

2023 Regular Session

HOUSE BILL NO. 127

BY REPRESENTATIVE HUGHES

TAX/STATE: Exempts from state excise and sales taxes certain items given free of charge as samples at conventions, trade shows, and similar events

1 AN ACT

2 To amend and reenact R.S. 47:854(A) and (B) and 855 and to enact R.S. 26:421(F) and R.S.

3 47:302(BB)(119), 305.79, 321(P)(120), 321.1(I)(120), and 331(V)(120), relative to

4 state excise and sales and use taxes; to provide for exemptions from such taxes; to

5 exempt from such taxes the furnishing of alcoholic beverages, products otherwise

6 subject to the state tobacco tax, and other items at no charge as samples at, or in

7 conjunction with, conferences, conventions, expositions, trade shows, and similar

8 events; to provide for limitations on the exemptions; to terminate the exemptions on

9 a certain date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 26:421(F) is hereby enacted to read as follows:

12 §421. Exempt products

13 * * *

14 F.(1)(a) No tax imposed pursuant to the provisions of this Chapter shall

15 apply to the furnishing of an alcoholic beverage at no charge as a sample in a

16 business-to-business exchange at, or in conjunction with, a conference, convention,

17 exposition, trade show, professional or trade association event, business or

18 professional meeting, corporate event, or exhibition of any kind held in this state.

19 (b)(i) For purposes of this Subsection, "business-to-business exchange"

20 means the distribution by a business of free samples in a limited quantity with

1 value to another business as part of a genuine effort to sell or market the product
2 being sampled to that business.

3 (b) For purposes of this Paragraph, "nominal value" means a value which is
4 so small or slight that it is not considered real or substantial in comparison with what
5 might reasonably be expected.

6 B. The exemption provided for in this Section shall terminate on August 1,
7 2033, and shall have no effect on and after that date.

8 * * *

9 §321. Imposition of tax

10 * * *

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

16 * * *

17 (120) Items furnished at no charge as samples at conferences, conventions,
18 expositions, trade shows, or similar events as provided in R.S. 47:305.79.

19 * * *

20 §321.1. Imposition of tax

21 * * *

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

27 * * *

28 (120) Items furnished at no charge as samples at conferences, conventions,
29 expositions, trade shows, or similar events as provided in R.S. 47:305.79.

30 * * *

1 §331. Imposition of tax

2 * * *

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

8 * * *

9 (120) Items furnished at no charge as samples at conferences, conventions,
10 expositions, trade shows, or similar events as provided in R.S. 47:305.79.

11 * * *

12 §854. Declaration of intent and purpose of Chapter

13 A. It is the intent and purpose of this Chapter to levy an excise tax on all
14 cigars, cigarettes, and smoking tobacco, as defined in this Chapter, sold, used,
15 consumed, handled, or distributed in this state, except as provided in R.S. 47:855,
16 and to collect same from the dealer who first sells, uses, consumes, handles, or
17 distributes the same in the state of Louisiana.

18 B. It is further the intent and purpose of this Chapter that, except as provided
19 in R.S. 47:855, where a dealer gives away cigars, cigarettes, or smoking tobacco for
20 advertising or any other purpose whatsoever the products shall be taxed in the same
21 manner as if they were sold, used, consumed, handled, or distributed in this state;
22 ~~however, for the taxable periods beginning on and after January 1, 2013, through~~
23 ~~December 31, 2025, this shall not be construed to include cigars or pipe tobacco, as~~
24 ~~defined and appropriately labeled in accordance with the Federal Food, Drug, and~~
25 ~~Cosmetic Act, the Family Smoking Prevention and Tobacco Control Act, also known~~
26 ~~as the Tobacco Control Act, and all applicable state laws, federal laws, and~~
27 ~~regulations, sampled on the premises of convention facilities during the convention~~
28 ~~of the International Premium Cigar and Pipe Retailers Association.~~

29 * * *

1 §855. Exemption from tax

2 A. Smoking and chewing tobacco purchased by or for state institutions for
3 issue to the inmates of the same is hereby exempted from the taxes levied by this
4 Chapter, ~~provided;~~ however, nothing in this ~~Section~~ Subsection shall be construed
5 to exempt the tax on manufactured cigarettes and cigars.

