

2020 Second Extraordinary Session

HOUSE BILL NO. 26

BY REPRESENTATIVES SCHEXNAYDER, ADAMS, BACALA, BISHOP, BOURRIAQUE, BROWN, BRYANT, CARRIER, GARY CARTER, COUSSAN, COX, CREWS, DESHOTEL, DUPLESSIS, EDMONDS, EMERSON, FIRMENT, FREEMAN, GAINES, HUGHES, JAMES, JEFFERSON, MIKE JOHNSON, TRAVIS JOHNSON, JORDAN, LACOMBE, LYONS, MCCORMICK, DUSTIN MILLER, NEWELL, ORGERON, PIERRE, ROMERO, SELDERS, STEFANSKI, THOMPSON, WHITE, AND WILLARD

TAX/SALES-USE-EXEMPT: Establishes a sales tax holiday to provide relief for recovery as a result of Hurricane Laura and the COVID-19 pandemic (Item #26)

1 AN ACT

2 To enact R.S. 47:302(BB)(113), 305.74, 321(P)(114), 321.1(I)(114), and 331(V)(114),
3 relative to sales and use tax; to establish a sales and use tax holiday for certain
4 purchases; to provide for requirements and limitations; to provide for the
5 effectiveness of the sales and use tax holiday; to provide for an effective date; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:302(BB)(113), 305.74, 321(P)(114), 321.1(I)(114), and
9 331(V)(114) are hereby enacted to read as follows:

10 §302. Imposition of tax

11 * * *

12 BB. Notwithstanding any other provision of law to the contrary, including
13 but not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
14 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
15 levied pursuant to the provisions of this Section, except for the retail sale, use,
16 consumption, distribution, or storage for use or consumption of the following:

17 * * *

1 (113) Purchases of tangible personal property pursuant to the sales tax
2 holiday as provided in R.S. 47:305.74.

3 * * *

4 §305.74. Exemption; sales tax holiday; November 20th and 21st, 2020; Hurricane
5 Laura and the COVID-19 pandemic

6 A.(1) Notwithstanding any other provision of law to the contrary, the sales
7 and use tax levied by the state of Louisiana shall not apply to the first two thousand
8 five hundred dollars of the sales price or cost price of any consumer purchases of
9 tangible personal property that occur on Friday, November 20, 2020, and Saturday,
10 November 21, 2020, in order to provide tax relief for citizens recovering from
11 Hurricane Laura and the COVID-19 pandemic.

12 (2) For purposes of this Section, "consumer purchases" shall mean purchases
13 of items of tangible personal property other than vehicles subject to license and title.

14 Consumer purchases shall not include the purchase of meals furnished for
15 consumption on the premises where purchased, including to-go orders.

16 B. This Section shall apply if and only if during the eligible tax exemption
17 period one of the following occurs:

18 (1) Title to or possession of an item of tangible personal property is
19 transferred from a selling dealer to a purchaser.

20 (2) A customer selects an eligible item from the selling dealer's inventory for
21 layaway that is physically set aside in the selling dealer's inventory for future
22 delivery to that customer.

23 (3) The customer makes final payment and withdraws an item from layaway
24 that might have been placed in layaway before the eligible tax exemption period.

25 (4) The customer orders and pays for an eligible item and the selling dealer
26 accepts the order for immediate shipment, even if delivery is made after the eligible
27 tax exemption period, provided that the customer has not requested delayed
28 shipment.

1 C. Eligible items that customers purchase during the eligible tax exemption
2 period with "rain checks" shall qualify for exemption, regardless of when the "rain
3 checks" are issued. However, issuance of "rain checks" during the exemption period
4 shall not qualify items for exemption if the otherwise eligible items are actually
5 purchased after conclusion of the eligible tax exemption period.

6 D.(1) When a customer purchases an eligible item during the eligible tax
7 exemption period and exchanges the item without additional cash consideration after
8 conclusion of the eligible tax exemption period for an essentially identical item of
9 different size, color, or other feature, no additional tax is due.

