



Sub. S.B. 37*

125th General Assembly

(As Reported by S. Ways & Means & Economic Development)

Sen. Blessing

BILL SUMMARY

- Clarifies that packaging materials used by persons engaged in highway transportation for hire are subject to state and local sales or use taxes.
- Converts a sales tax exemption for transportation of persons or property to an exclusion from the definition of "sale."
- Moves an existing sales tax exemption for transfers of motion picture films to a separate exemption provision in the bill.

CONTENT AND OPERATION

Taxation of packaging materials

(R.C. 5739.01(D)(6) and 5739.02(B)(14) and (31))

The bill clarifies that state and local sales or use taxes apply to "packages" used by persons engaged in "highway transportation for hire," generally movers. Continuing law defines "packages" as bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers. The bill revises the definition to provide that it does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles.

The bill provides that a mover is the consumer of all packaging materials purchased by that person used in performing the transportation service, except for packaging materials sold by that person in a transaction separate from the service. This revision clarifies that a mover is the person that must pay the use tax on

* *This analysis was prepared before the report of the Senate Ways and Means and Economic Development Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

packaging materials, unless the mover sells the materials to a purchaser in a separate transaction, in which case the mover would be required to collect the sales tax from the purchaser and remit it to the state.

The bill provides that movers **cannot** claim the sales tax exemptions existing law provides to retailers that purchase packages for use in packaging tangible personal property for retail sale, or to manufacturers for packages purchased to ship goods manufactured by them.

Continuing law provides that the sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a mover is not subject to the sales tax. The bill adds that the property transported must belong to others to qualify for the exemption, and the exemption does not apply to packages and packaging used for the transportation of tangible personal property.

Transportation of persons and property

(R.C. 5739.01(B)(5) and (9) and 5739.02(B)(11))

Current law provides that the sales tax does not apply to the transportation of persons or property, unless that transportation is by a private investigation and security service. The bill converts this exemption to an exclusion, by amending the definitions of "sale" and "selling" to exclude the transportation of persons and property, unless the transportation is by a private investigation and security service.

Motion picture films

(R.C. 5739.01(B)(5) and (9))

Under current law, the transfer of copyrighted motion picture films for exhibition purposes is not a sale, except where the films are used solely for advertising purposes. This sales and use tax exemption is in the same provision that establishes an exemption for construction contracts. The bill moves the motion picture film exemption to a separate provision.

Technical revisions

(R.C. 165.09, 902.11, 2915.01, 4505.06, 4981.20, 5739.03, 5739.11, and 5741.02)

The bill amends various Revised Code sections to reflect in continuing law the addition or elimination of the provisions discussed above.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|---|----------|---------------|
| Introduced | 02-25-03 | p. 141 |
| Reported, S. Ways & Means & Economic Development | --- | --- |

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