

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/Senate Bill No. 291, Page 20, Section 190.460, Line 9

of said page, by inserting after all of said line the following:

"190.462. 1. As used in this section, the following terms mean:

(1) "All retail sales subject to sales tax", tangible personal property and services subject to the tax imposed by sections 190.292 or 190.335;

(2) "General retailer", a person making a sale at retail as defined in section 144.010;

(3) "Taxpayer", a person who pays the tax imposed under sections 190.292 or 190.335.

2. (1) If a court of competent jurisdiction issues a declaratory ruling prior to the effective date of this section that the taxes imposed under sections 190.292 or 190.335 are preempted by the provisions of subsection 5 of section 190.460 on all retail sales subject to sales tax in a taxing jurisdiction that did not opt out of the collection of the prepaid wireless emergency telephone service charge:

(a) A seller or general retailer who collected and remitted the tax imposed under sections 190.292 or 190.335 on all retail sales subject to sales tax in a taxing jurisdiction that did not

1 opt out of such tax under the provisions of subsection 6 of  
2 section 190.460, shall not be required to refund such taxes to  
3 taxpayers;

4 (b) All requests for refunds by taxpayers shall be made  
5 directly to the taxing jurisdiction. The department of revenue  
6 shall develop procedures and forms for taxpayers requesting  
7 refunds from taxing jurisdictions;

8 (c) This subsection applies to taxes collected between  
9 January 1, 2019, and the first day of the calendar month  
10 following a declaratory ruling by a court of competent  
11 jurisdiction that the taxes imposed under sections 190.292 or  
12 190.335 are pre-empted by the provisions of subsection 5 of  
13 section 190.460 on all retail sales subject to sales tax in  
14 taxing jurisdictions that did not opt out of the collection of  
15 the prepaid wireless emergency telephone service charge.

16 (2) If this section goes into effect prior to a court of  
17 competent jurisdiction issuing a declaratory ruling, then the  
18 provisions of paragraphs (a) and (b) of subdivision (1) of this  
19 subsection shall apply from January 1, 2019, until the effective  
20 date of this section.

21 3. (1) If a court of competent jurisdiction issues a  
22 declaratory ruling prior to the effective date of this section  
23 that the taxes imposed under sections 190.292 or 190.335 are pre-  
24 empted by the provisions of subsection 5 of section 190.460 only  
25 on sales of prepaid wireless telecommunications services in a  
26 taxing jurisdiction that did not opt out of the collection of the  
27 prepaid wireless emergency telephone service charge:

28 (a) A seller or other retailer who did not collect the tax  
29 imposed under sections 190.292 or 190.335 on the retail sale of

1 wireless telecommunications service and wireless devices  
2 associated therewith shall not be liable for any assessment or  
3 incur any other liability on such uncollected taxes;

4 (b) This subsection applies to assessments for the period  
5 beginning January 1, 2019, and ending on the first day of the  
6 calendar month following a declaratory ruling by a court of  
7 competent jurisdiction that the taxes imposed by under sections  
8 190.292 or 190.335 are pre-empted by the provisions of subsection  
9 5 of section 190.460 only on sales of prepaid wireless  
10 telecommunications services in a taxing jurisdiction that did not  
11 opt out of the collection of the prepaid wireless emergency  
12 telephone service charge.

13 (2) If this section takes effect prior to a court of  
14 competent jurisdiction issuing a declaratory ruling, then the  
15 provisions of paragraphs (a) and (b) of subdivision (1) of this  
16 subsection shall apply from January 1, 2019, until the effective  
17 date of this section.

18 4. This section shall expire on January 1, 2023."; and  
19 Further amend the title and enacting clause accordingly.