

**BILL SUMMARY**  
2<sup>nd</sup> Session of the 55<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 2531</b>
<b>Version:</b>	<b>SAHB</b>
<b>Request Number:</b>	<b>NA</b>
<b>Author:</b>	<b>Rep. Caldwell</b>
<b>Date:</b>	<b>5/9/2016</b>
<b>Impact:</b>	<b>Tax Commission:</b>
	<b>Revenue Impact Unknown</b>

**Research Analysis**

Please see previous summary of this measure.

Prepared By: Marcia Goff

**Fiscal Analysis**

From the Tax Commission:

Amends Section 1352(13) of Title 68 modifying the definition of "maintaining a place of business in this state" to attribute sales tax nexus to those persons utilizing or maintaining an office, distribution house, sales house, warehouse or other physical place of business, whether owned or operated by the vendor or any other person, other than a common carrier acting in its capacity as such. Further the measure expands the definition to include the presence of any person, other than a common carrier acting in its capacity as such, that has substantial nexus in the state and that (1) sells a similar line of products as the vendor and does so under the same or a similar name; (2) uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those of the vendor; (3) delivers, installs, assembles or performs maintenance services for the vendor; (4) facilitates the vendor's delivery of property to customers by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place or other place maintained by the person in this state; or (5) conducts any other activities in this state that are significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sales.

Declares as null and void, unless approved by a majority vote of each house of the Oklahoma legislature, any agreement between a person and this state's executive branch, or any other state agency/department ruling that the person is not maintaining a place of business in this state or is not required to collect sales and use tax collection despite the presence of a warehouse, distribution center, or fulfillment center in this state owned or operated by the vendor.

Amends Section 1401(10) of Title 68 providing that the phrase "maintaining a place of business within the state" for purposes of the Use Tax Code shall have the same meaning as provided in Section 1352 of Title 68.

Requires out-of-state vendors not presently responsible for the collection of Oklahoma use tax to send an annual statement to their Oklahoma customers by February 1<sup>st</sup> notifying them of the amount of their total purchases made during the preceding calendar year. The statement shall not include any other information that would identify or describe the products purchased.

Amends the Retailer Compliance Initiative contained in Section 1407.2 of Title 68 to require the OTC to establish a similar initiative relating to out-of-state vendors for the purpose of registration, collection, and remittance of sales and use tax owed to the State pursuant to the Oklahoma Retail Protection Act of 2016.

Pursuant to the Initiative the Tax Commission will not seek payment of uncollected use taxes from an out-of-state retailer who registers to collect and remit applicable sales/use taxes on sales made prior to such registration provided the retailer was not registered in this state in the twelve month period preceding the effective date of Section 1407.2. Provided a retailer's sales/use tax registration occurs prior to May 1, 2017, the Commission is precluded from making an assessment for uncollected sales/use taxes and interest and penalties for sales made during the period the retailer was not registered in the state.

The measure further provides the circumstances under which 1) the relief provided by the Initiative is unavailable, 2) the provisions of the Initiative are effective and 3) the application of the Initiative to retailer/vendor sales/use tax and not consumer use tax.

Modifies the purpose and scope of the outreach program provided for in Section 1407.3 of Title 68 to include out-of-state retailers maintaining a place of business in this state.

Analysis:

The measure will result in an unknown impact to state sales/use tax revenues for FY 2017 and FY 2018.

Prepared By: Mark Tygret

### **Other Considerations**

None.