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Small Businesses Celebrate Senate Passage of Marketplace Fairness Act

Isaac M. O'Bannon • May. 07, 2013

Washington, D.C. – The United States Senate passed the core Marketplace Fairness Act, a bill that the group [The Alliance for Main Street Fairness](#) says underscores “the free-market principle that the government shouldn’t pick winners and losers.”

The bill passed on a bipartisan vote of 69-27. This legislation closes a sales tax loophole allows large online-only retailers to not charge remit sales taxes on their sales to other-state customers, as brick-and-mortar stores must do for local customers. The Alliance for Main Street Fairness is a coalition of over 7,000 small business owners.

The issue is far from resolved, however. First, it faces a divided GOP-led Congress which currently only has 60 announced supporters of the bill, although they are bipartisan. Even if the House passes the bill and the President signs it into law, it will likely face scrutiny before the United States Supreme Court, which in 1992 ruled that companies do not have to charge, collect and remit sales taxes if they are selling something to a customer in a state that the business isn’t located in.

The ruling, [Quill Corp. v. North Dakota](#), involved the office supply retail catalog [Quill](#), but during the 21 years since has been interpreted as the reason that online retailers do not need to collect sales taxes from customers, so long as they have no presence in the state of the buyer. Many states, however, have redefined this issue of physical presence, or “nexus,” to include individuals who may be website affiliates of the companies.

It is important to note, however, that customers who do not pay sales tax on items they purchase online are likely breaking their own state laws, since nearly every state

with a sales tax requires them to voluntarily declare and pay an equal “use tax” on

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special tax treatment for online-only retailers. The Alliance for Main Street Fairness issued a statement today noting that “retailers look forward to a robust debate in the U.S. House of Representatives and welcome commonsense improvements to the overall legislation.”

“I am so relieved that the Senate has demonstrated a commitment to closing this tax loophole, particularly our own Senators Portman and Brown,” said Jayson Waits, owner of [Bloomtastic Florists](#) in Upper Arlington, Ohio. “Our state is known for its small towns and vibrant Main Streets, and the Marketplace Fairness Act will finally end special treatment for large online sellers to ensure that all of us compete fairly.”

Bloomtastic Florists is a member of the Main Street Fairness alliance, and over the past two weeks has joined other business members to reach out to their home state legislators “to refute misleading and false assertions made by eBay that the legislation would hurt small business.”

“Unequal tax treatment has been killing jobs in South Carolina for years,” said Mark Johnson owner of [Elite Framing](#) in Columbia, South Carolina. “This is not only a victory for small businesses, but for the communities they support here in South Carolina and across the country.”

“I truly appreciate Senators Warner and Kaine supporting Main Street on this issue,” said Donnie Caffery, owner of [Good Foods Grocery](#) in Richmond, Virginia. “Governor McDonnell has also shown he knows what a positive impact passage of the Marketplace Fairness Act would have in countless communities across the Commonwealth. Now it is time for our representatives in the House to follow their lead and close the sales tax loophole once and for all.”

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