

HB19-1240 be amended as follows:

1 Amend reengrossed bill, page 22, after line 22 insert:

2 "(III) FOR SALES MADE OR FACILITATED PRIOR TO JANUARY 1,
3 2023, A MARKETPLACE FACILITATOR IS RELIEVED OF LIABILITY TO THE
4 EXTENT THAT THE MARKETPLACE FACILITATOR DEMONSTRATES TO THE
5 SATISFACTION OF THE DEPARTMENT THAT:

6 (A) THE MARKETPLACE FACILITATOR IS NOT THE SELLER AND THAT
7 THE MARKETPLACE FACILITATOR AND THE MARKETPLACE SELLER ARE NOT
8 AFFILIATES;

9 (B) THE SALE WAS FACILITATED FOR A MARKETPLACE SELLER
10 THROUGH A MARKETPLACE OPERATED BY THE MARKETPLACE
11 FACILITATOR;

12 (C) THE MARKETPLACE FACILITATOR BEGAN COLLECTING TAX ON
13 SALES BY MARKETPLACE SALES ON OCTOBER 1, 2019; AND

14 (D) THE FAILURE TO COLLECT SALES AND USE TAX WAS DUE TO A
15 GOOD FAITH ERROR OTHER THAN AN ERROR IN SOURCING THE SALE.

16 (IV) THE LIABILITY RELIEF PROVIDED IN SUBSECTION (3)(b)(III) OF
17 THIS SECTION SHALL NOT EXCEED THE FOLLOWING PERCENTAGE OF THE
18 TOTAL SALES AND USE TAX DUE ON SALES FACILITATED BY A
19 MARKETPLACE FACILITATOR FOR MARKETPLACE SELLERS AND SOURCED
20 TO THIS STATE DURING A CALENDAR YEAR, WHICH SALES SHALL NOT
21 INCLUDE SALES BY THE MARKETPLACE FACILITATOR OR AFFILIATES OF THE
22 MARKETPLACE FACILITATOR:

23 (A) FOR SALES MADE OR FACILITATED DURING THE 2019
24 CALENDAR YEAR FIVE PERCENT; AND

25 (B) FOR SALES MADE OR FACILITATED DURING CALENDAR YEARS
26 2020 THROUGH 2022, THREE PERCENT.

27 (V) IF A MARKETPLACE FACILITATOR IS RELIEVED UNDER
28 SUBSECTION (3)(b)(III) OF THIS SECTION, THE MARKETPLACE SELLER IS
29 NOT LIABLE FOR THE AMOUNT OF TAX THE MARKETPLACE FACILITATOR
30 FAILED TO COLLECT."

31 Renumber succeeding subparagraph accordingly.

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