

HOUSE BILL NO. HB0019

Sales from remote sellers.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to sales tax; providing for collection of  
 2 sales tax from remote sellers as specified; providing for a  
 3 declaratory judgment action; providing an injunction during  
 4 the pendency of the action; limiting liability for payment  
 5 of the sales tax; implementing related provisions;  
 6 specifying applicability; and providing for an effective  
 7 date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 39-15-501 is created to read:

12

13

ARTICLE 5

14

SALES FROM REMOTE SELLERS

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**39-15-501. Sales from remote sellers.**

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2 (a) Notwithstanding any other provision of law, any  
3 seller of tangible personal property, admissions or  
4 services which are subject to taxation under chapter 15 or  
5 16 of this title who does not have a physical presence in  
6 this state shall remit sales tax and follow all applicable  
7 procedures and requirements of this chapter as if the  
8 seller had a physical presence in this state once the  
9 seller meets either of the following requirements for the  
10 current calendar year or the immediately preceding calendar  
11 year:

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13 (i) The seller's gross revenue from the sale of  
14 tangible personal property, admissions or services  
15 delivered into this state exceeds one hundred thousand  
16 dollars (\$100,000.00); or

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18 (ii) The seller sold tangible personal property,  
19 admissions or services delivered into this state in two  
20 hundred (200) or more separate transactions.

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22 (b) Notwithstanding any other provision of law, the  
23 department may bring an action in this state to obtain a

1 declaratory judgment that the obligation of the seller to  
2 remit sales tax under subsection (a) of this section is  
3 applicable and valid under state and federal law.

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5 (c) Upon the filing of an action for declaratory  
6 judgment under subsection (b) of this section, the court  
7 shall grant an injunction during the pendency of the action  
8 prohibiting the department or any other state entity from  
9 enforcing the obligation in subsection (a) of this section  
10 against any seller who is a party to the action who does  
11 not affirmatively consent or otherwise remit sales tax on a  
12 voluntary basis. No injunction shall be granted under this  
13 subsection if there is a previous judgment from a court of  
14 record in this state in a previous judgment against the  
15 seller who is a party to the action establishing the  
16 validity of the obligation under subsection (a) of this  
17 section.

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19 (d) If a court has entered a judgment against a  
20 seller or otherwise lifted or dissolved an injunction under  
21 this section, the department shall assess and apply the  
22 obligation under subsection (a) of this section from the

1 date the judgment is entered or the injunction is lifted  
2 with respect to that seller.

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4 (e) A seller complying with this section voluntarily  
5 or pursuant to an action brought under this section may  
6 seek a recovery of taxes, penalties or interest by  
7 following the procedures established in this chapter. No  
8 claim for a refund or recovery of taxes, penalties or  
9 interest shall be granted on the basis that the seller  
10 lacked a physical presence in this state and complied with  
11 this section voluntarily while under the protection of an  
12 injunction granted under this section. Nothing in this  
13 subsection shall limit the ability of a seller to obtain a  
14 refund or recovery of taxes, penalties or interest for any  
15 other reason including mistake of fact or a miscalculation  
16 of the applicable tax.

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18 (f) No seller who remits sales tax voluntarily or  
19 otherwise under this section shall be liable to any person  
20 who claims that the sales tax has been over collected if  
21 any provision of this act is later deemed unlawful.

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1           (g) Nothing in this section shall be construed to  
2 affect the obligation of any purchaser in this state to  
3 remit use tax for any applicable transaction.

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5           **Section 2.** W.S. 39-15-101(a)(xv) is amended to read:

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7           **39-15-101. Definitions.**

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9           (a) As used in this article:

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11           (xv) "Vendor" means any person engaged in the  
12 business of selling at retail or wholesale tangible  
13 personal property, admissions or services which are subject  
14 to taxation under this article. "Vendor" includes a vehicle  
15 dealer as defined by W.S. 31-16-101(a)(xviii) and a remote  
16 seller to the extent provided by W.S. 39-15-501;

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18           **Section 3.** This act shall not apply to any tax  
19 liability arising prior to the effective date of this act.

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1           **Section 4.** This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

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(END)