

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2905

(SENATE AUTHORS: CHAMBERLAIN)

DATE
03/05/2018

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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; sales and use; modifying collection and remittance requirements
1.3 for certain retailers and marketplace providers; amending Minnesota Statutes 2017
1.4 Supplement, section 297A.66, subdivisions 2, 4b.

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

1.6 Section 1. Minnesota Statutes 2017 Supplement, section 297A.66, subdivision 2, is
1.7 amended to read:

1.8 Subd. 2. **Retailer maintaining place of business in this state.** (a) Except as provided
1.9 in paragraph (b), a retailer maintaining a place of business in this state who makes retail
1.10 sales in Minnesota or to a destination in Minnesota shall collect sales and use taxes and
1.11 remit them to the commissioner under section 297A.77.

1.12 (b) A retailer with total taxable retail sales to customers in this state (1) through a single
1.13 marketplace provider, and (2) of less than \$10,000 in the 12-month period ending on the
1.14 last day of the most recently completed calendar quarter is not required to collect and remit
1.15 sales tax if it is determined to be a retailer maintaining a place of business in the state solely
1.16 because it made sales through one or more marketplace providers. The provisions of this
1.17 paragraph do not apply to a retailer that is or was registered to collect sales and use tax in
1.18 this state.

1.19 Sec. 2. Minnesota Statutes 2017 Supplement, section 297A.66, subdivision 4b, is amended
1.20 to read:

1.21 Subd. 4b. **Collection and remittance requirements for marketplace providers and**
1.22 **marketplace retailers.** (a) A marketplace provider shall collect sales and use taxes and

remit them to the commissioner under section 297A.77 for all facilitated sales for a retailer, and is subject to audit on the retail sales it facilitates unless ~~either~~:

(1) the retailer provides a copy of the retailer's registration to collect sales and use tax in this state to the marketplace provider before the marketplace provider facilitates a sale; ~~or~~

(2) upon inquiry by the marketplace provider or its agent, the commissioner discloses that the retailer is registered to collect sales and use taxes in this state; or

(3) the marketplace provider provides a copy of an agreement with a retailer that assigns fiscal liability for payment of taxes due under this chapter.

(b) Nothing in this subdivision shall be construed to interfere with the ability of a marketplace provider and a retailer to enter into an agreement regarding fulfillment of the requirements of this chapter, including the assignment of fiscal liability for payment of taxes due under this chapter.

(c) A marketplace provider is not liable under this subdivision for failure to file and collect and remit sales and use taxes if the marketplace provider demonstrates that the error was due to incorrect or insufficient information given to the marketplace provider by the retailer. This paragraph does not apply if the marketplace provider and the marketplace retailer are related as defined in subdivision 4, paragraph (b).

Sec. 3. **EFFECTIVE DATE.**

(a) The provisions of sections 1 and 2 are effective at the earlier of:

(1) a decision by the United States Supreme Court modifying its decision in Quill Corp. v. North Dakota, 504 U.S. 298 (1992) so that a state may require retailers without a physical presence in the state to collect and remit sales tax; or

(2) July 1, 2019.

(b) Notwithstanding paragraph (a) or the provisions of Minnesota Statutes, section 297A.66, subdivisions 1, 2, 4, and 4b, or sections 1 and 2, if a federal law is enacted authorizing a state to impose a requirement to collect and remit sales tax on retailers without a physical presence in the state, the commissioner must enforce the provisions of sections 1 and 2 to the extent allowed under federal law.