

2023 Regular Session

HOUSE BILL NO. 249

BY REPRESENTATIVE TURNER

TAX/SALES-USE, LOCAL-EXEM: Exempts prescription drugs and insulin from local sales and use taxes

1 AN ACT

2 To amend and reenact R.S. 47:305(D)(1)(j), 305.2, 337.9(C)(14.1), 337.10(A)(1), and

3 337.11.1(A) and to enact R.S. 47:337.9(C)(14.2) and (D)(1.1), relative to exemptions

4 from sales and use taxes imposed by political subdivisions of the state; to provide for

5 local sales and use tax exemptions for drugs prescribed by physicians and dentists

6 and for prescription and nonprescription insulin; to enact the exemptions from local

7 sales and use taxes as mandatory exemptions; to provide relative to collection and

8 remittance by pharmacies and pharmacists of local sales and use taxes for certain

9 goods and services; to provide for terms designated as "key words" that are

10 associated with certain local sales and use tax exemptions; to provide for

11 effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:305(D)(1)(j), 305.2, 337.9(C)(14.1), 337.10(A)(1), and

14 337.11.1(A) are hereby amended and reenacted and R.S. 47:337.9(C)(14.2) and (D)(1.1) are

15 hereby enacted to read as follows:

16 §305. Exclusions and exemptions from the tax

17 \* \* \*

18 D.(1) The sale at retail, the use, the consumption, the distribution, and the

19 storage to be used or consumed in the taxing jurisdiction of the following tangible

1 personal property is hereby specifically exempted from the tax imposed by taxing  
2 authorities, except as otherwise provided in this Paragraph:

3 \* \* \*

4 (j) ~~Solely for purposes of the state sales and use tax, drugs~~ Drugs prescribed  
5 by a physician or dentist.

6 \* \* \*

7 §305.2. Exclusions and exemptions; insulin, prescription and nonprescription

8 The tax imposed by R.S. ~~47:302(A)~~ and R.S. ~~47:321~~ taxing authorities shall  
9 not apply to the sale at retail, the use, the consumption, the distribution, and the  
10 storage of insulin, both prescription and nonprescription to be used or consumed in  
11 this state, for personal use or consumption; ~~provided, however, that this exemption~~  
12 ~~shall apply only to sales taxes imposed by the State of Louisiana and shall not apply~~  
13 ~~to such taxes authorized and imposed by any school board, municipality, or other~~  
14 ~~local taxing authority notwithstanding any other provision of law to the contrary,~~  
15 ~~specifically but not exclusively R.S. 33:2716.1.1.~~

16 \* \* \*

17 §337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other  
18 exemptions applicable

19 \* \* \*

20 C.

21 \* \* \*

22 (14.1) R.S. 47:305(D)(1)(j), "key words": drugs prescribed by a physician  
23 or dentist.

24 (14.2) R.S. 47:305(D)(1)(k), "key words": prosthetic devices.

25 \* \* \*

26 D.

27 \* \* \*

28 (1.1) R.S. 47:305.2, "key words": prescription and nonprescription insulin.

29 \* \* \*

1 §337.10. Optional exclusions and exemptions

2 A. As provided for in R.S. 47:305(D)(5)(c), for the time after July 1, 1999,  
3 a taxing authority may by ordinance or resolution provide for the following:

4 (1) Except as provided for in ~~R.S. 47:305.76~~ R.S. 47:305(D)(1)(j), 305.2,  
5 305.76, and 337.9(D)(34), an exemption for the sale of prescription drugs used in the  
6 treatment of various diseases or injuries, or an exemption for the procurement and  
7 administration of chemotherapy drugs, if such drugs are used exclusively by the  
8 patient in his medical treatment if administered exclusively to the patient by a  
9 physician, nurse, or other health care professional in a physician's office where  
10 patients are not regularly kept as bed patients for twenty-four hours or more.

11 \* \* \*

12 §337.11.1. Local sales and use tax; ~~prescription drugs and~~ pharmacist services;  
13 requirements

14 A. Upon the sale of ~~prescription drugs and~~ pharmacist services, a pharmacy  
15 or pharmacist shall be responsible for collecting any sales and use tax levied by a  
16 local political subdivision of this state and for remitting the amount of such tax to the  
17 levying authority. It shall be the responsibility of the health insurance issuer to  
18 reimburse the pharmacy or pharmacist the amount of such tax in certain cases in  
19 which health insurance coverage for ~~prescription drugs and~~ pharmacist services  
20 exists, depending on the terms and conditions of the insured's agreement with its  
21 member or insured. All contracts executed by a health insurance issuer after January  
22 1, 2009, which includes health insurance coverage for ~~prescription drugs and~~  
23 pharmacist services shall clearly define the responsibility of the health insurance  
24 issuer or the health insurance issuer's member or insured for the payment of local  
25 taxes on the sale of ~~prescription drugs and~~ pharmacist services. Upon receipt of an  
26 electronic transaction from a pharmacy indicating ~~the sale of a prescription drug or~~  
27 the rendering of the pharmacist services and specifying the amount of any sales and  
28 use tax, a health insurance issuer or its agent shall advise the pharmacy electronically  
29 of the applicable sales and use tax to be reimbursed to the pharmacy.

30 \* \* \*

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

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#### 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)]

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HB 249 Engrossed

2023 Regular Session

Turner

**Abstract:** Creates a mandatory exemption from local sales and use taxes for prescription drugs and insulin.

Present law exempts from state sales and use tax the sale at retail, use, consumption, distribution, and storage of the following:

- (1) Drugs prescribed by a physician or dentist (also exempted from state sales and use tax by present constitution, Const. Art. VII, §2.2(B)).
- (2) Prescription and nonprescription insulin.

Present law provides that these exemptions pertain to the state sales and use tax exclusively.

Proposed law retains the exemptions from state sales and use tax for prescription drugs and prescription and nonprescription insulin.

Proposed law revises present law to exempt prescription drugs and prescription and nonprescription insulin from all other taxing authorities' sales and use taxes, including the sales and use taxes of parishes, municipalities, other local political subdivisions, and school boards.

Present law provides for certain mandatory exemptions from local sales and use taxes as well as for certain optional exemptions from such taxes which local jurisdictions, at the discretion of their governing authorities, may adopt. Proposed law creates the exemptions for prescription drugs and prescription and nonprescription insulin as mandatory exemptions from local sales and use taxes.

Present law provides that upon the sale of prescription drugs and pharmacist services, a pharmacy or pharmacist is responsible for collecting any sales and use tax levied by a local political subdivision and for remitting the amount of the tax to the taxing authority. Requires health insurance issuers to reimburse the pharmacy or pharmacist for the amount of such tax in certain cases. Proposed law revises present law to strike references to the sale of prescription drugs, thereby requiring pharmacies and pharmacists to collect and remit only local sales and use taxes levied on pharmacist services. Proposed law retains present law requiring reimbursement by health insurance issuers to pharmacies and pharmacists for local sales and use taxes collected and remitted to local taxing authorities.

Present law known as the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., establishes terms designated as "key words" following particular statutory citations and associates those

terms with the local sales and use tax exemptions provided for at those citations, respectively. Present law indicates that such key words are illustrative only and are intended to aid in clarity and ease of finding particular exemptions in present law.

Proposed law retains present law and establishes key words associated with the mandatory local sales and use tax exemptions for prescription drugs and prescription and nonprescription insulin created by proposed law.

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

(Amends R.S. 47:305(D)(1)(j), 305.2, 337.9(C)(14.1), 337.10(A)(1), and 337.11.1(A); Adds R.S. 47:337.9(C)(14.2) and (D)(1.1))