By: Shaheen H.B. No. 1039

A BILL TO BE ENTITLED

AN ACT

relating to the classification of certain sales of firearms as occasional sales for purposes of sales and use taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 151.304(b), (c), (d), (f), and (g), Tax Code, are amended to read as follows:

(b) In this section:

(1) "Firearm" has the meaning assigned by 18 U.S.C. Section 921(a)(3).

(2) "Occasional[~~, "occasional~~] sale" means:

(A) [~~(1)~~] one or two sales of taxable items, other than an amusement service, at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;

(B) [~~(2)~~] the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business;

(C) [~~(3)~~] a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer;

(D) [~~(4)~~] the sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in

providing amusement services; or

(E) [~~(5)~~] the sale of tangible personal property by an individual if:

(i) [~~(A)~~] the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family;

(ii) [~~(B)~~] the individual does not hold a permit issued under this chapter and is not required to obtain a permit as a "seller" or "retailer" as those terms are defined by Section 151.008;

(iii) [~~(C)~~] the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property and the property is not a firearm, or if the property is a firearm, does not employ a broker or factor, other than an online auction, to sell the property; and

(iv) [~~(D)~~] the individual's total receipts from sales of the individual's tangible personal property in a calendar year do not exceed $3,000 for sales of property not including firearms and do not exceed $6,000 for sales of firearms.

(c) Within the meaning of Subsection (b)(2)(B) [~~(b)(2) of this section~~], a separate division, branch, or identifiable segment of a business exists if before its sale the income and expenses attributable to the separate division, branch, or segment could be separately ascertained from the books of account or record.

(d) Within the meaning of Subsection (b)(2)(C) [~~(b)(3) of this section~~], the stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity have

the real or ultimate ownership of the property of the corporation or other entity.

(f) Subsection (b)(2)(A) [~~(b)(1) of this section~~] does not apply to a sale made by a person who holds a permit issued pursuant to the provisions of this chapter.

(g) A person who holds a permit issued under this chapter and makes a purchase from a person entitled to claim the exemption provided by Subsection (b)(2)(A) [~~(b)(1) of this section~~] shall accrue use tax on the transaction and remit it to the comptroller.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.