

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>1/19/2011</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2011</i>

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

In the Year Two Thousand Eleven

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:

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

4 “Vendor”, a retailer or other person selling tangible personal property or services of a
5 kind the gross receipts from the retail sale of which are required to be included in the measure of
6 the tax imposed by this chapter, including any person making sales of tangible personal
7 property or services taxable under this chapter by soliciting business through an independent
8 contractor or other representative if the vendor enters into an agreement with a resident of the
9 commonwealth under which the resident, for a commission or other consideration, directly or
10 indirectly refers potential customers, whether by a link on an internet website or otherwise, to
11 the vendor, if the cumulative gross receipts from sales by the vendor to customers in the
12 commonwealth who are referred to the vendor by all residents with this type of an agreement
13 with the vendor is in excess of ten thousand dollars during the preceding four quarterly periods

14 ending on the last day of February, May, August, and November. Such vendor shall be
15 presumed to be soliciting business through an independent contractor or other representative, a
16 presumption which may be rebutted by proof that the resident with whom the vendor has an
17 agreement did not engage in any solicitation in the commonwealth on behalf of the vendor that
18 would satisfy the nexus requirement of the United States constitution during the four quarterly
19 periods in question.