

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 80

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-10 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]:

ARTICLE 10. TAXATION OF INTERNET ACCESS

Chapter 1. Prohibition on State or Local Tax on Internet Access

Sec. 1. As used in this chapter, "Internet" means the myriad of computer and telecommunications facilities, including equipment and operating software, that comprises the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol (or any predecessor or successor protocols to that protocol) to communicate information of all kinds by wire or radio.

Sec. 2. (a) As used in this chapter, "Internet access" means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet, without regard to whether the service is referred to telecommunications, communications, transmission, or similar services, and without regard to whether a provider of the service is subject to regulation by the Federal Communications Commission as a common carrier under 47 U.S.C. 201 et seq.

(b) The term also includes the following:

SEA 80



(1) The purchase, use, or sale of communications services, including telecommunications services (as defined in IC 6-2.5-1-27.5), by a provider of a service described in subsection (a), to the extent the communications services are purchased, used, or sold to provide the service described in subsection (a) or to otherwise enable users to access content, information, or other services offered over the Internet.

(2) Services that are incidental to the provision of a service described in subsection (a), when furnished to users as part of such service, including a home page, electronic mail and instant messaging (including voice-capable and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity.

(3) A home page, electronic mail and instant messaging (including voice-capable and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity that are provided independently or that are not packaged with Internet access.

(c) The term does not include:

(1) voice, audio, or video programming; or

(2) other products and services, except services described in subsection (a) or (b), that use Internet protocol or any successor protocol and for which there is a charge, regardless of whether the charge is separately stated or aggregated with the charge for services described in subsection (a) or (b).

Sec. 3. (a) As used in this chapter, the term "tax" means:

(1) any charge that is imposed by the state or a political subdivision of the state for the purpose of generating revenues for governmental purposes and, except as provided in subsection (b), is not a fee imposed for a specific privilege, service, or benefit conferred; or

(2) the imposition on a seller of an obligation to collect and to remit to the state or a political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental entity.

(b) The term does not include any franchise fee or similar fee imposed by the Indiana utility regulatory commission under IC 8-1-34-23 under Section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 47 U.S.C. 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.), except to the extent that:



(1) the fee is not imposed for the purpose of recovering direct costs incurred by the franchising or other governmental authority from providing the specific privilege, service, or benefit conferred to the payor of the fee; or

(2) the fee is imposed for the use of a public right-of-way based on a percentage of the service revenue and the fee exceeds the incremental direct costs incurred by the governmental authority associated with the provision of that right-of-way to the provider of Internet access service.

(c) For purposes of subsection (b), "direct costs" means costs incurred by a governmental authority solely because of an Internet service provider's use of the public right-of-way. The term does not include costs that the governmental authority would have incurred if the Internet service provider did not make such use of the public right-of-way. Direct costs shall be determined in a manner consistent with generally accepted accounting principles.

Sec. 4. (a) As used in this chapter, "tax on Internet access or the use of Internet access" means a tax on Internet access, or any use of Internet access, regardless of whether the tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

(b) The term does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.

Sec. 5. Neither the state nor a political subdivision of the state may impose, assess, collect, or attempt to collect a tax (including a tax under IC 6-2.5) on Internet access or the use of Internet access.

SECTION 2. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 80

