



General Assembly

January Session, 2005

**Raised Bill No. 6965**

LCO No. 4876

\*04876\_\_\_\_\_FIN\*

Referred to Committee on Finance, Revenue and Bonding

Introduced by:  
(FIN)

**AN ACT CONCERNING NEXUS FOR THE PURPOSES OF THE SALES TAX.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (15) of subsection (a) of section 12-407 of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2005, and applicable to sales occurring on or*  
4 *after October 1, 2005*):

5 (15) (A) "Engaged in business in the state" means and includes but  
6 shall not be limited to the following acts or methods of transacting  
7 business: (i) Selling in this state, or any activity in this state in  
8 connection with selling in this state, tangible personal property for use,  
9 storage or consumption within the state; (ii) engaging in the transfer  
10 for a consideration of the occupancy of any room or rooms in a hotel or  
11 lodging house for a period of thirty consecutive calendar days or less;  
12 (iii) rendering in this state any service described in any of the  
13 subparagraphs of subdivision (2) of this subsection; (iv) maintaining,  
14 occupying or using, permanently or temporarily, directly or indirectly,  
15 through a subsidiary or agent, by whatever name called, any office,  
16 place of distribution, sales or sample room or place, warehouse or

17 storage point or other place of business or having any representative,  
18 agent, salesman, canvasser or solicitor operating in this state for the  
19 purpose of selling, delivering or taking orders; (v) notwithstanding the  
20 fact that retail sales are made from outside this state to a destination  
21 within this state and that a place of business is not maintained in this  
22 state, engaging in regular or systematic solicitation of sales of tangible  
23 personal property in this state by the display of advertisements on  
24 billboards or other outdoor advertising in this state, by the distribution  
25 of catalogs, periodicals, advertising flyers or other advertising by  
26 means of print, radio or television media, or by mail, telegraphy,  
27 telephone, computer data base, cable, optic, microwave or other  
28 communication system, for the purpose of effecting retail sales of  
29 tangible personal property, provided one hundred or more retail sales  
30 from outside this state to destinations within this state are made  
31 during the twelve-month period ended on the September thirtieth  
32 immediately preceding the monthly or quarterly period with respect to  
33 which liability for tax under this chapter is determined; (vi) being  
34 owned or controlled, either directly or indirectly, by a retailer engaged  
35 in business in this state which is the same as or similar to the line of  
36 business in which the retailer so owned or controlled is engaged; (vii)  
37 being owned or controlled, either directly or indirectly, by the same  
38 interests that own or control, either directly or indirectly, a retailer  
39 engaged in business in this state which is the same as or similar to the  
40 line of business in which the retailer so owned or controlled is  
41 engaged; (viii) being the assignee of a person engaged in the business  
42 of leasing tangible personal property to others, where leased property  
43 of such person is situated within this state and such assignee has a  
44 security interest, as defined in subsection (37) of section 42a-1-201, in  
45 such property; [and] (ix) notwithstanding the fact that retail sales of  
46 items of tangible personal property are made from outside this state to  
47 a destination within this state and that a place of business is not  
48 maintained in this state, repairing or servicing such items, under a  
49 warranty, in this state, either directly or indirectly through an agent,  
50 independent contractor or subsidiary; and (x) the processing of orders

51 electronically, by facsimile machine, telephone, the Internet or other  
52 electronic ordering process, or the processing of orders by  
53 nonelectronic means, by mail order, facsimile machine, telephone or  
54 otherwise, if the processor of such orders (I) holds a substantial  
55 ownership interest, directly or through a subsidiary, in a retailer  
56 maintaining physical sales locations in this state, or is owned in whole  
57 or in substantial part by such a retailer or by a parent or subsidiary  
58 thereof, and (II) the processor sells the same or a substantially similar  
59 line of products as such retailer under the same or a substantially  
60 similar business name, or the facilities or employees of such retailer are  
61 used to advertise or promote sales by the processor to purchasers  
62 within this state.

63 (B) A retailer who has contracted with a commercial printer for  
64 printing and distribution of printed material shall not be deemed to be  
65 engaged in business in this state because of the ownership or leasing  
66 by the retailer of tangible or intangible personal property located at the  
67 premises of the commercial printer in this state, the sale by the retailer  
68 of property of any kind produced or processed at and shipped or  
69 distributed from the premises of the commercial printer in this state,  
70 the activities of the retailer's employees or agents at the premises of the  
71 commercial printer in this state, which activities relate to quality  
72 control, distribution or printing services performed by the printer, or  
73 the activities of any kind performed by the commercial printer in this  
74 state for or on behalf of the retailer.

75 (C) A retailer not otherwise a retailer engaged in business in the  
76 state who purchases fulfillment services carried on in this state by a  
77 person other than an affiliated person, or who owns tangible personal  
78 property located on the premises of an unaffiliated person performing  
79 fulfillment services for such retailer shall not be deemed to be engaged  
80 in business in the state. For purposes of this subparagraph, persons are  
81 affiliated persons with respect to each other where one of such persons  
82 has an ownership interest of more than five per cent, whether direct or  
83 indirect, in the other, or where an ownership interest of more than five

84 per cent, whether direct or indirect, is held in each of such persons by  
85 another person or by a group of other persons who are affiliated  
86 persons with respect to each other. For purposes of this subparagraph,  
87 "fulfillment services" means services that are performed by a person on  
88 its premises on behalf of a purchaser of such services and that involve  
89 the receipt of orders from the purchaser of such services or an agent  
90 thereof, which orders are to be filled by the person from an inventory  
91 of products that are offered for sale by the purchaser of such services,  
92 and the shipment of such orders to customers of the purchaser of such  
93 services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005, and applicable to sales occurring on or after October 1, 2005</i>	12-407(a)(15)

**Statement of Purpose:**

To require the payment of sales tax on Internet sales by affiliates of companies that have a physical presence in Connecticut.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*