

2016 Regular Session

HOUSE BILL NO. 605

BY REPRESENTATIVE JONES

TAX/SALES & USE: Requires the advance payment of sales tax

1 AN ACT

2 To enact R.S. 47:306(B), relative to collection of advance sales tax; to provide for the
3 disposition of the tax; to authorize the secretary of the Department of Revenue to
4 promulgate rules; to provide for exemptions; to provide for an effective date; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:306(B) is hereby amended and reenacted to read as follows:

8 §306. Returns and payment of tax; penalty for absorption

9 * * *

10 B. Advanced sales tax deposit required. (1)(a) Notwithstanding the
11 provisions of Subsection A or any other provision of this Chapter, every dealer
12 required to collect state sales tax pursuant to this Chapter and having an average
13 monthly state sales and use tax liability of at least twenty thousand dollars for the
14 twelve-month period commencing April 1, 2015, and ending March 30, 2016, shall
15 be required to remit to the secretary on or before April 20, 2016, and on or before the
16 twentieth day of each succeeding month, an advanced sales tax deposit using either
17 of the following methods:

18 (i) Actual Sales Method. A dealer using the actual sales method is required
19 to remit a deposit equal to at least ninety percent of the dealer's sales and use tax

1 liability for the sale or use of tangible personal property for the first through the
2 fifteenth of the current month.

3 (ii) Estimated Sales Method. A dealer using the estimated sales method is
4 required to remit a deposit equal to at least seventy-five percent of the dealer's sales
5 and use tax liability for the sale of tangible personal property for the comparable
6 month of the preceding year. For the purposes of calculating a dealer's estimated
7 sales tax liability for the comparable month of the preceding year, the dealer is not
8 required to include taxes due on sales of tangible personal property refunded or
9 credited to the customer in accordance with R.S. 47:315.

10 (b) For purposes of this Subsection, a dealer shall include any wholesale
11 dealer of tobacco products as defined in R.S. 47:842(23) or any wholesale dealer of
12 alcoholic beverage products as defined in R.S. 26:2(22) or 241(19).

13 (2) Any adjustment necessary to properly report and pay the tax using either
14 the actual sales method or the estimated sales method shall be reported on and paid
15 with the monthly return due on or before the twentieth day of the month following
16 the month in which the advanced sales tax deposit is paid. Any advance sales tax
17 deposit in excess of the actual tax due for a preceding month may be credited or
18 refunded.

19 (3) Deposits required to be made under this Subsection shall be received by
20 the secretary of the Department of Revenue no later than the twentieth day of the
21 month in order to be considered timely. A dealer that fails to comply with the
22 requirements of this Subsection may be assessed a penalty in an amount equal to ten
23 percent of the difference between any amount of the dealer deposits pursuant to this
24 Subsection and the dealer's actual sales tax liability for the month for which the
25 advanced sales tax deposit was required.

26 (4) Deposits made by a dealer under this Subsection shall not be considered
27 to be collected for the purposes of any sales tax refunds or credits required by law
28 until the dealer files a return for the actual sales taxes collected during the month to
29 which the advanced sales tax deposit applies.

Proposed law requires any adjustments necessary for proper reporting and payment of tax collected to be completed with the monthly return due on the 20th day of the month following the month in which the advance sales tax deposit was made.

Proposed law authorizes a credit or refund of any advance sales tax deposit collected in excess of the actual tax due, but prohibits a credit or refund on any advance sales tax deposit prior to the dealer filing the return for the actual sales taxes collected during the month for which the advance sales tax deposit applied.

Proposed law exempts any agency, department, or instrumentality of the U.S. government or any agency, department, institution, instrumentality, or political subdivision of the state.

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

(Adds R.S. 47:306(B))