HOUSE DOCKET, NO. 1100 FILED ON: 1/19/2011

HOUSE . . . . . No. 1731

The Commonwealth of Massachusetts

PRESENTED BY:

Martin J. Walsh

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to protect main street retailers and promote sales tax fairness in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martin J. Walsh	*13th Suffolk*
Sean Garballey	*23rd Middlesex*

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HOUSE . . . . . No. 1731

By Mr. Walsh of Boston, a petition (accompanied by bill, House, No. 1731) of Martin J. Walsh and Sean Garballey relative to the definition of "vendor" under the sales and use tax law. Revenue.

The Commonwealth of Massachusetts

An Act to protect main street retailers and promote sales tax fairness in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1 of chapter 64H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended in line 265 by striking out the definition of "Vendor" and replacing it with the following:—

"Vendor", a retailer or other person selling tangible personal property or services of a kind the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed by this chapter, including any person making sales of tangible personal property or services taxable under this chapter by soliciting business through an independent contractor or other representative if the vendor enters into an agreement with a resident of the commonwealth under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet website or otherwise, to the vendor, if the cumulative gross receipts from sales by the vendor to customers in the commonwealth who are referred to the vendor by all residents with this type of an agreement with the vendor is in excess of ten thousand dollars during the preceding four quarterly periods ending on the last day of February, May, August, and November. Such vendor shall be presumed to be soliciting business through an independent contractor or other representative, a presumption which may be rebutted by proof that the resident with whom the vendor has an agreement did not engage in any solicitation in the commonwealth on behalf of the vendor that would satisfy the nexus requirement of the United States constitution during the four quarterly periods in question.