

- SUBJECT:** Sales tax on shipments by smaller retailers in transit districts
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 7 ayes — Keffer, Ritter, Otto, Bonnen, Y. Davis, Peña, Pitts  
0 nays  
2 absent — Flores, Paxton
- WITNESSES:** For — Nathan Hallett, Dallas Area Rapid Transit; John Kroll, Coalition for Appropriate Sales Tax Law Enactment (*Registered but did not testify*: Brad Shields, Texas Retailers Association)  
  
Against — None
- BACKGROUND:** Tax Code ch. 322 governs sales and use taxes for metropolitan rapid transit authorities, regional transportation authorities, municipal transit authorities, and coordinated county transportation authorities.  
  
Under sec. 322.107 the sale of a taxable item that is shipped by a retailer located in a metropolitan rapid transit authority, regional transportation authority, municipal transit authority, or coordinated county transportation authority is exempted from the sales tax of those entities if the item is shipped to a point outside the entity by means of:
- facilities operated by the retailer;
  - delivery by the retailer to a carrier for shipment to a payee; or
  - delivery by the retailer to a forwarding agent for shipment outside the transportation authority.
- DIGEST:** Under HB 142, provisions exempting the sale of a taxable item shipped from a transit or transportation authority to a point outside the authority from the authority's sales tax would not apply to tangible personal property shipped to a purchaser in another taxing entity if the property was sold by a retailer whose only place of business was inside the taxing entity and whose total taxable receipts subject to sales and use taxes during the preceding fiscal year were less than \$10,000.

The bill would take effect September 1, 2007, and would not apply to tax liabilities accruing before then.

**SUPPORTERS  
SAY:**

HB 142 would provide a remedy to small retailers living in transit districts who must deal with complicated and inconsistent sales-and-use tax requirements when shipping an item to a purchaser living outside the transit district. Small retailers lack the resources and technology needed to easily compute and remit sales taxes for purchasers to whom they ship. For this reason, current law places a confusing and undue burden on the small businesses.

HB 142 would conform sales-and-use tax law governing small retailers in transit districts with laws governing retailers in other taxing jurisdictions. Typically, when a retailer sells and ships a product to a purchaser living outside that jurisdiction, sales-and-use taxes are assessed on a “point of origin”, or point of sales, basis. This presumption is reasonable, given that the originating jurisdiction most likely is the one providing the services that support the retailer’s business. Extending the point of origin standard to small businesses in transit authorities would provide clarity for sellers and buyers without significantly affecting the revenue sources of local jurisdictions in the state.

**OPPONENTS  
SAY:**

HB 142 should not be limited simply to small retailers located in transit authorities, but instead should apply to all retailers. Current sales tax law as it applies to retailers in transit authorities is not consistent with laws governing other local taxing jurisdictions. The narrow provisions of HB 142 would exclude medium and large retailers who also struggle to contend with the requirements of current law.