

2nd Sub. H.B. 235
REMOTE TRANSACTIONS PARITY ACT

Representative **Ken Ivory** proposes the following amendments:

1. Page 32, Lines 969 through 970:

969 ownership relationship to a seller as another corporation or group of corporations.

(c) "Affiliate marketer" means a person that operates a website with click-through advertising, cost-per-action advertising, or other forms of advertising for a remote seller or noncollecting seller but that does not substantially complete a sale on the person's website.

970 ~~{(c)}~~ **(d)** (i) "Arrangement" means an agreement between a noncollecting seller and a

2. Page 32, Line 974 through Page 33, Line 990:

974 (ii) "Arrangement" does not include any agreement under which a noncollecting seller
975 purchases advertising from a person in the state, unless the person in the state also directs a
976 solicitation toward one or more potential purchasers in the state.

(iii) "Arrangement" does not include any agreement between a noncollecting seller and an affiliate marketer.

(e) "Click-through advertising" means advertising on a website for which the person whose products or website are advertised pays the person, on whose website the advertising appears, a commission or other consideration for each click on the advertising.

977 ~~{(d)}~~ **(f)** "Controlled group of corporations" means the same as that term is defined in
978 Section 1563(a), Internal Revenue Code.

(g) "Cost-per-action advertising" means advertising on a website for which the person whose product is advertised pays the person, on whose website the advertising appears, a commission or other consideration for each click on the advertising that results in the purchase of the product that is advertised.

979 ~~{(e)}~~ **(h)** "Noncollecting seller" means a remote seller that during the 12-month period
980 immediately preceding the current month, makes sales totaling \$125,000 or more of tangible
981 personal property, products transferred electronically, or services:

982 (i) for storage, use, or consumption in the state; and

983 (ii) as a result of an arrangement with a single referring seller.

984 ~~{(f)}~~ **(i)** (i) "Online advertising" means advertising delivered through the Internet.

985 (ii) "Online advertising" includes:

986 (A) an email communication generated as a result of generic algorithmic functions if
987 the email communication does not target a specific person;

988 (B) ~~{an advertisement}~~ **advertising** tied to an Internet search engine;

989 (C) a banner announcement;
990 (D) ~~{a}~~ cost-per-action ~~{advertisement}~~ advertising ; or

3. Page 33, Line 992:

992 Subsections (1) ~~{(f)}~~ (i) (ii)(A) through (D), as the commission may define by rule made in

4. Page 33, Line 995:

995 ~~{(g)}~~ (i) (i) "Referral" means the act of sending a potential purchaser to a noncollecting

5. Page 33, Line 1001:

1001 (E) other means similar to the means described in Subsections (1) ~~{(g)}~~ (i) (i)(A) through (D).

6. Page 33, Lines 1005 through 1012:

1005 ~~{(h)}~~ (k)(i) "Referring seller" means a person:

1006 ~~{(i)}~~ (A) that makes a sale of ~~{(j)}~~

1007 ~~{(A)}~~ tangible personal property ~~{(j)}~~ ;

1008 ~~{(B)}~~ a sale of a product transferred electronically ~~{(j)}~~ ; or

1009 ~~{(C)}~~ a sale of a service;

1010 ~~{(ii)}~~ (B) that meets one or more of the criteria described in Subsection (2)(a); and

1011 ~~{(iii)}~~ (C) with which a noncollecting seller enters an arrangement.

(ii) "Referring seller" includes a person that substantially completes a sale of tangible personal property, a product transferred electronically, or a service on the person's website.

(iii) "Referring seller" does not include an affiliate marketer.

1012 ~~{(i)}~~ (l) "Remote seller" means a seller that is not required to pay or collect and remit sales

7. Page 33, Line 1014:

1014 ~~{(j)}~~ (m) "Solicitation" means a communication directly or indirectly to a specific person

8. Page 35, Line 1051:

1051 (ii) any person, other than a person acting in the capacity of a common carrier or an affiliate marketer , that