

First Extraordinary Session, 2005

HOUSE BILL NO. 42

BY REPRESENTATIVES MONTGOMERY, ARNOLD, ALARIO, BALDONE, DARTEZ, DEWITT, DORSEY, FARRAR, FAUCHEUX, HAMMETT, HEATON, HILL, KENNEY, LABRUZZO, ODINET, SALTER, SCALISE, JANE SMITH, AND TOWNSEND AND SENATORS HEITMEIER, HINES, AND MOUNT

TAX/SALES-USE-EXEMPT: Provides that the state sales or use tax shall not apply to consumer purchases from certain dealers of tangible personal property for non-business use on a certain date (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 a certain
5 date from certain selling dealers; to provide restrictions on the types and cost of
6 purchases that are eligible for exemption; to provide for an effective date; and to
7 provide for 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 9, 10, and
16 11, 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

1 trade, business, or profession. Manufacturers' coupons and rebates and charges for
2 delivery to the customer shall not be considered in determining whether an item costs
3 two thousand five hundred dollars or less.

4 C. This provision will apply if and only if on December 9, 10, and 11, 2005,
5 one of 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 for
9 layaway that is physically set aside in the selling dealer's inventory for future
10 delivery to that customer.

11 (3) The customer makes final payment and withdraws an item from layaway
12 that might have been placed before December 9, 10, and 11, 2005.

13 (4) The customer orders and pays for an eligible item and the selling dealer
14 accepts the order for immediate shipment, even if delivery is made after December
15 9, 10, and 11, 2005, provided that the customer has not requested delayed shipment.

16 D. Eligible items that customers purchase on December 9, 10, and 11, 2005,
17 with "rain checks" will qualify for exemption, regardless of when the "rain checks"
18 were issued. However, issuance of "rain checks" during the exemption period will
19 not qualify items for exemption if the otherwise eligible items are actually purchased
20 after December 11, 2005.

21 E.(1) When a customer purchases an eligible item on December 9, 10, and
22 11, 2005, and exchanges the item without additional cash consideration after
23 December 11, 2005, for an essentially identical item of different size, color, or other
24 failure, no additional tax is due.

25 (2) When a customer after December 11, 2005, returns an eligible item that
26 was purchased on December 9, 10, and 11, 2005, and receives credit on the purchase
27 of a different item, the appropriate sales tax is due on the 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 dollar 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 dollar
4 eligibility threshold.

5 G. For a sixty-day period after December 11, 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 H. Participation by dealers in the 2005 Louisiana sales tax holiday is
12 optional, provided that any dealer who chooses to participate must allow the
13 exemption provided by the Act on all eligible sales of tangible personal property to
14 all eligible non-business customers.

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

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

Montgomery

HB No. 42

Abstract: Provides for an optional "sales tax holiday" on December 9, 10, and 11, 2005, affecting only the sales tax levied by the state and the Louisiana Tourism Promotion District.

Proposed law provides for an optional "sales tax holiday" on December 9, 10, and 11, 2005, affecting only the sales tax levied by the state and the Louisiana Tourism Promotion District. Authorizes dealers to choose whether or not to participate in sales tax holiday. 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)

Summary of Amendments Adopted by House

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

1. Makes sales tax holiday optional and increases it to three days in December.