

A bill for an act
relating to taxation; sales and use; defining solicitor for nexus purposes;
amending Minnesota Statutes 2008, section 297A.66, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 297A.66, is amended by adding a
subdivision to read:

Subd. 4a. **Solicitor.** (a) "Solicitor," for purposes of subdivision 1, paragraph (a),
means a person, whether an independent contractor or other representative, who directly
or indirectly solicits business for the retailer.

(b) A retailer is presumed to have a solicitor in this state if it enters into an agreement
with a resident under which the resident, for a commission or other consideration, directly
or indirectly refers potential customers, whether by a link on an Internet Web site, or
otherwise, to the seller. This paragraph only applies if the total gross receipts from
sales to customers located in the state who were referred to the retailer by all residents
with this type of agreement with the retailer is at least \$10,000 in the 12-month period
ending on the last day of the most recent calendar quarter before the calendar quarter in
which the sale is made.

(c) The presumption under paragraph (b) may be rebutted by proof that the resident
with whom the seller has an agreement did not engage in any solicitation in the state
on behalf of the retailer that would satisfy the nexus requirement of the United States
Constitution during the 12-month period in question. Nothing in this section shall be
construed to narrow the scope of the terms affiliate, agent, salesperson, canvasser, or other
representative for purposes of subdivision 1, paragraph (a).

H.F. No. 401, as introduced - 86th Legislative Session (2009-2010) [09-1384]

2.1 (d) For purposes of this paragraph, "resident" includes an individual who is a
2.2 resident of this state, as defined in section 290.01, or a business that owns tangible
2.3 personal property located in this state or has one or more employees providing services
2.4 for it in this state.

2.5 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
2.6 June 30, 2009.