

2017 Regular Session

HOUSE BILL NO. 63

BY REPRESENTATIVE LANCE HARRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES-USE, STATE: Requires the advanced collection of state sales and use tax

1 AN ACT

2 To amend and reenact R.S. 47:306(A)(7) and to enact R.S. 47:306(B), relative to collection

3 of advance sales tax; to require the collection of advance sales tax by wholesale

4 dealers of tobacco and alcoholic beverage products; to provide for the disposition of

5 the tax; to authorize the secretary of the Department of Revenue to promulgate rules;

6 to provide for exemptions; to provide for requirements and limitations; to authorize

7 certain deductions; to provide for an effective date; and to provide for related

8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:306(A)(7) is hereby amended and reenacted and R.S. 47:306(B)

11 is hereby enacted to read as follows:

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

13 A.

14 * * *

15 (7) ~~The~~ Except as provided for in Subsection B of this Section, the state, and

16 any parish, municipality, school board, and any other tax authority which levies a

17 sales and use tax is hereby prohibited from requiring manufacturers, wholesalers,

18 jobbers, suppliers, or any other taxpayer to collect such sales tax in advance from

19 dealers to whom they sell for the purpose of resale.

1 B. Collection by wholesalers. (1)(a) Notwithstanding the provisions of
2 Subsection A of this Section or any other provision of this Chapter to the contrary,
3 every wholesale dealer who sells for resale to any person any tobacco or alcoholic
4 beverage products, the retail sale of which is taxable under this Chapter, shall collect
5 as advance sales tax a percent of the sales price of the article equal to the sales tax
6 levied on the article by this Chapter.

7 (b) For purposes of this Subsection, wholesaler shall mean any wholesale
8 dealer of tobacco products as defined in R.S. 47:842(23) or any wholesale dealer of
9 alcoholic beverage products as defined in R.S. 26:2(22) or 241(19).

10 (c) The secretary of the Department of Revenue shall promulgate rules and
11 regulations necessary to implement the provisions of this Subsection.

12 (2)(a) The amount paid by dealers to wholesalers shall be advance payment
13 of the Louisiana sales tax that the dealer is required to collect upon the sale at retail,
14 and the advance payment is required only as a means of facilitating collection of the
15 sales tax.

16 (b) Wholesalers who collect advance sales tax from a dealer pursuant to this
17 Paragraph shall remit the tax to the collector of revenue in the manner provided in
18 Subsection A of this Section for dealers and in accordance with the rules and
19 regulations prescribed by the collector.

20 (3) In making returns to the collector, dealers who have paid advance sales
21 tax shall deduct from the total tax collected upon the retail sale of the tobacco or
22 alcoholic beverage products the amount of advance sales tax paid by the dealer
23 during the reporting period, provided the dealer claiming the refund or credit has
24 retained the invoices evidencing the amount of tax paid. If the amount of advance
25 sales tax paid during any reporting period is greater than the tax collected by the
26 dealer for the reporting period, the excess amount paid shall be allowed as a refund
27 or credit against the tax collected by the dealer during the succeeding period or
28 periods.

1 (4) Wholesalers who collect advance sales taxes as provided for in this
 2 Subsection shall be allowed a deduction from the amount of advance sales tax
 3 collected and remitted to the secretary in the amount provided for in Subparagraph
 4 (A)(3)(a) of this Section as compensation for the collection. This compensation shall
 5 be allowed only if the payment of the wholesaler is timely paid and the return is
 6 timely filed.

7 (5) Parishes, municipalities, school boards, and other local governing
 8 authorities that levy a sales tax are prohibited from requiring wholesalers to collect
 9 advance local sales taxes from dealers.

10 (6) Absorption of the tax as defined in this Section by any wholesaler shall
 11 constitute a misdemeanor and, upon conviction, shall be punishable by a fine of not
 12 more than two thousand dollars, or by imprisonment in the parish jail for not more
 13 than two years, or both.

14 Section 2. This Act shall become effective on October 1, 2017.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 63 Engrossed

2017 Regular Session

Lance Harris

Abstract: Requires advance payment of sales tax to be collected and remitted by certain tobacco and alcoholic beverage wholesalers and authorizes compensation for those wholesalers collecting advance sales tax.

Present law provides for returns and monthly or quarterly payment of sales tax by dealers. Further requires certain reporting relative to sales by dealers. Authorizes a vendor's compensation of 0.935% of the sales tax remitted by a dealer for timely remitting the sales tax. Requires registration by certain nonresident contractors. Provides for payment of the tax by a licensed vehicle dealer.

Proposed law retains present law and requires collection of advance sales tax by wholesale dealers of tobacco products and alcoholic beverage products as defined in present law.

Proposed law requires the advance payment amount collected by the wholesaler from the dealer to be the same amount the dealer would be required to collect upon the sale of the item.

Proposed law authorizes dealers to deduct out of the sales tax collected upon the retail sale of an item that amount of advance sales tax paid by the dealer to the wholesaler for the item.

Proposed law authorizes wholesalers collecting advance sales tax to deduct 0.935% from the amount collected and remitted as compensation for the collection.

Proposed law prohibits local governing bodies from requiring advance sales tax collection.

Proposed law prohibits absorption of the tax by any wholesaler. Proposed law establishes a misdemeanor crime for absorption, punishable by a fine of not more than \$2,000, not more than two years in parish jail, or both.

Proposed law authorizes the secretary to promulgate rules to administer advance sales tax implementation.

Effective Oct. 1, 2017.

(Amends R.S. 47:306(A)(7); Adds R.S. 47:306(B))

Summary of Amendments Adopted by House

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

1. Limit application of proposed law to wholesale dealers of tobacco and alcoholic beverage products.
2. Remove the optional exemption from payment of advance sales tax by dealers.
3. Change effective date from upon signature of governor to Oct. 1, 2017.