10 (2) When a customer, after conclusion of the eligible tax exemption period
11 returns an eligible item that was purchased during the eligible tax exemption period
12 and receives credit on the purchase of a different item, the appropriate sales tax is
13 due on the purchase of the new item.

14 E. For a sixty-day period after conclusion of the eligible tax exemption
15 period, when a customer returns an item that would qualify for an exemption, no
16 credit or refunds of sales tax shall be given unless the customer provides a receipt or
17 invoice that shows that the state sales tax was paid or the retailer has sufficient
18 documentation that shows that the tax was paid on the specific item. This sixty-day
19 period is not intended to change a dealer's policy concerning the time period during
20 which returns will be accepted.

21 * * *

22 §321. Imposition of tax

23 * * *

24 P. Notwithstanding any other provision of law to the contrary, including but
25 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
26 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
27 levied pursuant to the provisions of this Section, except for the retail sale, use,
28 consumption, distribution, or storage for use or consumption of the following:

29 * * *

1 (114) Purchases of tangible personal property pursuant to the sales tax

2 holiday as provided in R.S. 47:305.74.

3 * * *

4 §321.1. Imposition of tax

5 * * *

6 I. Notwithstanding any other provision of law to the contrary, including but
7 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
8 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
9 levied pursuant to the provisions of this Section, except for the retail sale, use,
10 consumption, distribution, or storage for use or consumption of the following:

11 * * *

12 (114) Purchases of tangible personal property pursuant to the sales tax

13 holiday as provided in R.S. 47:305.74.

14 * * *

15 §331. Imposition of tax

16 * * *

17 V. Notwithstanding any other provision of law to the contrary, including but
18 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
19 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
20 levied pursuant to the provisions of this Section, except for the retail sale, use,
21 consumption, distribution, or storage for use or consumption of the following:

22 * * *

23 (114) Purchases of tangible personal property pursuant to the sales tax

24 holiday as provided in R.S. 47:305.74.

25 * * *

26 Section 2. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 2 effective on the day following such approval.

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 26 Reengrossed

2020 Second Extraordinary Session

Schexnayder

Abstract: Provides for a state sales tax holiday on the first \$2,500 of the sales price of consumer purchases of tangible personal property that occur on Friday, Nov. 20, 2020, and Saturday, Nov. 21, 2020, in order to provide tax relief from Hurricane Laura and the COVID-19 pandemic.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies in the following amounts:

- R.S. 47:302 - 2%
- R.S. 47:321 - 1%
- R.S. 47:321.1 - .45%
- R.S. 47:331 - .97%
- R.S. 51:1286 - .03%

Proposed law authorizes a state sales and use tax exemption (sales tax holiday) on the first \$2,500 of the sales price of any consumer purchases of tangible personal property that occur on Friday, Nov. 20, 2020, and Saturday, Nov. 21, 2020, in order to provide tax relief for citizens recovering from Hurricane Laura and the COVID-19 pandemic.

Proposed law defines "consumer purchases" as purchases of items of tangible personal property other than vehicles subject to license and title but excludes purchases of meals furnished for consumption on the premises where purchased, including to-go orders.

Proposed law sets forth requirements for sales in order for the exemption to apply and terms and conditions for "rain checks", items bought on "layaway", and returns.

Present law suspends numerous exemptions from the four levies of state sales and use tax (R.S. 47:302, 321, 321.1, and 331) through June 30, 2025; however, some exemptions are specifically given effectiveness.

Proposed law changes present law by adding the sales and use tax holiday in proposed law to the list of exemptions that are effective through June 30, 2025.

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

(Adds R.S. 47:302(BB)(113), 305.74, 321(P)(114), 321.1(I)(114), and 331(V)(114))

Summary of Amendments Adopted by House

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

1. Delete authorization for the governing authority of a political subdivision to establish a local sales tax holiday during the same time period as the state sales tax holiday.