Wimmer, BB0082 - Exclude certain distribution facilities from  
retailer definition

**FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION**

in 9-29-14

Don't Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

This bill excludes the operator of a distribution facility selling tangible personal property, items, and goods on behalf of a 3rd-party seller from the definition of "retailer" for purposes of imposing and collecting sales and use taxes.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 77.51 (13) (intro.) of the statutes is amended to read:

3 77.51 (13) (intro.) "Retailer" Except as provided in sub. (13b), "retailer"

4 includes:

**History:** 1973 c. 333; 1975 c. 39, 41, 99, 224; 1975 c. 413 s. 18; 1977 c. 29, 418; 1979 c. 1 ss. 57 to 59, 61, 62; 1979 c. 174; 1981 c. 20; 1981 c. 79 s. 17; 1983 a. 23, 27; 1983 a. 189 ss. 92 to 108, 329 (12); 1983 a. 510, 538; 1983 a. 544 ss. 13 to 46, 47 (1) (b); 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 31, 335, 336; 1991 a. 39, 269, 316; 1993 a.

16, 112, 184; 1997 a. 27, 237; 1999 a. 9, 83; 2001 a. 45, 102; 2003 a. 48; 2005 a. 25, 327, 441, 479; 2007 a. 11, 20, 130; 2009 a. 2 ss. 225 to 345, 389; 2009 a. 12 s. 18; 2009 a. 28 ss. 1830b to 1836h, 1844 to 1846; 2009 a. 276, 330; 2011 a. 208, 2513 a. 20 ss. 1475 to 1484, 1489 to 1491.

1 SECTION 2. 77.51 (13b) (a) of the statutes is created to read:

2 77.51 (13b) (a) In this subsection:

3 1. "Affiliate" means a person that directly or indirectly, through one or more  
4 intermediaries, controls or is controlled by, or is under common control with, another  
5 person. For purposes of this subdivision, a person controls another person if that  
6 person holds at least 50 percent ownership interest in the other person.

7 2. "Distribution facility" means an establishment where tangible personal  
8 property is stored and processed for delivery to customers and where no retail sales  
9 of the property are made.

10 3. "Third-party seller" means a person who owns tangible personal property,  
11 items, property, or goods under s. 77.52 (1b), who enters into a contract with a person  
12 described in par. (b) for the sale of the tangible personal property, items, property, or  
13 goods, and who is not an affiliate of the person described in par. (b).

14 (b) Except as provided in par. (c), "retailer" does not include a person, or the  
15 person's affiliates, making sales of tangible personal property, items, property, or  
16 goods under s. 77.52 (1b), if all of the following apply:

17 1. The person or any of the person's affiliates operates a distribution facility.

18 2. The person or any of the person's affiliates sells the tangible personal  
19 property, items, property, or goods under s. 77.52 (1b) on behalf of a third-party  
20 seller. *3rd*

21 3. The third-party seller owns the tangible personal property, items, property,  
22 or goods under s. 77.52 (1b) and is disclosed to the customer as the seller. *3rd*

23 4. Neither the person nor any affiliate of the person makes any sales for which  
24 the customer takes possession of the tangible personal property, items, property, or

1 goods under s. 77.52 (1b) at a location operated by the person or any of the person's  
2 affiliates.

3 (c) Paragraph (b) does not apply to sales at auction; sales of tangible personal  
4 property, items, property, or goods under s. 77.52 (1b) owned or previously owned by  
5 the person operating the distribution facility or by any of the person's affiliates; or the  
6 sales of any of the following that are registered or titled, or required to be registered  
7 or titled, under the laws of this state, or of the United States:

- 8 1. Motor vehicles.
- 9 2. Aircraft.
- 10 3. Snowmobiles.
- 11 4. Recreational vehicles, as defined in s. 340.01 (48r).
- 12 5. Trailers.
- 13 6. Semitrailers.
- 14 7. All-terrain vehicles.
- 15 8. Utility terrain vehicles.
- 16 9. Boats.

