

First Extraordinary Session, 2005

SENATE BILL NO. 40

BY SENATORS MOUNT, MURRAY AND NEVERS

TAX/SALES. Provides that the state sales and use tax will not apply to the first \$2,500 of the price of a consumer purchase 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 a certain amount of the price of certain consumer purchases of tangible personal
5 property for non-business use on a certain date from selling dealers; to provide
6 restrictions on the types of purchases that are eligible for exemption; to provide for
7 an effective date; and to provide for related.

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 the first two**
15 **thousand five hundred dollars of the sales price or cost price of any consumer**
16 **purchase of tangible personal property for non-business use that occurs on**
17 **December 10, 2005.**

1 **(2) For purposes of this Act, "consumer purchases" shall mean**
2 **purchases of items of tangible personal property, other than vehicles subject to**
3 **license and title, that are not for use in a trade, business or profession.**

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

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

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

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

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

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

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

26 **(2) When a customer after December 10, 2005, returns an eligible item**
27 **that was purchased on December 10, 2005, and receives credit on the purchase**
28 **of a different item, the appropriate sales tax is due on the purchase of the new**
29 **item.**

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

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

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

Mount (SB 40)

Proposed law provides for a "sales tax holiday" on December 10, 2005, affecting only the sales tax levied by the state - making the first \$2,500 of any consumer purchase exempt on that date. 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.

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

(Adds R.S. 47:305.54)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Changes the bill from one granting an exemption for only consumer sales of \$2,500 or less to one granting an exemption for the first \$2,500 of the price of all consumer sales (except vehicles).