

2019 Regular Session

HOUSE BILL NO. 560

BY REPRESENTATIVE ABRAMSON

TAX/EXCISE: Authorizes the imposition of tax on hemp and CBD

1 AN ACT

2 To enact Chapter 19 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 47:1692 through 1696; relative to state excise tax on hemp-
4 derived CBD products; to levy an excise tax on hemp-derived CBD products; to
5 provide for certain definitions; to provide for the rate of the excise tax; to authorize
6 the promulgation of rules and regulations; to provide for the use of the avails of the
7 excise tax; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 19 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
10 1950, to be comprised of R.S. 47:1692 through 1696 is hereby enacted to read as follows:

11 CHAPTER 19. "HEMP-DERIVED CBD TAX"

12 §1692. Definitions

13 As used in this Chapter, the following terms shall have the meaning ascribed
14 to them in this Section unless the context clearly indicates otherwise;

15 (1) "CBD" means cannabidiol.

16 (2) "Consumer" means either a business entity or a person who purchases
17 hemp-derived CBD products.

18 (3) "Hemp" means the plant Cannabis sativa and any part of that plant,
19 including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids,
20 salts, and salts of isomers, whether growing or not, with a delta-9-

1 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight
2 basis. Hemp does not include plants of the Genus Cannabis that meet the definition
3 of "marijuana" as defined in R.S. 40:961.

4 (4) "Hemp-derived CBD product" means any hemp-derived product that
5 contains CBD and is intended for consumption or topical use.

6 (5) "Secretary" means the secretary of the Department of Revenue or his
7 duly appointed representatives.

8 (6) "Retail sale" means the sale of hemp-derived CBD products to a
9 consumer for any purpose and shall include all transactions as the secretary, upon
10 investigation, finds to be in lieu of sales.

11 (7) "Retailer" means an entity that sells hemp-derived CBD products to a
12 consumer.

13 §1693. Imposition of tax

14 A. There is hereby levied an excise tax upon each retail sale of hemp-derived
15 CBD products within the state of Louisiana. The tax levied in this Chapter shall be
16 at the rate of three percent of the retail sales price of hemp-derived CBD products.
17 The excise tax shall be levied in addition to state and local sales and use tax or any
18 other tax.

19 §1694. Enforcement

20 The secretary shall collect, supervise and enforce the collection of all taxes,
21 penalties, interest, and other charges that may be due under the provisions of this
22 Chapter in the same manner provided for by law under the provisions of this Subtitle.
23 The secretary shall administer legislative mandates contained in this Subtitle. To
24 that end the secretary is vested with all of the power and authority conferred by this
25 Subtitle, except as conferred upon other officials.

26 §1695. Rules and regulations

27 The department may promulgate rules and regulations in accordance with the
28 Administrative Procedure Act as are necessary to implement the provisions of this
29 Chapter including, enforcement of the assessment and collection of all taxes, interest

1 and penalties that may be due under the provisions of this Chapter, use of tax stamps,
2 investigations and hearings, adoption of a uniform system of providing taxpayer
3 reporting requirements, the destruction of goods, and issuing refunds for any reason
4 to a taxpayer.

5 §1696. Disposition of collections

6 After satisfaction of the requirements of the Bond Security and Redemption
7 Fund as required under Article VII, Section 9(B) of the Louisiana Constitution, the
8 state treasurer shall deposit in and credit to the Early Childhood Education Fund the
9 revenues collected as provided in this Chapter.

10 Section 2. This Act shall take effect and become operative if and when the Act
11 which originated as House Bill No. 138 of this 2019 Regular Session of the Legislature is
12 enacted and becomes effective and shall be applicable for all tax periods beginning on or
13 after January 1, 2020.

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 560 Engrossed

2019 Regular Session

Abramson

Abstract: Authorizes the levy of an excise tax at the rate of 3% on the retail sale of hemp-derived CBD products.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property.

Proposed law retains present law and levies an excise tax on the sale of hemp-derived CBD products by a retailer to a consumer at the rate of 3% based on the retail sales price of these products, in addition to other taxes, including state and local sales and use taxes.

Proposed law defines "CBD" as cannabidiol.

Proposed law defines "hemp" as any part of the plant Cannabis sativa, including the seeds and all derivatives, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis. Hemp does not include plants that meet the definition of marijuana.

Proposed law further defines a "Hemp-derived CBD product" as any hemp-derived product that contains CBD and is intended for consumption or topical use.

Proposed law authorizes the Dept. of Revenue to collect, supervise, and enforce the collection of taxes, penalties, and interest related to the excise tax. Further authorizes the Dept. of Revenue to promulgate rules and regulations to implement the provisions of proposed law.

Proposed law dedicates the avails of the excise taxes levied on hemp to the Early Childhood Education Fund.

Effective if and when House Bill No. 579 of this 2019 R.S. is enacted and becomes effective.

(Applicable for all tax periods beginning on or after Jan. 1, 2020.)

(Adds R.S. 47:1692 through 1696)

Summary of Amendments Adopted by House

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

1. Change the name of and references to the tax from hemp and CBD tax to hemp-derived CBD tax.
2. Decrease the excise tax rate from 15% of the retail sales price of hemp-derived CBD products to 3% of the retail sales price of hemp-derived CBD products.
3. Define hemp-derived CBD products as any hemp-derived product that contains CBD intended for consumption or topical use.
4. Remove the requirement for a consumer to be 21 years of age or older to purchase hemp-derived products.
5. Remove requirement for tax stamps to be purchased and affixed to containers or packages of CBD, CBD products, hemp, and hemp products.
6. Change the contingent effectiveness of proposed law from enactment of HB No. 138 from the 2019 R.S. to enactment of HB No. 579 of the 2019 R.S.
7. Change the dedication of funds derived from the excise tax from the New Opportunities Waiver Fund to the Early Childhood Education Fund.