

2021 Regular Session

HOUSE BILL NO. 434

BY REPRESENTATIVE NELSON

TAX: Levies taxes on sales of cannabis and provides for the use of the avails of the taxes

1 AN ACT
2 To amend and reenact the heading of Part I of Chapter 3 of Subtitle IV of Title 47 of the
3 Louisiana Revised Statutes of 1950, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604,
4 2607(A) and (C), and 2610, to enact Chapter 20 of Subtitle II of Title 47 of the
5 Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:1699.1 through
6 1699.5, and to repeal R.S. 47:2602(3), relative to cannabis; to levy taxes on the retail
7 sale of cannabis; to provide for the rate of the taxes; to provide for the use of the
8 avails of the taxes; to provide for definitions; to provide for the authority of the
9 secretary of the Department of Revenue; to repeal the marijuana tax levied on certain
10 dealers; to repeal requirements for the purchase of marijuana tax stamps; to provide
11 for effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. The heading of Part I of Chapter 3 of Subtitle IV of Title 47 of the
14 Louisiana Revised Statutes of 1950, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 2607(A)
15 and (C), and 2610 are hereby amended and reenacted and Chapter 20 of Subtitle II of Title
16 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:1699.1 through 1699.5,
17 is hereby enacted to read as follows:

1 CHAPTER 20. CANNABIS TAX AND LICENSE FEES

2 §1691.1. Definitions

3 A. The following terms as used in this Chapter shall have the meaning
4 ascribed to them in this Subsection unless the context clearly indicates otherwise:

5 (1) "Cannabis retail sale" means the sale of a cannabis product by a retailer
6 to a consumer and shall include all transactions as the secretary of the Department
7 of Revenue, upon investigation, finds to be in lieu of sales.

8 (2) "Cannabis wholesale sale" means the sale of cannabis by a commercial
9 grower licensee to a retailer or the sale of a cannabis product by a cannabis processor
10 licensee to a retailer.

11 B. The terms used in this Chapter shall have the meanings ascribed to them
12 in R.S. 26:941 unless the context clearly indicates otherwise.

13 §1699.2. Imposition of tax

14 A. There is hereby levied a tax upon each cannabis retail sale. The tax shall
15 be at the rate of fifteen percent of the cannabis retail sales price. The tax shall be
16 levied in addition to state and local sales and use tax or any other tax and shall be
17 reported monthly by the retailer on forms prescribed by the secretary and paid by the
18 retailer on or before the twentieth day of the month following the month to which the
19 tax is applicable.

20 B. The provisions of this Section shall not apply to any product subject to tax
21 pursuant to R.S. 47:1693 or subject to a fee pursuant to R.S. 40:1046.

22 §1699.3. Enforcement

23 The secretary of the Department of Revenue shall collect, supervise, and
24 enforce the collection of all taxes, penalties, interest, and other charges that may be
25 due under the provisions of this Chapter in the same manner provided for by law
26 under the provisions of this Subtitle.

1 §2604. Authority to issue rules and regulations

2 The secretary is hereby authorized to issue rules and regulations not in
3 conflict herewith in order to make effective the provisions of this Part. The secretary
4 shall adopt a uniform system of providing, affixing, and displaying official stamps
5 for ~~marijuana~~ and controlled dangerous substances on which a tax is imposed.

6 * * *

7 §2607. Penalties

8 A. No dealer may possess any ~~marijuana~~ or controlled dangerous substance
9 upon which a tax is imposed by this Part. In addition to any other criminal penalties,
10 if a dealer possesses any ~~marijuana~~ or controlled dangerous substance upon which
11 the tax has not been paid as evidenced by a stamp, such dealer shall be subject to the
12 additional penalties contained in this Part.

13 * * *

14 C. In addition to the tax penalty imposed, a dealer distributing or possessing
15 ~~marijuana~~ or controlled dangerous substances without affixing the appropriate
16 stamps is guilty of a crime and, upon conviction, may be sentenced to imprisonment
17 for not more than five years or receive a penalty of not more than ten thousand
18 dollars, or both.

19 * * *

20 §2610. Exceptions

21 Nothing in this Part requires persons lawfully in possession of ~~marijuana~~ or
22 a controlled dangerous substance to pay the tax required under this Part.

23 Section 2. R.S. 47:2602(3) is hereby repealed in its entirety.

24 Section 3. This Act shall become effective if and when the Act which originated as
25 House Bill No. 699 of this 2021 Regular Session of the Legislature is enacted and becomes
26 effective.

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 434 Engrossed

2021 Regular Session

Nelson

Abstract: Levies a tax on cannabis, dedicates the avails of the tax, and repeals the marijuana tax levied on certain dealers.

Proposed law levies a 15% tax upon each cannabis retail sale. Defines "cannabis retail sale" as the sale of a cannabis product by a retailer to a consumer. Provides that the tax is levied in addition to state and local sales and use tax or any other tax and shall be reported and paid by the retailer.

Proposed law provides that it does not apply to any product subject to tax pursuant to present law (R.S. 47:1693) or subject to a fee pursuant to present law (R.S. 40:1046).

Proposed law provides that 20% of the taxes levied pursuant proposed law shall be remitted to the municipality in which the sale occurred to be used for law enforcement in the municipality. However, provides that if the sale did not take place in a municipality, 20% of the taxes levied pursuant to proposed law shall instead be remitted to the sheriff for the parish in which the sale occurred to be used for law enforcement in the parish.

Proposed law provides that 30% of the taxes levied pursuant to proposed law shall be remitted to the municipality in which the sale occurred. However, provides that if the sale did not take place in a municipality, 30% of the taxes levied pursuant to proposed law shall instead be remitted to the parish in which the sale occurred.

Proposed law provides that the remaining 50% of the taxes levied pursuant to proposed law shall be paid into the state treasury and, after compliance with the requirements of present constitution (Art. VII, §9(B)) relative to the Bond Security and Redemption Fund, shall be credited to the state general fund.

Proposed law provides for definitions.

Present law provides for the imposition of a tax on marijuana to be paid by marijuana dealers at the rate of \$3.50 per gram. In order to enforce the tax, marijuana dealers must purchase tax stamps from the Dept. of Revenue and affix the stamp to the marijuana container or package to evidence that the tax has been paid.

Proposed law repeals the imposition of the tax on marijuana and all provisions relative to the tax stamp.

Effective if and when House Bill No. 699 of this 2021 R.S. is enacted and becomes effective.

(Amends the heading of Part I of Chapter 3 of Subtitle IV of Title 47, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 2607(A) and (C), and 2610; Adds R.S. 47:1699.1-1699.5; Repeals R.S. 47:2602(3))

Summary of Amendments Adopted by House

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

1. Remove provisions related to the wholesale tax on cannabis.
2. Change the tax rate on the retail sale of cannabis from 10% to 15%.
3. Make technical changes.