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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 580

01/19/2023 Authored by Koegel, Hornstein and Tabke
The bill was read for the first time and referred to the Committee on Transportation Finance and Policy

1.1 A bill for an act
1.2 relating to transportation; imposing a fee on the delivery of tangible personal
1.3 property; allocating funds; amending Minnesota Statutes 2022, sections 270C.15;
1.4 297A.61, subdivision 7; proposing coding for new law as Minnesota Statutes,
1.5 chapter 168E.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. 168E.01 DEFINITIONS.

1.8 Subdivision 1. Scope. As used in this chapter, the following terms have the meanings
1.9 given.

1.10 Subd. 2. Clothing. "Clothing" has the meaning given in section 297A.67, subdivision
1.11 8.

1.12 Subd. 3. Commissioner. "Commissioner" means the commissioner of revenue.

1.13 Subd. 4. Motor vehicle. "Motor vehicle" has the meaning given in section 168.002,
1.14 subdivision 18.

1.15 Subd. 5. Retail delivery. "Retail delivery" means a retail sale of tangible personal
1.16 property by a retailer for delivery by a motor vehicle to the purchaser at a location in
1.17 Minnesota in which the sale contains at least one item of tangible personal property that is
1.18 subject to taxation under chapter 297A, including the retail sale of clothing notwithstanding
1.19 the exemption from taxation for clothing under chapter 297A.

1.20 Subd. 6. Retail delivery fee. "Retail delivery fee" means the fee imposed under section
1.21 168E.03 on retail deliveries.

2.1 Subd. 7. **Retail sale.** "Retail sale" has the meaning given in section 297A.61, subdivision
 2.2 4.

2.3 Subd. 8. **Retailer.** "Retailer" means any person making sales, leases, or rental of personal
 2.4 property or services within or into the state of Minnesota. Retailer includes a:

2.5 (1) retailer maintaining a place of business in this state;

2.6 (2) marketplace provider maintaining a place of business in this state, as defined in
 2.7 section 297A.66, subdivision 1, paragraph (a);

2.8 (3) retailer not maintaining a place of business in this state; and

2.9 (4) marketplace provider not maintaining a place of business in this state, as defined in
 2.10 section 297A.66, subdivision 1, paragraph (b).

2.11 Subd. 9. **Tangible personal property.** "Tangible personal property" has the meaning
 2.12 given in section 297A.61, subdivision 10.

2.13 **EFFECTIVE DATE.** This section is effective January 1, 2024.

2.14 Sec. 2. **[168E.03] FEE IMPOSED.**

2.15 Subdivision 1. **Rate.** (a) A retailer who makes a retail delivery shall add to the price of
 2.16 the retail delivery a retail delivery fee to be collected from the purchaser. The retailer must
 2.17 remit the fee to the commissioner in the time and manner prescribed by the commissioner
 2.18 in accordance with this chapter.

2.19 (b) Beginning on January 1, 2024, through June 30, 2025, the retail delivery fee equals
 2.20 \$0.40 per retail delivery. Beginning on July 1, 2025, through June 30, 2027, the retail
 2.21 delivery fee equals \$0.45 per retail delivery. Beginning on July 1, 2027, and thereafter; the
 2.22 retail delivery fee equals \$0.50 per retail delivery.

2.23 (c) The retail delivery fee must not be included in the sales price for purposes of
 2.24 calculating tax owed under chapter 297A.

2.25 (d) The retail delivery fee must be charged in addition to any other delivery fee. The
 2.26 retailer must show the total of the retail delivery fee and other delivery fees as separate
 2.27 items and distinct from the sales price and any other taxes or fees imposed on the retail
 2.28 delivery on the purchaser's receipt, invoice, or other bill of sale.

2.29 Subd. 2. **Delivery.** Each retail sale is a single retail delivery regardless of the number
 2.30 of shipments necessary to deliver the items of tangible personal property purchased.

2.31 **EFFECTIVE DATE.** This section is effective January 1, 2024.

3.1 Sec. 3. **[168E.05] EXEMPTIONS.**

3.2 Subdivision 1. **Certain transactions.** A retail delivery that includes only tangible personal
3.3 property that is exempt from taxation under chapter 297A, except tangible personal property
3.4 that is exempt as clothing under chapter 297A, is exempt from the retail delivery fee.

3.5 Subd. 2. **Certain entities.** A purchaser who is exempt from tax under chapter 297A is
3.6 exempt from the retail delivery fee.

3.7 **EFFECTIVE DATE.** This section is effective January 1, 2024.

3.8 Sec. 4. **[168E.07] COLLECTION AND ADMINISTRATION.**

3.9 Subdivision 1. **Returns; payment of fees.** A retailer must report the fee on a return
3.10 prescribed by the commissioner and must remit the fee with the return. The return and fee
3.11 must be filed and paid using the filing cycle and due dates provided for taxes imposed under
3.12 chapter 297A.

3.13 Subd. 2. **Administration.** Unless specifically provided otherwise by this section, the
3.14 audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal, and
3.15 administrative provisions of chapters 270C and 289A, that are applicable to taxes imposed
3.16 under chapter 297A, apply to the fee imposed under this chapter.

