

First Extraordinary Session, 2005

SENATE BILL NO. 40

BY SENATOR MOUNT

TAX/SALES. Provides that the state sales or use tax shall not apply to consumer purchases of tangible personal property for non-business use on December 10, 2005. (gov sig)

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 a certain  
5 date 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**  
13 **sales tax levied by the state of Louisiana and its political subdivisions whose**  
14 **boundaries are coterminous of those of the state shall not apply to consumer**  
15 **purchases of tangible personal property for non-business use that occur on**  
16 **December 10, 2005.**

17 **(2) For purposes of this Act, "consumer purchases" shall mean**

1 purchases of items of tangible personal property, other than vehicles subject to  
2 license and title, costing two thousand five hundred dollars or less per unit that  
3 are not for use in a trade, business or profession. Manufacturers' coupons and  
4 rebates and charges for delivery to the customer shall not be considered in  
5 determining whether an item costs two thousand five hundred dollars or less.

6 C. This provision will apply if and only if on December 10, 2005, one of  
7 the following occur:

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

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

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

15 (4) The customer orders and pays for an eligible item and the selling  
16 dealer accepts the order for immediate shipment, even if delivery is made after  
17 December 10, 2005, provided that the customer has not requested delayed  
18 shipment.

19 D. Eligible items that customers purchase on December 10, 2005, with  
20 "rain checks" will qualify for exemption, regardless of when the "rain checks"  
21 were issued. However, issuance of "rain checks" during the exemption period  
22 will not qualify items for exemption if the otherwise eligible items are actually  
23 purchased after December 10, 2005.

24 E.(1) When a customer purchases an eligible item on December 10, 2005,  
25 and exchanges the item without additional cash consideration after December  
26 10, 2005, for an essentially identical item of different size, color, or other failure,  
27 no additional tax is due.

28 (2) When a customer after December 10, 2005, returns an eligible item  
29 that was purchased on December 10, 2005, and receives credit on the purchase

1 of a different item, the appropriate sales tax is due on the purchase of the new  
2 item.

3 F. Articles that are normally sold as a unit must continue to be sold in  
4 that manner, and cannot be priced separately in order to bring the individual  
5 items below the two thousand five hundred dollars eligibility threshold. Items  
6 that are advertised as "buy one, get one free" or "buy one, get one at a reduced  
7 price" cannot be averaged in order for both items to fall under the two  
8 thousand five hundred dollars eligibility threshold.

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

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

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

---

The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

---

#### DIGEST

Proposed law provides for a "sales tax holiday" on December 10, 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 the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:305.54)