

SENATE COMMITTEE AMENDMENTS

2020 Regular Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Original Senate Bill No. 138 by Senator Allain

1 AMENDMENT NO. 1

2 On page 1, line 2, delete "R.S. 47:339(B)(7)" and insert "R.S. 47:302(V)(2) and 339(B)(7)"

3 AMENDMENT NO. 2

4 On page 1, line 3, delete "R.S. 47:302(V)(2)" and insert "R.S. 47:301(4)(1)"

5 AMENDMENT NO. 3

6 On page 1, line 10, delete "R.S. 47:339(B)(7) is hereby" and insert "R.S. 47:302(V)(2) and
7 339(B)(7) are hereby"

8 AMENDMENT NO. 4

9 On page 1, between lines 11 and 12, insert:

10	"§302. Imposition of tax			
11		*	*	*
12	V.	*	*	*

13 (2) A dealer, as defined in and for the purposes of this Subsection, shall file
 14 all applicable sales and use tax returns and remittances through the electronic filing
 15 options available for such purposes. ~~Further, such dealer shall specifically collect the~~
 16 ~~tax authorized by Paragraph (K)(5) of this Section. **If neither the dealer nor any of**~~
 17 ~~**its affiliates as defined in R.S. 47:340.1, meet the economic nexus thresholds set**~~
 18 ~~**forth in R.S. 47:301(4)(m)(i)(aa) or (bb), the dealer may collect the tax**~~
 19 ~~**authorized by Paragraph (K)(5) of this Section. If either the dealer or any of its**~~
 20 ~~**affiliates as defined in R.S. 47:340.1 meet the economic nexus thresholds set**~~
 21 ~~**forth in R.S. 47:301(4)(m)(i)(aa) or (bb), the dealer shall collect state and local**~~
 22 ~~**sales and use tax on remote sales for delivery into the state and remit to the**~~
 23 ~~**Louisiana Sales and Use Tax Commission for Remote Sellers.**~~
 24 * * *

25 AMENDMENT NO. 5

26 On page 2, line 2, delete "taxable"

27 AMENDMENT NO. 6

28 On page 2, line 20, delete "taxable"

29 AMENDMENT NO. 7

30 On page 2, line 28, delete "Part IV of Chapter 18 of"

31 AMENDMENT NO. 8

32 On page 3, line 1, at the end of the line, insert:

33 **"The commission shall collect interest and penalties on delinquent taxes and**
 34 **distribute such collections to the state or local collector in the same manner as**
 35 **provided by Subsection E. For purposes of Paragraph (E)(3), "state and local**

1 sales and use tax collected on remote sales" shall include interest and penalties
2 collected on delinquent taxes."

3 AMENDMENT NO. 9

4 On page 3, delete lines 2 through 11, and insert:

5 "(d) Vendor's compensation shall be allowed as a deduction against tax
6 due if the return is filed timely on or before the twentieth of the month following
7 the month of collection and all tax shown due on the return is remitted on or
8 before the twentieth of the month following the month of collection. The
9 commission shall apply each taxing jurisdiction's specific rate of vendor's
10 compensation as a deduction against tax due and shall reduce the monthly
11 distribution provided for by Paragraph (E)(2) of this Section accordingly."

12 AMENDMENT NO. 10

13 On page 3, between lines 17 and 18, insert:

14 "(1) "Affiliate" means an entity that owns more than five percent of the
15 other entity or both entities are subject to the control of a common entity that
16 owns more than five percent of each of the other entities."

17 AMENDMENT NO. 11

18 On page 3, line 18, delete "(1)" and insert "(2)"

19 AMENDMENT NO. 12

20 On page 3, line 20, delete "(2)" and insert "(3)"

21 AMENDMENT NO. 13

22 On page 3, line 20, delete "method" and insert "physical or electronic platform or forum,
23 owned, operated, or otherwise controlled by the marketplace facilitator"

24 AMENDMENT NO. 14

25 On page 3, line 21, delete ", admissions,"

26 AMENDMENT NO. 15

27 On page 3, line 22, delete "services that are subject to taxation under this Subtitle" and
28 insert "sales of services"

29 AMENDMENT NO. 16

30 On page 3, line 24, delete "(3)" and insert "(4)"

31 AMENDMENT NO. 17

32 On page 3, line 25, after "through a marketplace" insert ", owned, operated, or otherwise
33 controlled by the person,"

34 AMENDMENT NO. 18

35 On page 3, lines 27 and 28, delete ", admissions, or services that are subject to taxation
36 under this Subtitle" and insert "or sales of services"

