

1-1 By: Watson S.B. No. 1539  
 1-2 (In the Senate - Filed March 8, 2017; March 21, 2017, read  
 1-3 first time and referred to Committee on Finance; March 29, 2017,  
 1-4 reported adversely, with favorable Committee Substitute by the  
 1-5 following vote: Yeas 14, Nays 0; March 29, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa	X			
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Hancock	X			
1-12 Huffman	X			
1-13 Kolthorst	X			
1-14 Nichols	X			
1-15 Schwertner			X	
1-16 Seliger	X			
1-17 Taylor of Galveston	X			
1-18 Uresti	X			
1-19 Watson	X			
1-20 West	X			
1-21 Whitmire	X			

1-23 COMMITTEE SUBSTITUTE FOR S.B. No. 1539 By: Watson

1-24 A BILL TO BE ENTITLED  
 1-25 AN ACT

1-26 relating to the application of the sales and use tax to certain  
 1-27 property and services.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 151.0028, Tax Code, is amended by  
 1-30 amending Subsection (b) and adding Subsection (c) to read as  
 1-31 follows:

1-32 (b) "Amusement services" includes:

1-33 (1) membership in a private club or organization that  
 1-34 provides entertainment, recreational, sports, dining, or social  
 1-35 facilities to its members; and

1-36 (2) the purchase of an admission to an amusement  
 1-37 service through the use of a coin-operated machine.

1-38 (c) Except as provided by Subsection (b), "amusement  
 1-39 services" does not include services provided through coin-operated  
 1-40 machines that are operated by the consumer.

1-41 SECTION 2. Section 151.0045, Tax Code, is amended to read as  
 1-42 follows:

1-43 Sec. 151.0045. "PERSONAL SERVICES". "Personal services"  
 1-44 means those personal services listed as personal services under  
 1-45 Group 721, Major Group 72 of the Standard Industrial Classification  
 1-46 Manual, 1972, and includes massage parlors, escort services, and  
 1-47 Turkish baths under Group 729 of said manual but does not include  
 1-48 any other services listed under Group 729 unless otherwise covered  
 1-49 under this chapter [Act], prepared by the statistical policy  
 1-50 division of the office on management and budget, office of the  
 1-51 president of the United States. The term does not include services  
 1-52 provided through coin-operated machines that are operated by the  
 1-53 consumer.

1-54 SECTION 3. Section 151.006, Tax Code, is amended by  
 1-55 amending Subsections (a) and (c) and adding Subsection (e) to read  
 1-56 as follows:

1-57 (a) "Sale for resale" means a sale of:

1-58 (1) tangible personal property or a taxable service to  
 1-59 a purchaser who acquires the property or service for the purpose of  
 1-60 reselling it [~~with or~~] as a taxable item as defined by Section

2-1 151.010 in the United States of America or a possession or territory  
2-2 of the United States of America or in the United Mexican States in  
2-3 the normal course of business in the form or condition in which it  
2-4 is acquired or as an attachment to or integral part of other  
2-5 tangible personal property or taxable service;

2-6 (2) tangible personal property to a purchaser for the  
2-7 sole purpose of the purchaser's leasing or renting it in the United  
2-8 States of America or a possession or territory of the United States  
2-9 of America or in the United Mexican States in the normal course of  
2-10 business to another person, but not if incidental to the leasing or  
2-11 renting of real estate;

2-12 (3) tangible personal property to a purchaser who  
2-13 acquires the property for the purpose of transferring it in the  
2-14 United States of America or a possession or territory of the United  
2-15 States of America or in the United Mexican States as an integral  
2-16 part of a taxable service;

2-17 (4) a taxable service performed on tangible personal  
2-18 property that is held for sale by the purchaser of the taxable  
2-19 service; or

2-20 (5) except as provided by Subsection (c), tangible  
2-21 personal property to a purchaser who acquires the property for the  
2-22 purpose of transferring it as an integral part of performing a  
2-23 contract, or a subcontract of a contract, with an entity or  
2-24 organization exempted from the taxes imposed by this chapter under  
2-25 Section 151.309 or 151.310 [~~the federal government~~] only if the  
2-26 purchaser:

2-27 (A) allocates and bills to the contract the cost  
2-28 of the property as a direct or indirect cost; and

2-29 (B) transfers title to the property to the exempt  
2-30 entity or organization [~~federal government~~] under the contract and  
2-31 applicable [~~federal~~] acquisition regulations.

2-32 (c) A sale for resale does not include the sale of tangible  
2-33 personal property or a taxable service to a purchaser who acquires  
2-34 the property or service for the purpose of performing a contract, or  
2-35 a subcontract of a contract, for services with an entity or  
2-36 organization exempted from the taxes imposed by this chapter under  
2-37 Section 151.309 or 151.310 [~~service that is not taxed under this~~  
2-38 ~~chapter~~], regardless of whether title transfers to the service  
2-39 provider's customer, unless the tangible personal property or  
2-40 taxable service is purchased for the purpose of reselling it to the  
2-41 United States in a contract, or a subcontract of a contract, with  
2-42 any branch of the Department of Defense, Department of Homeland  
2-43 Security, Department of Energy, National Aeronautics and Space  
2-44 Administration, Central Intelligence Agency, National Security  
2-45 Agency, National Oceanic and Atmospheric Administration, or  
2-46 National Reconnaissance Office to the extent allocated and billed  
2-47 to the contract with the federal government.

2-48 (e) A sale for resale does not include the sale of tangible  
2-49 personal property to a purchaser who acquires the property for the  
2-50 purpose of using, consuming, or expending it in, or incorporating  
2-51 it into, an oil or gas well in the performance of an oil well service  
2-52 taxable under Chapter 191.

2-53 SECTION 4. Section 151.338, Tax Code, is amended to read as  
2-54 follows:

2-55 Sec. 151.338. ENVIRONMENT AND CONSERVATION SERVICES.

2-56 (a) Subject to Subsection (b), labor to [~~The services involved in~~  
2-57 ~~the~~] repair, remodel, maintain, or restore [~~remodeling,~~  
2-58 ~~maintenance, or restoration of~~] tangible personal property is  
2-59 exempted from the taxes imposed by [~~are not taxable under~~] this  
2-60 chapter if:

2-61 (1) the amount of the charge for labor is separately  
2-62 itemized; and

2-63 (2) the repair, remodeling, maintenance, or  
2-64 restoration is required by statute, ordinance, order, rule, or  
2-65 regulation of any commission, agency, court, or political,  
2-66 governmental, or quasi-governmental entity in order to protect the  
2-67 environment or to conserve energy.

2-68 (b) The exemption provided by this section does not apply to  
2-69 tangible personal property transferred by the service provider to

3-1 the purchaser as part of the service.

3-2 SECTION 5. Section [151.335](#), Tax Code, is repealed.

3-3 SECTION 6. The amendments made by this Act are a  
3-4 clarification of existing law and do not imply that existing law may  
3-5 be construed as inconsistent with the law as amended by this Act.

3-6 SECTION 7. This Act takes effect immediately if it receives  
3-7 a vote of two-thirds of all the members elected to each house, as  
3-8 provided by Section [39](#), Article III, Texas Constitution. If this  
3-9 Act does not receive the vote necessary for immediate effect, this  
3-10 Act takes effect September 1, 2017.

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