

First Extraordinary Session, 2005

HOUSE BILL NO. 38

BY REPRESENTATIVE HEBERT

TAX/SALES-USE, ST-EXEMPT: To provide that the state sales or use tax shall not apply to consumer purchases of tangible personal property for non-business use on certain dates (Item #7)

1 AN ACT

2 To enact R.S. 47:305.54, relative to the state sales and use tax; to enact the 2005 Louisiana
3 Sales Tax Holiday Act; to provide that the state sales and use tax shall not apply to
4 consumer purchases of tangible personal property for non-business use on certain
5 dates from selling dealers; to provide restrictions on the types and cost of purchases
6 that are eligible for exemption; to provide for an effective date; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:305.54 is hereby enacted to read as follows:

10 §305.54. Exemption; 2005 Louisiana Sales Tax Holiday Act

11 A. This Act shall be known as the 2005 Louisiana Sales Tax Holiday Act.

12 B.(1) Notwithstanding any other provisions of law to the contrary, the sales
13 tax levied by the state of Louisiana and its political subdivisions whose boundaries
14 are coterminous of those of the state shall not apply to consumer purchases of
15 tangible personal property for non-business use that occur on December 1, 2005,
16 through December 5, 2005.

17 (2) For purposes of this Act, "consumer purchases" shall mean purchases of
18 items of tangible personal property, other than vehicles subject to license and title,
19 costing two thousand five hundred dollars or less per unit that are not for use in a
20 trade, business or profession. Manufacturers' coupons and rebates and charges for

1 delivery to the customer shall not be considered in determining whether an item costs
2 two thousand five hundred dollars or less.

3 C. This provision will apply if and only if on December 1, 2005, through
4 December 5, 2005, one of the following occur:

5 (1) Title to or possession of an item of tangible personal property is
6 transferred from a selling dealer to a purchaser.

7 (2) A customer selects an eligible item from the selling dealer's inventory for
8 layaway that is physically set aside in the selling dealer's inventory for future
9 delivery to that customer.

10 (3) The customer makes final payment and withdraws an item from layaway
11 that might have been placed before December 1, 2005.

12 (4) The customer orders and pays for an eligible item and the selling dealer
13 accepts the order for immediate shipment, even if delivery is made after December
14 5, 2005, provided that the customer has not requested delayed shipment.

15 D. Eligible items that customers purchase between December 1, 2005, and
16 December 5, 2005, with "rain checks" will qualify for exemption, regardless of when
17 the "rain checks" were issued. However, issuance of "rain checks" during the
18 exemption period will not qualify items for exemption if the otherwise eligible items
19 are actually purchased after December 5, 2005.

20 E.(1) When a customer purchases an eligible item between December 1,
21 2005, and December 5, 2005, and exchanges the item without additional cash
22 consideration after December 5, 2005, for an essentially identical item of different
23 size, color, or other failure, no additional tax is due.

24 (2) When a customer after December 5, 2005, returns an eligible item that
25 was purchased between December 1, 2005, and December 5, 2005, and receives
26 credit on the purchase of a different item, the appropriate sales tax is due on the
27 purchase of the new item.

28 F. Articles that are normally sold as a unit must continue to be sold in that
29 manner, and cannot be priced separately in order to bring the individual items below

1 the two thousand five hundred dollars eligibility threshold. Items that are advertised
 2 as "buy one, get one free" or "buy one, get one at a reduced price" cannot be
 3 averaged in order for both items to fall under the two thousand five hundred dollars
 4 eligibility threshold.

5 G. For a sixty-day period after December 5, 2005, when a customer returns
 6 an item that would qualify for an exemption, no credit or refunds of sales tax shall
 7 be given unless the customer provides a receipt or invoice that shows that the state
 8 sales tax was paid, or the retailer has sufficient documentation that shows that the tax
 9 was paid on the specific item. This sixty-day period is not intended to change a
 10 dealer's policy concerning the time period during which returns will be accepted.

11 Section 2. The secretary of the Department of Revenue is authorized to adopt and
 12 promulgate rules for the administration of the provisions of this Act.

13 Section 3. This Act shall become effective upon signature by the governor or, if not
 14 signed by the governor, upon expiration of the time for bills to become law without signature
 15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 16 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 17 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.

Hebert

HB No. 38

Abstract: Provides for a "sales tax holiday" on December 1, 2005, through December 5, 2005, affecting only the sales tax levied by the state and the Louisiana Tourism Promotion District.

Proposed law provides for a "sales tax holiday" on December 1, 2005, through December 5, 2005, affecting only the sales tax levied by the state and the Louisiana Tourism Promotion District. Local sales and use taxes will not be affected by the proposed holiday.

The holiday applies only to consumers and not businesses. The exemption is not applicable to motor vehicles that will be titled or to items costing more than \$2,500.

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

(Adds R.S. 47:305.54)