



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0310/P4
JK:kjf:rs

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

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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, 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:

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

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

includes:

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

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

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.

2. “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.

3. “Third-party seller” means a person who owns tangible personal property or items under s. 77.52 (1) (b), who enters into a contract with a person described in par. (b) for the sale of the tangible personal property or items 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 or items under s. 77.52 (1) (b), 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 or items under s. 77.52 (1) (b), on behalf of a 3rd-party seller.

3. The 3rd-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 affiliate of the person 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 the person’s affiliates.

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

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

(END)