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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 401

January 29, 2009

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The bill was read for the first time and referred to the Committee on Taxes

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

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

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

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

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

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

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.