

2019 Regular Session

HOUSE BILL NO. 494

BY REPRESENTATIVES ABRAMSON, HORTON, AND SCHEXNAYDER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES & USE: Provides relative to the determination of where sales and use taxes are due on purchases of certain raw materials converted into asphaltic concrete

1 AN ACT

2 To enact R.S. 47:337.12.1, relative to local sales and use taxes; to provide for the
3 determination of where taxes are due for certain materials used in road material
4 construction contracts; to provide for certain requirements and limitations; to provide
5 for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:337.12.1 is hereby enacted to read as follows:

8 §337.12.1. Road material construction contracts; determination of where tax is due;
9 requirements and limitations

10 A. Notwithstanding any other law to the contrary, for purposes of the
11 imposition of sales and use tax by any political subdivision of the state, any raw
12 materials converted by a road contractor into asphaltic concrete which has been
13 documented for ultimate use by the road contractor pursuant to a road material
14 construction contract shall be subject to tax as provided in this Section.

15 (1) If the raw materials are purchased from a Louisiana dealer such that title
16 or possession, or both, transfers to the road contractor at the dealer's place of
17 business, sales tax is due in the taxing jurisdiction of the dealer.

18 (2) If the raw materials are delivered to the road contractor such that title or
19 possession, or both, transfers at the road contractor's facility where the raw materials
20 are converted into asphaltic concrete, the "retail sale" of the raw materials is deemed

1 to occur in the taxing jurisdiction in which the asphaltic concrete is ultimately used
2 by the road contractor to fulfill the road material contract.

3 (3) The exercise of any right or power over raw materials imported into a
4 taxing jurisdiction for conversion into asphaltic concrete shall be deemed to be a
5 "use" in the taxing jurisdiction in which the asphaltic concrete is ultimately used by
6 the road contractor to fulfill the road material contract.

7 B. No sales or use taxes shall be due to the taxing jurisdiction in which the
8 road contractor converts the raw materials into asphaltic concrete unless any of the
9 following occurs in the taxing jurisdiction:

10 (1) The road contractor purchases raw materials from a dealer such that title
11 or possession, or both, transfers to the road contractor at the dealer's place of
12 business in the taxing jurisdiction in which the road contractor converts the raw
13 materials into asphaltic concrete.

14 (2) The asphaltic concrete is ultimately used by the road contractor to fulfill
15 a road material contract in the taxing jurisdiction in which the road contractor
16 converts the raw materials into asphaltic concrete.

17 (3) The road contractor makes a taxable sale of asphaltic concrete to a third
18 party such that title or possession, or both, transfers to the purchaser in the taxing
19 jurisdiction in which the road contractor converts the raw materials into asphaltic
20 concrete.

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 494 Engrossed

2019 Regular Session

Abramson

Abstract: Determines the political subdivision entitled to sales and use taxes on sales of raw materials converted into asphaltic concrete for use by a road contractor to fulfill a road material construction contract.

Proposed law requires, for purposes of determining the political subdivision entitled to local sales and use tax, local sales and use taxes to be paid for sales of raw materials converted into asphaltic concrete documented for ultimate use by the road contractor pursuant to a road material construction contract as follows:

- (1) If the raw materials are purchased from a La. dealer and title or possession transfers to the road contractor at the dealer's place of business, sales tax is due in the taxing jurisdiction of the dealer.
- (2) If the raw materials are delivered to the road contractor and title or possession transfers at the road contractor's facility where the raw materials are converted into asphaltic concrete, the "retail sale" of the raw materials is deemed to occur where the asphaltic concrete is ultimately used by the contractor to fulfill the road material contract.
- (3) The exercise of any right or power over raw materials imported into a taxing jurisdiction for conversion into asphaltic concrete shall be deemed to be a "use" in the taxing jurisdiction in which the asphaltic concrete is ultimately used by the road contractor to fulfill the road material contract.

Proposed law prohibits local sales or use taxes from being due to the taxing jurisdiction where the road contractor converts the raw materials into asphaltic concrete unless any of the following occurs in the taxing jurisdiction:

- (1) The road contractor purchases raw materials from a dealer and title or possession transfers to the road contractor at the dealer's place of business in the taxing jurisdiction where the road contractor converts the raw materials into asphaltic concrete.
- (2) The asphaltic concrete is ultimately used by the road contractor to fulfill a road material contract in the taxing jurisdiction in which the road contractor converts the raw materials into asphaltic concrete.
- (3) The road contractor makes a taxable sale of asphaltic concrete to a third party such that title or possession, or both, transfers to the purchaser in the taxing jurisdiction in which the road contractor converts the raw materials into asphaltic concrete.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 47:337.12.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change references in proposed law from the manufacturing of asphaltic materials to the conversion of raw materials into asphaltic materials.
2. Change references in proposed law from a "manufacturer" to a "road contractor".
3. Clarify that if raw materials are purchased from a La. dealer and title or possession transfers to the road contractor at the dealer's place of business, sales tax is due in the taxing jurisdiction of the dealer.