17

(END)

## Kreye, Joseph

---

**From:** Wimmer, Robert C - DOA <Robert.Wimmer@wisconsin.gov>  
**Sent:** Friday, January 16, 2015 10:27 AM  
**To:** Kreye, Joseph  
**Subject:** Statutory Draft Revision to LRB-15-0310/P1 – BB0082

Mr. Kreye

DOR has requested a small, yet somewhat tedious revision to some of the language for LRB-15-0310/P1 – BB0082. I have decided to copy and paste their request so it is hopefully better articulated. Please let me know if you have any questions. Thanks for your time.

### DOR Request:

- a. Throughout the draft of this bill, the language refers to "tangible personal property, items, property, or goods under s. 77.52 (1b)." This bill is only relevant to tangible personal property and items under s. 77.52 (1) (b). The bill is not relevant to "property, or goods" (i.e., it is not relevant to property under s. 77.52 (1) (c) or to goods under s. 77.52 (1) (d)) for the following reasons:
  - Property under s. 77.52 (1) (c) – This provision refers to certain property that is affixed to real property and, therefore, does not apply to sales through a distribution facility.
  - Goods under s. 77.52 (1) (d) – This provision refers to specified digital goods and additional digital goods and, therefore, does not apply to sales through a distribution facility.

Additionally, the items that the provision does apply to are taxed under s. 77.52 (1) (b), rather than s. 77.52 (1b).

These changes should be made in Section 2, page 2 on lines 10-11, lines 15-16, line 19, lines 20-21, lines 23-24, and page 3 on line 2 to read (in each case):

" ... tangible personal property, or items, property, or goods under s. 77.52 ~~(1b)~~ (1) (b) ..."

- b. The phrase "tangible personal property, items, property, or goods" in Section 2, page 2, lines 12-13, should also be changed as described in paragraph a., above:

" ... tangible personal property, or items, property, or goods, ..."

- c. The bill defines "third-party seller," but as it is used elsewhere in the bill, this type of seller is referred to as a "3<sup>rd</sup>-party seller." Changes should be made for consistency in Section 2, page 2, on both lines 19 and 20, to read

" ... on behalf of a ~~3<sup>rd</sup>-party~~ third-party seller.

3. The ~~3<sup>rd</sup>-party~~ third-party seller owns the tangible personal ..."

**Bob Wimmer**

Executive Policy & Budget Analyst

State Budget Office  
Department of Administration | State of Wisconsin  
608-266-7597  
Robert.Wimmer@wisconsin.gov



P3

DOA:.....Wimmer, BB0082 – Exclude certain distribution facilities from retailer definition

**FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION**

m 1-21-15

Due  
1/23

Don't Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

coins, and stamps

**TAXATION**

**OTHER TAXATION**

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4 includes:



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1. "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, another person. For purposes of this subdivision, a person controls another person if that person holds at least 50 percent ownership interest in the other person.

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3. "Third-party seller" means a person who owns tangible personal property, items, property, or goods under s. 77.52 (1b) who enters into a contract with a person described in par. (b) for the sale of the tangible personal property, items, property, or goods, and who is not an affiliate of the person described in par. (b).

(b) Except as provided in par. (c), "retailer" does not include a person, or the person's affiliates, making sales of tangible personal property, items, property, or goods under s. 77.52 (1b) if all of the following apply:

1. The person or any of the person's affiliates operates a distribution facility.

2. The person or any of the person's affiliates sells the tangible personal property, items, property, or goods under s. 77.52 (1b) on behalf of a 3rd-party seller.

3. The 3rd-party seller owns the tangible personal property, items, property, or goods under s. 77.52 (1b) and is disclosed to the customer as the seller.

4. Neither the person nor any affiliate of the person makes any sales for which the customer takes possession of the tangible personal property, items, property, or goods under s. 77.52 (1b) at a location operated by the person or any of the person's affiliates.

1 (c) Paragraph (b) does not apply to sales at auction; sales of tangible personal  
2 property, <sup>or</sup> ~~items, property, or goods~~ under s. 77.52 <sup>(1)(b)</sup> ~~(1b)~~ <sup>(1)(b)</sup> owned or previously owned by  
3 the person operating the distribution facility or by any of the person's affiliates; or  
4 the sales of any of the following that are registered or titled, or required to be  
5 registered or titled, under the laws of this state, or of the United States:

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7 2. Aircraft.

8 3. Snowmobiles.

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10 5. Trailers.

11 6. Semitrailers.

