

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 605** HLS 16RS 559
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 28, 2016 2:28 PM	Author: JONES
Dept./Agy.: Revenue	Analyst: Deborah Vivien
Subject: Advanced deposit for sales tax	

TAX/SALES & USE

OR SEE FISC NOTE GF RV

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Requires the advance payment of sales tax

Current law directs retail vendors to collect and remit the 4% sales tax on behalf of the state on a monthly basis. Remittances are due on the 20th day of the month following the sale and prohibits the collection of advance sales tax. Proposed law directs alcohol and tobacco dealers with sales tax liabilities averaging \$20,000 per month or more (all tangible personal property or TPP) between April, 2015 and March 2016 to pay a deposit of expected sales tax remittances on or before the 20th of each month, beginning in April, 2016. The deposit may be calculated using an actual sales method of at least 90% of sales tax collections for all TPP between the 1st and 15th of the current month or an estimated sales method of at least 75% of net remittances in the same month of the preceding year (all TPP). Any over or under payments will be adjusted in the next month's payment. An penalty for non-compliance of 10% of the difference between the deposit and the actual sales tax liability may be assessed. No refunds or credits will be allowed until a return for actual sales taxes collected is filed. The bill does not apply to any governmental entities. Effective upon governor's signature.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total						

EXPENDITURE EXPLANATION

The bill is effective upon signature, which means it could initiate in the middle of a month, which may complicate implementation. Given the additional implementation issues explained in the revenue section, the department indicates that any expenditures related to the administration of the bill are expected to result in immaterial collections for reasons stipulated in the revenue explanation below.

REVENUE EXPLANATION

The impact of the bill is limited to tobacco and alcohol dealers. Currently, alcohol and tobacco sales tax is remitted by retailers. However, under this bill, certain wholesalers will be required to remit a deposit based on sales tax liabilities of the wholesaler. The bill does not stipulate that sales tax is collected in advance from the retailer and in fact retains current law that prohibits this practice. The criteria in the bill stipulating which wholesalers will be required to send in a sales tax deposit is based on all sales tax liabilities between April, 2015 and March, 2016 - a time during which retailers, not wholesalers, were remitting sales tax. Thus, presumably only wholesalers with sales tax liabilities averaging at least \$20,000 per month as a result of all retail activities, including those other than tobacco and alcohol, will be required to pay the deposit. Any wholesalers who deal solely in alcohol and/or tobacco products do not appear to qualify to pay the deposit under this criteria because they would have little to no sales and use tax liability during the qualifying period. Further, there would be no way in the future for these wholesalers to qualify since the dates during which the \$20,000 averaging occurs are fixed. For this reason, it is difficult to determine whether any wholesalers would be required to pay a sales tax deposit.

Assuming that some wholesalers qualify to pay the deposit, these dealers will be required to remit monthly at least 90% of anticipated sales taxes collected between the 1st and 15th of each month (beginning in April 2016 per the bill but assumed to be July as a likely first month after signature) or an estimated sales method of 75% of the same month in the prior year's liabilities. Under this bill, the state will receive an extra partial month of remittances as a deposit in July (assuming that any wholesale dealers qualify). The bill will cause the state to collect this deposited amount a month earlier than current law (in July instead of August) without a corresponding immediate credit or refund, as stipulated in the bill by stating that credits or refunds may only be issued after actual remittances are filed in the following month. It is not clear how retailers will calculate sales tax liabilities since wholesalers are prohibited from collecting an advance sales tax from the retailer, though the wholesaler is paying a portion of sales tax due. It appears that the wholesalers' deposit will be in addition to the full sales tax remitted at the retail level since no coordination of payments between wholesalers and retailers is considered in the bill.

The note does not include an impact from penalties for non-compliance, though permissive in the bill.

If the deposit amount is based on remittances after the vendor compensation reduction, estimated effects will be somewhat smaller. It is not clear whether wholesalers required to pay a deposit for sales taxes they do not collect from the retailer will qualify for vendor's compensation.

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| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} | |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | |

Gregory V. Albrecht
Chief Economist