

**HOUSE COMMITTEE AMENDMENTS**

2015 Regular Session

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 355 by Representative Pugh

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete "R.S. 47:301(4)(h), and to enact R.S. 47:301(4)(m)"  
3 and insert "R.S. 47:302(K)(7) and (U) and 305(E) and to enact R.S. 47:302(V)"

4 AMENDMENT NO. 2

5 On page 1, line 8, after "Section 1." delete the remainder of the line and insert the following:

6 "R.S. 47:302(K)(7) and (U) and 305(E) are hereby amended and reenacted and R.S.  
7 47:302(V) is"

8 AMENDMENT NO. 3

9 On page 1, delete lines 10 through 19 in their entirety and on page 2, delete lines 1 through  
10 12 in their entirety, and insert the following:

11 "§302. Imposition of tax  
12 \* \* \*

13 K. An additional tax shall be levied as follows:

14 \* \* \*

15 (7)(a) Pursuant to an appropriation by the legislature, the avails of the tax  
16 shall be distributed as follows:

17 (i) The secretary shall annually provide for an interagency transfer in the  
18 amount of one hundred and thirty-two thousand dollars to the Department of State  
19 Civil Service, Board of Tax Appeals, to be expended exclusively for the purposes of  
20 its Local Tax Division, and thereafter distribute the proceeds of the tax.

21 (ii) All monies remaining after satisfaction of the requirements of Item (i)  
22 of this Subparagraph shall be distributed quarterly to the central local sales and use  
23 tax collector or, if none, the parish governing authority according to population. The  
24 central local sales and use tax collector or the parish governing authority shall at no  
25 charge distribute the tax proceeds received from the secretary to each political  
26 subdivision within the parish which levies a sales and use tax or receives a portion  
27 of the proceeds of a parishwide sales and use tax levy, in accordance with each such  
28 political subdivision's pro rata share of local sales and use tax receipts collected on  
29 all other transactions subject to local sales and use taxes during the most recent state  
30 fiscal year for which data is available within thirty days of receipt of the proceeds.

31 \* \* \*

32 U. It is the duty of the secretary of the Department of Revenue to collect all  
33 taxes imposed pursuant to this Chapter and Chapters 2-A and 2-B of this Subtitle  
34 which may be due upon the sale by a remote ~~seller~~ dealer of tangible personal  
35 property or services in Louisiana. The secretary is authorized and directed to employ  
36 all means available to ensure the collection of the tax in an equitable, efficient, and  
37 effective manner.

38 V. In addition to the definition of "dealer" as provided in R.S. 47:301(4), for  
39 purposes of the consumer use tax, the term "dealer" includes every person who  
40 manufactures or produces tangible personal property for sale at retail, for use, or

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined to mean:

(1) Any person engaging in business in the taxing jurisdiction which shall include:

(a) Any of the following methods of transacting business:

(i) Maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place or location of business.

(ii) Having an agent, salesman, independent contractor, or solicitor operating within the taxing jurisdiction under the authority of or through an agreement with the person or its subsidiary irrespective of whether the place of business, agent, salesman, or solicitor is located in the taxing jurisdiction permanently or temporarily or whether the person or subsidiary is qualified to do business in the taxing jurisdiction.

(iii) Making deliveries of tangible personal property into the taxing jurisdiction other than by a common or contract carrier."

AMENDMENT NO. 4

On page 2, at the beginning of line 13, delete "(ii)" and insert "(b)"

AMENDMENT NO. 5

On page 2, line 17, after "website" delete the remainder of the line, delete lines 18 through 27 in their entirety, insert a comma "," and insert the following:

"an in-person oral presentation, telemarketing, or otherwise to the seller. If the cumulative gross receipts from sales of tangible personal property to customers in this state who are referred to the person through such an agreement exceeds fifty thousand dollars during the preceding twelve months, the presumption regarding the status of that person as a dealer may be rebutted if the person can demonstrate, to the satisfaction of the secretary, that he cannot reasonably be expected to have gross receipts in excess of fifty thousand dollars for the succeeding twelve months."

AMENDMENT NO. 6

On page 2, at the beginning of line 28, delete "(m)(i)" and insert "(2)"

AMENDMENT NO. 7

On page 3, at the beginning of line 1, delete "(aa)" and insert "(a)"

AMENDMENT NO. 8

On page 3, at the beginning of line 5, delete "(bb)" and insert "(b)"

AMENDMENT NO. 9

On page 3, at the beginning of line 8, delete "(cc)" and insert "(c)"

AMENDMENT NO. 10

On page 3, delete lines 19 and 20 in their entirety and insert the following:

"(3) In addition to those persons established as dealers according to Paragraph (2) of this Subsection, the provisions of this Subsection shall be presumed by"

AMENDMENT NO. 11

1 On page 3, line 25, delete "(bb) For purposes of this Subparagraph" and insert "For purposes  
2 of this Paragraph"

3 AMENDMENT NO. 12

4 On page 4, delete line 3 in its entirety, and insert the following:

5 "(4) A dealer, as defined in and for purposes of this Subsection, shall file"

6 AMENDMENT NO. 13

7 On page 4, at the beginning of line 7, delete "(iv) The provisions of this Subparagraph" and  
8 insert "(5) The provisions of this Subsection"

9 AMENDMENT NO. 14

10 On page 4, between lines 12 and 13, insert the following:

11 "§305. Exclusions and exemptions from the tax

12 \* \* \*

13 E. It is not the intention of any taxing authority to levy a tax upon articles of  
14 tangible personal property imported into this state, or produced or manufactured in  
15 this state, for export; ~~nor is it the intention of any taxing authority to levy a tax on~~  
16 ~~bona fide interstate commerce; however, nothing herein shall prevent the collection~~  
17 ~~of the taxes due on sales of tangible personal property into this state which are~~  
18 ~~promoted through the use of catalogs and other means of sales promotion and for~~  
19 ~~which federal legislation or federal jurisprudence enables the enforcement of the~~  
20 ~~sales tax of a taxing authority upon the conduct of such business. It is, however, the~~  
21 ~~intention of the taxing authorities to levy a tax on the sale at retail, the use, the~~  
22 ~~consumption, the distribution, and the storage to be used or consumed in this state,~~  
23 ~~of tangible personal property after it has come to rest in this state and has become a~~  
24 ~~part of the mass of property in this state. At such time as federal legislation or~~  
25 ~~federal jurisprudence as to sales in interstate commerce promoted through the use of~~  
26 ~~catalogs and other means of sales promotions enables the enforcement of this~~  
27 ~~Chapter or any other law or local ordinance imposing a sales tax against vendors that~~  
28 ~~have no other nexus with the taxing jurisdiction, the following provisions shall apply~~  
29 ~~to such sales on which sales and use tax would not otherwise be collected.~~

30 \* \* \*"

31 AMENDMENT NO. 15

32 On page 4, line 13, after "shall apply" delete "prospectively" and insert the following:

33 "to tax periods beginning on and after July 1, 2015. If the United States Congress  
34 enacts legislation authorizing states to require a remote seller to collect sales taxes  
35 on taxable transactions, such legislation shall preempt the provisions of R.S.  
36 47:302(V) and the Department of Revenue shall have the authority to promulgate  
37 regulations under the Louisiana Administrative Procedure Act to carry out the  
38 provisions of the federal legislation. The Department of Revenue shall begin to  
39 promulgate such rules within ninety days of the effective date of the federal  
40 legislation."