

2023 Regular Session

HOUSE BILL NO. 612

BY REPRESENTATIVE NEWELL

TAX: Levies taxes on sales of cannabis and dedicates revenues derived from those taxes

1 AN ACT

2 To enact Subpart Z of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 39:100.211, Subpart AA of Part
4 II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950,
5 to be comprised of R.S. 39:100.221, and Chapter 20 of Subtitle II of Title 47 of the
6 Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:1699.1 through
7 1699.5, relative to taxes on sales of cannabis; to levy taxes on retail sales and
8 wholesale sales of cannabis; to provide for the rate of such taxes; to provide for the
9 use of the avails of such taxes; to create the State Police Operations Fund as a special
10 fund in the state treasury and to provide for uses of monies in the fund; to create the
11 Cannabis Tax-Supported Local Assistance Fund as a special fund in the state
12 treasury and to provide for uses of monies in the fund; to provide for definitions; to
13 provide relative to the authority and duties of the secretary of the Department of
14 Revenue; to authorize promulgation of administrative rules; to provide for
15 effectiveness; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. Subpart Z of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
18 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.211, and Subpart AA of Part
19 II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950,
20 comprised of R.S. 39:100.221, are hereby enacted to read as follows:

1 SUBPART Z. STATE POLICE OPERATIONS FUND

2 §100.211. State Police Operations Fund

3 A. There is hereby created, as a special fund in the state treasury, the State
4 Police Operations Fund, referred to hereafter in this Subpart as the "fund".

5 B. Subject to appropriation by the legislature, monies in the fund shall be
6 used solely for operating expenses of the office of state police of the Department of
7 Public Safety and Corrections.

8 C. After compliance with the requirements of Article VII, Section 9(B) of
9 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
10 and prior to placing monies into the state general fund, the state treasurer shall pay
11 into the fund, as provided in R.S. 47:1699.4(C), an amount equal to ten percent of
12 the monies received by the state treasury from the avails of the taxes on cannabis
13 sales levied pursuant to Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised
14 Statutes of 1950.

15 D. Monies in the fund shall be invested in the same manner as monies in the
16 state general fund, and interest earned on such investment shall be deposited into the
17 fund. Unexpended and unencumbered monies in the fund at the end of each fiscal
18 year shall remain in the fund.

19 SUBPART AA. CANNABIS TAX-SUPPORTED LOCAL ASSISTANCE FUND

20 §100.221. Cannabis Tax-Supported Local Assistance Fund

21 A. There is hereby created, as a special fund in the state treasury, the
22 Cannabis Tax-Supported Local Assistance Fund, referred to hereafter in this Subpart
23 as the "fund". Subject to appropriation by the legislature, monies in the fund shall
24 be used solely as provided for in this Subpart.

25 B. After compliance with the requirements of Article VII, Section 9(B) of
26 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
27 and prior to placing monies into the state general fund, the state treasurer shall pay
28 into the fund, as provided in R.S. 47:1699.4(A), an amount equal to forty percent of
29 the monies received by the state treasury from the avails of the taxes on cannabis

1 sales levied pursuant to Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised
2 Statutes of 1950.

3 C. Monies in the fund shall be invested in the same manner as monies in the
4 state general fund, and interest earned on such investment shall be deposited into the
5 fund. Unexpended and unencumbered monies in the fund at the end of each fiscal
6 year shall remain in the fund.

7 D. Monies in the fund shall only be withdrawn pursuant to appropriation by
8 the legislature and shall be distributed as follows:

9 (1)(a) Fifty percent shall be distributed in accordance with the requirements
10 of this Paragraph to the municipalities or parishes in which cannabis retail sales and
11 cannabis wholesale sales, as defined in R.S. 47:1699.1, occurred.

12 (b) Monies remitted to municipalities as required by this Paragraph shall be
13 distributed in amounts proportional to the monetary value of cannabis sales that
14 occurred in those municipalities, respectively. Each municipality that receives
15 monies pursuant to this Paragraph shall use such monies for law enforcement
16 purposes.

17 (c) With respect to sales of cannabis that did not occur in a municipality,
18 monies to be remitted pursuant to this Paragraph shall be distributed to the sheriffs
19 of the parishes in which the cannabis sales occurred in amounts proportional to the
20 monetary value of cannabis sales that occurred in those parishes, respectively. Each
21 sheriff that receives monies pursuant to this Paragraph shall use such monies for law
22 enforcement purposes.

23 (2)(a)(i) Except as provided in Subparagraph (b) of this Paragraph, twelve
24 and one-half percent shall be distributed on a pro rata basis to the sheriffs of each of
25 the parishes that do not include a cannabis retailer, to be used for law enforcement
26 purposes in those parishes. In Orleans Parish, the amount shall be divided equally
27 between and remitted to the sheriff and the New Orleans Police Department.

