

_____ offers the following
substitute to HB 61:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 48-8-30 of the Official Code of Georgia Annotated, relating to imposition of tax, rates, and collection, so as to require certain retailers to either collect and remit sales and use taxes or provide certain notifications to each purchaser and the state; to define terms; to provide for penalties; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-30 of the Official Code of Georgia Annotated, relating to imposition of tax, rates, and collection, is amended by adding a new subsection (c.2) to read as follows:

"(c.2)(1) For the purposes of this subsection, the term:

(A) 'Delivery retailer' means a retailer that does not collect and remit the tax imposed by this Code section and that in the previous or current calendar year:

(i) Obtains gross revenue, in an amount exceeding \$250,000.00 from retail sales of tangible personal property to be delivered electronically or physically in this state or distributed, used, consumed, or stored for use or consumption in this state; or

(ii) Conducts 200 or more retail sales of tangible personal property to be delivered electronically or physically in this state or distributed, used, consumed, or stored for use or consumption in this state.

(B) 'Purchaser' means a person or agent thereof who gives consideration to a delivery retailer in exchange for tangible personal property to be delivered electronically or physically in this state or distributed, used, consumed, or stored for use or consumption in this state.

(2) A delivery retailer shall collect and remit the tax imposed by this Code section or shall:

(A) Notify each potential purchaser immediately prior to the completion of each retail sale transaction with the following statement: 'Sales or use tax may be due to the State

27 of Georgia on this purchase. Georgia law requires certain consumers to file a sales and
 28 use tax return remitting any unpaid taxes due to the State of Georgia.';

29 (B) On or before January 31 of each year, send a sales and use tax statement to each
 30 purchaser who completed a retail sale during the prior calendar year in an envelope
 31 containing the words 'IMPORTANT TAX DOCUMENT ENCLOSED' on the exterior
 32 of the mailing by first class mail and separate from any other shipment; and

33 (C) On or before January 31 of each year, file a copy of each sales and use tax
 34 statement required under subparagraph (B) of this paragraph with the department in a
 35 manner to be prescribed by the department.

36 (3) For the purposes of this subsection, a sales and use tax statement shall:

37 (A) Be on a form to be prescribed by the department;

38 (B) Contain the total amount paid by the purchaser for retail sales from the delivery
 39 retailer during the previous calendar year, as well as, if available, the dates of
 40 purchases, the amounts of each purchase, and the category of each purchase, including,
 41 if known by the retailer, whether the purchase is exempt from taxation under this
 42 article; and

43 (C) Include the following statement: 'Sales or use taxes may be due to the State of
 44 Georgia on the purchase(s) identified in this statement as Georgia taxes were not
 45 collected at the time of purchase. Georgia law requires certain consumers to file a sales
 46 and use tax return remitting any unpaid taxes due to the State of Georgia.'

47 (4) Unless determined by the commissioner upon a showing of reasonable cause:

48 (A) Failure to provide the notice required by subparagraph (A) of paragraph (2) of
 49 this subsection shall subject a delivery retailer to a penalty of \$5.00 for each failure;

50 (B) Failure to send a sales and use statement as required by subparagraph (B) of
 51 paragraph (2) of this subsection shall subject a delivery retailer to a penalty of \$10.00
 52 for each failure; and

53 (C) Failure to file a copy of a sales and use tax statement with the department as
 54 required by subparagraph (C) of paragraph (2) of this subsection shall subject a
 55 delivery retailer to a penalty of \$10.00 for each failure."

56 SECTION 2.

57 This Act shall become effective on January 1, 2018, and shall apply to all sales made on or
 58 after January 1, 2018.

59 SECTION 3.

60 All laws and parts of laws in conflict with this Act are repealed.