12 7. All-terrain vehicles.

13 8. Utility terrain vehicles.

14 9. Boats.

15 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0310/P2dn  
JK:kjf:jm

*Date*

ATTN: Robert Wimmer

x I did not make the change suggested by DOR related to using the term "3rd-party seller". The use of "third-party seller" in the definition, where it is appropriate to spell the term and not use a numeric, and the use of "3rd-party seller" in the text, where we typically use the numeric, is consistent with our drafting conventions.

Joseph T. Kreye  
Senior Legislative Attorney  
(608) 266-2263  
joseph.kreye@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0310/P2dn  
JK:kjf:rs

January 22, 2015

ATTN: Robert Wimmer

I did not make the change suggested by DOR related to using the term “3rd-party seller.” The use of “third-party seller” in the definition, where it is appropriate to spell the term and not use a numeric, and the use of “3rd-party seller” in the text, where we typically use the numeric, is consistent with our drafting conventions.

Joseph T. Kreye  
Senior Legislative Attorney  
(608) 266-2263  
joseph.kreye@legis.wisconsin.gov

## Kreye, Joseph

---

**From:** Wimmer, Robert C - DOA <Robert.Wimmer@wisconsin.gov>  
**Sent:** Saturday, January 24, 2015 11:41 AM  
**To:** Kreye, Joseph  
**Subject:** RE: Statutory Draft Revision to LRB-15-1211/P1 – BB0423

Sorry I have this subject under the wrong title. It should be LRB 15-3010\_P3 – BB0082. My apologies if I was confusing.  
Thanks

---

**From:** Wimmer, Robert C - DOA  
**Sent:** Saturday, January 24, 2015 11:31 AM  
**To:** Kreye, Joseph - LEGIS  
**Subject:** RE: Statutory Draft Revision to LRB-15-1211/P1 – BB0423

Joe,

So DOR is getting a little picky and they have additional changes they to the draft. Here is their message for your review.  
Thanks.

Below:

- There are six unnecessary commas: on page 2, lines 10, 15, 19, 20, and 23, and on page 3, line 2 The language should be:  
"...tangible personal property, or items under "
- We understand the 3<sup>rd</sup> party vs. third-party issue now and accept Joe's revision.

---

**From:** Kreye, Joseph [<mailto:Joseph.Kreye@legis.wisconsin.gov>]  
**Sent:** Wednesday, January 21, 2015 11:26 AM  
**To:** Wimmer, Robert C - DOA  
**Subject:** RE: Statutory Draft Revision to LRB-15-1211/P1 – BB0423

Bob,

The changes were all straightforward.

I don't think, however, that the language related to limitations under federal law is needed. The language DOR suggested is already in s. 77.51 (13g) (c):

"Any retailer selling tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for storage, use, or other consumption in this state, unless otherwise limited by federal law."

Joe

**Joseph T. Kreye**  
Legal Section Administrator  
Legislative Reference Bureau  
608 266-2263

---

**From:** Wimmer, Robert C - DOA [<mailto:Robert.Wimmer@wisconsin.gov>]  
**Sent:** Wednesday, January 21, 2015 9:43 AM

To: Kreye, Joseph

Subject: Statutory Draft Revision to LRB-15-1211/P1 – BB0423

Mr. Kreye,

As I'm sure you come to expect from DOR they have some significant changes based on your comments. I have attached all of their requests below for your review. Thanks again for your help.

Bob

Page 2, line 4:

The current language refers to the property and the focus should be instead to where the lease is sourced.

"...or property under s. 77.52 (1) (b) or (c), ~~located in that~~ if the lease or rental is sourced to this state or under..."

Page 2, lines 14-15

A minor change and a substantive one. "The" appears unnecessary and "taxable" is inconsistent with court rulings that nexus exists without regard to whether the services provided are taxable in the state.

"... selling, delivering, or the taking of orders for any tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or ~~taxable~~ services or for the..."

Page 2, lines 23-24

First, "operated" is more consistent with our intent since a seller could lease the vehicles used to make deliveries in Wisconsin.

Second, in response to the first drafter's note, Joe Kreye's question is well taken. Company was the wrong choice, and we prefer "person" rather than "business." The sales tax chapters define "person," and the definition for "business" refers to activity rather than an entity. Hence, the revision below uses "person."