28 (ii)(aa) Once a cannabis retailer permit is granted in a parish, the pro rata
29 portion that the parish would have received pursuant to Item (i) of this Subparagraph

1 shall instead be remitted as provided in Subitem (bb) of this Item, and the portion
2 remitted pursuant to Item (i) of this Subparagraph shall be reduced.

3 (bb) Once a cannabis retailer permit is granted in a parish, of the pro rata
4 portion that the parish would have received pursuant to Item (i) of this Subparagraph,
5 one half shall be deposited into the state general fund and one half shall be deposited
6 into the Louisiana Early Childhood Education Fund created pursuant to R.S.
7 17:407.30 after compliance with the requirements of Article VII, Section 9(B) of the
8 Constitution of Louisiana relative to the Bond Security and Redemption Fund.

9 (b) When the commissioner of alcohol and tobacco control has issued a
10 cannabis retailer permit in every parish of the state and thereafter, amounts shall not
11 be distributed as provided in Subparagraph (a) of this Paragraph, but shall instead be
12 distributed as follows:

13 (i) Six and twenty-five hundredths percent shall be deposited into the state
14 general fund.

15 (ii) Six and twenty-five hundredths percent shall be deposited into the
16 Louisiana Early Childhood Education Fund created pursuant to R.S. 17:407.30 after
17 compliance with the requirements of Article VII, Section 9(B) of the Constitution of
18 Louisiana relative to the Bond Security and Redemption Fund.

19 (3) Thirty seven and one-half percent shall be distributed equally among and
20 remitted to the district attorneys' offices of this state.

21 Section 2. Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
22 1950, comprised of R.S. 47:1699.1 through 1699.5, is hereby enacted to read as follows:

23 CHAPTER 20. CANNABIS TAX

24 §1699.1. Definitions

25 As used in this Chapter, the following terms shall have the meanings ascribed
26 to them in this Section unless the context clearly indicates otherwise:

27 (1) "Cannabis" shall have the same meaning as provided in R.S. 26:941.

28 (2) "Cannabis retail sale" means the sale of a cannabis product by a cannabis
29 retailer to a consumer and, in addition to such sales, shall include all transactions as

1 the secretary of the Department of Revenue, after investigation, finds to be in lieu
2 of sales.

3 (3) "Cannabis retailer" shall have the same meaning as provided in R.S.
4 26:941.

5 (4) "Cannabis wholesale sale" means the sale of cannabis by a production
6 facility to a cannabis retailer.

7 (5) "Production facility" shall have the same meaning as provided in R.S.
8 26:941.

9 §1699.2. Imposition of tax

10 A. There is hereby levied a tax upon each cannabis retail sale. The tax shall
11 be at the rate of ten percent of the cannabis retail sale price. The tax shall be levied
12 in addition to state and local sales and use taxes and any other applicable tax. The
13 cannabis retailer shall report the tax monthly on forms prescribed by the secretary
14 of the Department of Revenue and shall pay the tax on or before the twentieth day
15 of the month following the month to which the tax is applicable.

16 B. There is hereby levied a tax upon each cannabis wholesale sale. The tax
17 shall be at the rate of five percent of the cannabis wholesale sale price. The
18 production facility shall report the tax monthly on forms prescribed by the secretary
19 of the Department of Revenue and shall pay the tax on or before the twentieth day
20 of the month following the month to which the tax is applicable.

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

23 §1699.3. Enforcement

24 The secretary of the Department of Revenue shall collect, supervise, and
25 enforce the collection of all taxes, penalties, interest, and other charges that may be
26 due pursuant to the provisions of this Chapter in accordance with procedures for tax
27 collection and administration established for the department by the provisions of this
28 Subtitle.

1 §1699.4. Disposition of collections

2 A. The Department of Revenue shall transfer the amount of forty percent of
3 the taxes levied pursuant to this Chapter to the state treasury for deposit into the
4 Cannabis Tax-Supported Local Assistance Fund created pursuant to R.S. 39:100.221
5 after compliance with the requirements of Article VII, Section 9(B) of the
6 Constitution of Louisiana relative to the Bond Security and Redemption Fund.

7 B. The Department of Revenue shall transfer the amount of ten percent of
8 the taxes levied pursuant to this Chapter to the state treasury for deposit into the
9 Louisiana Early Childhood Education Fund created pursuant to R.S. 17:407.30 after
10 compliance with the requirements of Article VII, Section 9(B) of the Constitution of
11 Louisiana relative to the Bond Security and Redemption Fund.

