

HOUSE RESEARCH

Bill Summary

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Authors: Davids

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Analyst: Chris Kleman Christopher.Kleman@house.mn

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Overview

Under federal law, a state may not impose a sales and use tax collection requirement on an out-of-state retailer that does not have a physical presence in the state (a remote seller). This bill imposes that requirement on remote sellers, if they systematically solicit sales in the state, and make a certain number and amount of sales. This bill also provides the Minnesota Supreme Court with original jurisdiction over a claim arising under the bill's provisions.

Section

- 1** **Retailer not maintaining a place of business in this state.** Requires a remote seller to collect and remit sales tax, if the retailer systematically solicits sales in the state by:
- sending, transmitting, or broadcasting certain communications by mail, telephone, or electronically;
 - collecting, analyzing, or utilizing data on purchasers in the state;
 - using information or software stored or distributed in the state;
 - conducting actions using persons, property, software, or information in the state to enhance the probability of a sale to a person in the state;
 - conducting part of the sale process in the state, even if subcontracted; or
 - offering products for sale in the state through a marketplace provider that is required to collect and remit sales tax.

Section

In addition to the above, this section also limits the imposition of the state sales and use tax collection requirement to remote sellers who make either 20 taxable sales in the state totaling \$200,000 or more, or 200 or more total taxable sales in the state during the prior twelve consecutive months.

2 Remote sellers; appeal and enforcement.

- Provides the Minnesota Supreme Court with original jurisdiction to hear a claim arising under section 1.
- Requires the commissioner of revenue to suspend enforcement of section 1 if a claim is filed challenging the constitutionality of that section.
- Clarifies that a lack of physical presence in the state is not a factor in determining whether a remote seller (who is voluntarily collecting sales tax) is entitled to a refund.