"...property under s. 77.52 (1) (b) or (c), into this state in a vehicle ~~owned~~ operated by the ~~business person~~ that sells the property or items that are delivered..."

New Section (not in current draft)

The bill should also have a new paragraph in (13g), perhaps (g), stating the following:

"Any retailer selling tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for storage, use, or other consumption in this state, unless otherwise limited by federal law."

Drafter's Note #2

Correct assumption for digital goods.

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**From:** Christopher.Connor@wisconsin.gov [mailto:Christopher.Connor@wisconsin.gov]

**Sent:** Wednesday, January 14, 2015 6:55 PM

**To:** Wimmer, Robert C - DOA

**Cc:** Ziegler, Paul - DOA; Grinde, Kirsten - DOA; Connor, Christopher B - DOA

**Subject:** Sales and use tax nexus creating activities

We have received an LRB draft for DOA Tracking Code: BB0423

LRB Draft Number: 15-1211/P1

Drafting Attorney: Joseph T. Kreye

Phone: (608) 266-2263

E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)

The document can be found in the Stat Language site on SharePoint.

**Please Note:** All new drafts are marked "OUT" and Final = "No" by default. Please update these fields in this record and related drafts as soon as you know if they are "IN" or Final.

Thanks,

Chris



DOA:.....Wimmer, BB0082 – Exclude certain distribution facilities from  
retailer definition

**FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION**

in L-27-15

don't gen

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

This bill excludes the operator of a distribution facility selling tangible personal property, coins, and stamps on behalf of a third-party seller from the definition of "retailer" for purposes of imposing and collecting sales and use taxes.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 77.51 (13) (intro.) of the statutes is amended to read:

3 77.51 (13) (intro.) "~~Retailer~~ Except as provided in sub. (13b), "retailer"

4 includes:



1 SECTION 2. 77.51 (13b) of the statutes is created to read:

2 77.51 (13b) (a) In this subsection:

3 1. "Affiliate" means a person that directly or indirectly, through one or more  
4 intermediaries, controls or is controlled by, or is under common control with, another  
5 person. For purposes of this subdivision, a person controls another person if that  
6 person holds at least 50 percent ownership interest in the other person.

7 2. "Distribution facility" means an establishment where tangible personal  
8 property is stored and processed for delivery to customers and where no retail sales  
9 of the property are made.

10 3. "Third-party seller" means a person who owns tangible personal property,  
11 or items under s. 77.52 (1) (b), who enters into a contract with a person described in  
12 par. (b) for the sale of the tangible personal property or items and who is not an  
13 affiliate of the person described in par. (b).

14 (b) Except as provided in par. (c), "retailer" does not include a person, or the  
15 person's affiliates, making sales of tangible personal property, or items under s. 77.52  
16 (1) (b), if all of the following apply:

17 1. The person or any of the person's affiliates operates a distribution facility.

18 2. The person or any of the person's affiliates sells the tangible personal  
19 property, or items under s. 77.52 (1) (b), on behalf of a 3rd-party seller.

20 3. The 3rd-party seller owns the tangible personal property, or items under s.  
21 77.52 (1) (b), and is disclosed to the customer as the seller.

22 4. Neither the person nor any affiliate of the person makes any sales for which  
23 the customer takes possession of the tangible personal property, or items under s.  
24 77.52 (1) (b), at a location operated by the person or any of the person's affiliates.

1 (c) Paragraph (b) does not apply to sales at auction; sales of tangible personal  
2 property or items under s. 77.52 (1) (b), owned or previously owned by the person  
3 operating the distribution facility or by any of the person's affiliates; or the sales of  
4 any of the following that are registered or titled, or required to be registered or titled,  
5 under the laws of this state, or of the United States:

6 1. Motor vehicles.

7 2. Aircraft.

8 3. Snowmobiles.

9 4. Recreational vehicles, as defined in s. 340.01 (48r).

10 5. Trailers.

11 6. Semitrailers.

12 7. All-terrain vehicles.

13 8. Utility terrain vehicles.

14 9. Boats.

15 (END)



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0310/P4  
JK:kjfrs

DOA:.....Wimmer, BB0082 – Exclude certain distribution facilities from  
retailer definition

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

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