12 C. The Department of Revenue shall transfer the amount of ten percent of
13 the taxes levied pursuant to this Chapter to the state treasury for deposit into the State
14 Police Operations Fund created pursuant to R.S. 39:100.211 after compliance with
15 the requirements of Article VII, Section 9(B) of the Constitution of Louisiana
16 relative to the Bond Security and Redemption Fund.

17 D. The Department of Revenue shall transfer the amount of fifteen percent
18 of the taxes levied pursuant to this Chapter to the state treasury for deposit into the
19 state general fund after compliance with the requirements of Article VII, Section
20 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption
21 Fund.

22 E. The Department of Revenue shall transfer the amount of fifteen percent
23 of the taxes levied pursuant to this Chapter to the state treasury for deposit into the
24 Transportation Trust Fund created pursuant to Article VII, Section 27 of the
25 Constitution of Louisiana after compliance with the requirements of Article VII,
26 Section 9(B) of the Constitution of Louisiana relative to the Bond Security and
27 Redemption Fund.

1 F. The Department of Revenue shall transfer the amount of ten percent of the
2 taxes levied pursuant to this Chapter to the state treasury to be used to fund addiction
3 treatment programs.

4 §1699.5. Administrative rules

5 The secretary of the Department of Revenue may promulgate in accordance
6 with the Administrative Procedure Act all such rules as are necessary for
7 implementation of the provisions of this Chapter.

8 Section 3. This Act shall become effective on January 1, 2024, if the Act which
9 originated as House Bill No. 17 of this 2023 Regular Session of the Legislature is enacted
10 and becomes 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 612 Original

2023 Regular Session

Newell

Abstract: Levies taxes on wholesale and retail sales of cannabis and dedicates the avails of those taxes.

Proposed law levies a 10% tax upon each cannabis retail sale. Defines "cannabis retail sale" as the sale of a cannabis product by a cannabis retailer to a consumer. Provides that the tax shall be levied in addition to any other applicable tax, including state and local sales and use taxes, and shall be reported and paid by the retailer.

Proposed law levies a 5% tax upon each cannabis wholesale sale. Defines "cannabis wholesale sale" as the sale of cannabis by a cannabis production facility to a cannabis retailer. Provides that the tax shall be reported and paid by the production facility.

Proposed law provides that it shall not apply to any of the following:

- (1) Any product subject to taxation pursuant to present law relative to consumable hemp (R.S. 47:1692 et seq.).
- (2) Any product subject to a fee pursuant to present law relative to therapeutic marijuana (R.S. 40:1046(H)(8)).

Proposed law requires the Dept. of Revenue to remit the avails of the taxes collected pursuant to proposed law as follows:

- (1) 40% to the Cannabis Tax-Supported Local Assistance Fund created by proposed law, which monies shall be distributed as follows:
 - (a) 50% (20% of the state's total avails) on a pro rata basis to local governments of the localities in which the sales of cannabis occurred to be used for law enforcement purposes in those localities.

- (b)(i) 12.5% (5% of the state's total avails) on a pro rata basis to the sheriffs of each of the parishes that do not include a cannabis retailer, to be used for law enforcement purposes in the parishes. In Orleans Parish, the amount shall be divided equally between and remitted to the sheriff and the New Orleans Police Department. If a cannabis retailer permit is subsequently granted to a parish, however, then the pro rata portion that the parish would have received shall instead be divided equally among and deposited into the state general fund and the La. Early Childhood Education Fund.
 - (ii) When the commissioner of alcohol and tobacco control has issued a cannabis retailer permit in every parish of the state and thereafter, 6.25% (2.5% of the state's total avails) to the state general fund and 6.25% (2.5% of the state's total avails) to the La. Early Childhood Education Fund.
 - (c) 15% divided equally among and remitted to the district attorneys' offices of the state.
- (2) 10% to the La. Early Childhood Education Fund (in addition to any other amounts to be deposited into the fund in accordance with paragraph (2)(b) above).
 - (3) 10% to the State Police Operations Fund created by proposed law, which monies shall be used exclusively for operating expenses of the office of state police.
 - (4) 15% to the state general fund (in addition to any other amounts to be deposited into the fund in accordance with paragraph (2)(b) above).
 - (5) 15% to the Transportation Trust Fund.
 - (6) 10% to the state treasury to be used to fund addiction treatment programs.

Effective Jan. 1, 2024, contingent upon the enactment and effectiveness of House Bill No. 17 of this 2023 R.S. relative to cannabis production and regulation.

(Adds R.S. 39:100.211 and 100.221 and R.S. 47:1699.1-1699.5)