3.17 Subd. 3. **Interest on overpayments.** The commissioner must pay interest on an
3.18 overpayment refunded or credited to the retailer from the date of payment of the fee until
3.19 the date the refund is paid or credited. For purposes of this subdivision, the date of payment
3.20 is the due date of the return or the date of actual payment of the fee, whichever is later.

3.21 **EFFECTIVE DATE.** This section is effective January 1, 2024.

3.22 Sec. 5. **[168E.09] DEPOSIT OF PROCEEDS.**

3.23 Subdivision 1. **Costs deducted.** The commissioner shall retain an amount that does not
3.24 exceed the total cost of collecting, administering, and enforcing the retail delivery fee and
3.25 shall deposit the amount in the revenue department service and recovery special revenue
3.26 fund.

3.27 Subd. 2. **Deposits.** The balance of proceeds shall be deposited as follows:

3.28 (1) 60 percent must be deposited in the highway user tax distribution fund;

3.29 (2) 36 percent must be deposited in the metropolitan area transit account under section
3.30 16A.88; and

4.1 (3) four percent must be deposited in the greater Minnesota transit account under section
 4.2 16A.88.

4.3 **EFFECTIVE DATE.** This section is effective January 1, 2024.

4.4 Sec. 6. Minnesota Statutes 2022, section 270C.15, is amended to read:

4.5 **270C.15 REVENUE DEPARTMENT SERVICE AND RECOVERY SPECIAL**
 4.6 **REVENUE FUND.**

4.7 A Revenue Department service and recovery special revenue fund is created for the
 4.8 purpose of recovering the costs of furnishing government data and related services or
 4.9 products, as well as recovering costs associated with collecting local taxes on sales and the
 4.10 retail delivery fee established under chapter 168E. All money collected under this section
 4.11 is deposited in the Revenue Department service and recovery special revenue fund. Money
 4.12 in the fund is appropriated to the commissioner to reimburse the department for the costs
 4.13 incurred in administering the tax law or providing the data, service, or product. Any money
 4.14 paid to the department as a criminal fine for a violation of state revenue law that is designated
 4.15 by the court to fund enforcement of state revenue law is appropriated to this fund.

4.16 **EFFECTIVE DATE.** This section is effective January 1, 2024.

4.17 Sec. 7. Minnesota Statutes 2022, section 297A.61, subdivision 7, is amended to read:

4.18 Subd. 7. **Sales price.** (a) "Sales price" means the measure subject to sales tax, and means
 4.19 the total amount of consideration, including cash, credit, personal property, and services,
 4.20 for which personal property or services are sold, leased, or rented, valued in money, whether
 4.21 received in money or otherwise, without any deduction for the following:

4.22 (1) the seller's cost of the property sold;

4.23 (2) the cost of materials used, labor or service cost, interest, losses, all costs of
 4.24 transportation to the seller, all taxes imposed on the seller, and any other expenses of the
 4.25 seller;

4.26 (3) charges by the seller for any services necessary to complete the sale, other than
 4.27 delivery and installation charges;

4.28 (4) delivery charges, except (i) the percentage of the delivery charge allocated to delivery
 4.29 of tax exempt property, when the delivery charge is allocated by using either ~~(i)~~ (A) a
 4.30 percentage based on the total sales price of the taxable property compared to the total sales
 4.31 price of all property in the shipment, or ~~(ii)~~ (B) a percentage based on the total weight of

5.1 the taxable property compared to the total weight of all property in the shipment, and (ii)
5.2 the retail delivery fee imposed under chapter 168E; and

5.3 (5) installation charges.

5.4 (b) Sales price does not include:

5.5 (1) discounts, including cash, terms, or coupons, that are not reimbursed by a third party
5.6 and that are allowed by the seller and taken by a purchaser on a sale;

5.7 (2) interest, financing, and carrying charges from credit extended on the sale of personal
5.8 property or services, if the amount is separately stated on the invoice, bill of sale, or similar
5.9 document given to the purchaser; and

5.10 (3) any taxes legally imposed directly on the consumer that are separately stated on the
5.11 invoice, bill of sale, or similar document given to the purchaser.

5.12 (c) Sales price includes consideration received by the seller from third parties if:

5.13 (1) the seller actually receives consideration from a party other than the purchaser and
5.14 the consideration is directly related to a price reduction or discount on the sale;

5.15 (2) the seller has an obligation to pass the price reduction or discount through to the
5.16 purchaser;

5.17 (3) the amount of the consideration attributable to the sale is fixed and determinable by
5.18 the seller at the time of the sale of the item to the purchaser; and

5.19 (4) one of the following criteria is met:

5.20 (i) the purchaser presents a coupon, certificate, or other documentation to the seller to
5.21 claim a price reduction or discount when the coupon, certificate, or documentation is
5.22 authorized, distributed, or granted by a third party with the understanding that the third party
5.23 will reimburse any seller to whom the coupon, certificate, or documentation is presented;

5.24 (ii) the purchaser identifies himself or herself to the seller as a member of a group or
5.25 organization entitled to a price reduction or discount. A "preferred customer" card that is
5.26 available to any customer does not constitute membership in such a group; or

5.27 (iii) the price reduction or discount is identified as a third-party price reduction or discount
5.28 on the invoice received by the purchaser or on a coupon, certificate, or other documentation
5.29 presented by the purchaser.

5.30 **EFFECTIVE DATE.** This section is effective January 1, 2024.