1 AMENDMENT NO. 19

2 On page 3, line 29, after "**payment from**" delete "a" and insert "**the**"

3 AMENDMENT NO. 20

4 On page 3, line 29 after "**transmitting**" insert "**all or part of**"

5 AMENDMENT NO. 21

6 On page 4, delete lines 5 through 7, and insert:

7 **"(b) "Marketplace facilitator" shall not include any of the following:**

8 **(i) A payment processor that only handles the processing of payments**
9 **between the marketplace facilitator and the purchaser.**

10 **(ii) A platform or forum that provides advertising services, including**
11 **listing products for sale, so long as the advertising service platform or forum**
12 **does not also engage directly or indirectly through one or more affiliated**
13 **persons in the activities described in Items (A)(4)(a)(i) or (ii) of this Section.**

14 **(iii) A derivatives clearing organization, a designated contract market,**
15 **foreign board of trade or swap execution facility, registered with the**
16 **Commodity Futures Trading Commission (CFTC registered platforms), and**
17 **any clearing members, futures commission merchants, or brokers when using**
18 **the services of CFTC registered platforms.**

19 **(iv) Any person who offers or facilitates the furnishing of sleeping rooms,**
20 **cottages or cabins by hotels or who offers or facilitates the furnishing of rental**
21 **cars by rental car companies."**

22 AMENDMENT NO. 22

23 On page 4, line 8, delete "~~(4)~~" and insert "~~(5)~~"

24 AMENDMENT NO. 23

25 On page 4, lines 9 and 10, delete "**, admissions, or services that are subject to taxation**"
26 **under this Subtitle**" and insert "**or sales of services**"

27 AMENDMENT NO. 24

28 On page 4, line 12, delete "~~(5)~~" and insert "~~(6)~~"

29 AMENDMENT NO. 25

30 On page 4, line 14, delete "~~(6)~~" and insert "~~(7)~~"

31 AMENDMENT NO. 26

32 On page 4, line 19, delete "~~(7)~~" and insert "~~(8)~~"

33 AMENDMENT NO. 27

34 On page 5, line 6, at the end of the line, insert "**For purposes of this Subtitle, a**"
35 **marketplace facilitator shall have the same rights and duties as a remote seller."**

36 AMENDMENT NO. 28

37 On page 5, line 8, delete "**who is a dealer or who**" and insert "**that makes or**"

38 AMENDMENT NO. 29

39 On page 6, line 11, delete "**sales**"

1 AMENDMENT NO. 30

2 On page 6, line 12, delete "**Paragraph (1) of**"

3 AMENDMENT NO. 31

4 On page 6, line 29, and page 7, line 1, delete "**, prepared, and furnished**" and insert "**and**
5 **prepared**"

6 AMENDMENT NO. 32

7 On page 7, line 1, delete "**taxable**"

8 AMENDMENT NO. 33

9 On page 7, line 10, delete "**Part IV of Chapter 18 of**"

10 AMENDMENT NO. 34

11 On page 7, between lines 12 and 13, insert:

12 **"(4) As prescribed by regulations of the commission, a marketplace**
13 **facilitator may either:**

14 **(a) Report the sales and use tax collected, as required by Paragraph**
15 **(C)(1) of this Section, on all taxable remote sales for delivery into Louisiana that**
16 **the marketplace facilitator facilitates on behalf of a marketplace seller**
17 **separately from all sales and use tax collected, as required by Paragraph (C)(1)**
18 **of this Section, on taxable remote sales for delivery into Louisiana that the**
19 **marketplace facilitator transacts on its own behalf or on behalf of an affiliate,**
20 **as described in Paragraph (E)(2)(b) of this Section, of the marketplace**
21 **facilitator using a separate marketplace facilitator form prescribed and**
22 **prepared by the commission.**

23 **(b) Report all of the sales and use tax collected, as required by**
24 **Paragraph (C)(1) of this Section, on a combined basis and on a form prescribed**
25 **and prepared by the commission."**

26 AMENDMENT NO. 35

27 On page 7, line 13, delete "**(4)**" and insert "**(5)**"

28 AMENDMENT NO. 36

29 On page 7, line 13, delete "**or entity**"

30 AMENDMENT NO. 37

31 On page 7, line 14, between "**for**" and "**sales**" insert "**remote**"

32 AMENDMENT NO. 38

33 On page 7, line 15, between "**for**" and "**sales**" insert "**remote**"

34 AMENDMENT NO. 39

35 On page 7, line 18, delete "**(5)**" and insert "**(6)**"

36 AMENDMENT NO. 40

37 On page 7, line 19, before "**maintained**" insert "**brought or**"

1 AMENDMENT NO. 41

2 On page 7, line 19, after "**facilitator**" insert "**in the Louisiana Board of Tax Appeals or**
3 **in any state or federal court**"

4 AMENDMENT NO. 42

5 On page 7, delete lines 25 and 26, and insert:

6 "Section 2. R.S. 47:301(4)(l) is hereby repealed.

7 Section 3. This Act shall become effective on July 1, 2020."