6 B.(1)(a) No tax levied by this Chapter shall apply to the furnishing of a
7 product at no charge as a sample in a business-to-business exchange at, or in
8 conjunction with, a conference, convention, exposition, trade show, professional or
9 trade association event, business or professional meeting, corporate event, or
10 exhibition of any kind held in this state.

11 (b)(i) For purposes of this Subsection, "business-to-business exchange"
12 means the distribution by a business of free samples in a limited quantity with
13 nominal value to another business as part of a genuine effort to sell or market the
14 product being sampled to that business.

15 (ii) For purposes of this Subparagraph, "nominal value" means a value which
16 is so small or slight that it is not considered real or substantial in comparison with
17 what might reasonably be expected.

18 (2) The exemption provided for in this Subsection shall terminate on August
19 1, 2033, and shall have no effect on and after that date.

20 Section 3. The provisions of Sections 1 and 2 of this Act shall apply to taxable
21 periods beginning on or after August 1, 2023.

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 127 Reengrossed

2023 Regular Session

Hughes

Abstract: Exempts from state excise and sales taxes, for a period of ten years, the furnishing of items free of charge as samples in business-to-business exchanges at, or in conjunction with, conventions, trade shows, and similar events.

Proposed law exempts from state sales tax the furnishing of an item at no charge as a sample in a business-to-business exchange at, or in conjunction with, a conference, convention,

exposition, trade show, professional or trade association event, business or professional meeting, corporate event, or exhibition of any kind held in La.

Proposed law exempts from state excise tax the furnishing of an alcoholic beverage at no charge as a sample in a business-to-business exchange at, or in conjunction with, a conference, convention, exposition, trade show, professional or trade association event, business or professional meeting, corporate event, or exhibition of any kind held in La.

Proposed law exempts from the state tobacco tax the furnishing of a product at no charge as a sample in a business-to-business exchange at, or in conjunction with, a conference, convention, exposition, trade show, professional or trade association event, business or professional meeting, corporate event, or exhibition of any kind held in La.

Proposed law defines "business-to-business exchange", for purposes of proposed law, as the distribution by a business of free samples in a limited quantity, with nominal value, to another business as part of a genuine effort to sell or market the product being sampled to that business. Provides that for purposes of proposed law, "nominal value" means a value which is so small or slight that it is not considered real or substantial in comparison with what might reasonably be expected.

Present law exempts from the state tobacco tax, through Dec. 31, 2025, cigars and pipe tobacco sampled on the premises of convention facilities during the convention of the International Premium Cigar and Pipe Retailers Association. Proposed law repeals present law.

Proposed law applies to taxable periods beginning on or after Aug. 1, 2023.

Proposed law terminates the exemptions provided for in proposed law on Aug. 1, 2033.

(Amends R.S. 47:854(A) and (B) and 855; Adds R.S. 26:421(F) and R.S. 47:302(BB)(119), 305.79, 321(P)(120), 321.1(I)(120), and 331(V)(120))

Summary of Amendments Adopted by House

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

1. Limit proposed law such that the tax exemptions provided therein would apply only to items furnished at no charge as samples in business-to-business exchanges at, or in conjunction with, conferences, conventions, expositions, trade shows, or similar events.
2. Define "business-to-business exchange", for purposes of proposed law, as the distribution by a business of free samples in a limited quantity to another business as part of a genuine effort to sell or market a product to that business.
3. Delete provisions causing a tax exemption provided in proposed law to apply to use tax.

The House Floor Amendments to the engrossed bill:

1. Specify all of the following with respect to the free samples that qualify for the tax exemptions established by proposed law:
 - a. The samples shall have a "nominal value", defined for purposes of proposed law as a value which is so small or slight that it is not considered real or substantial in comparison with what might reasonably be expected.

- b. The samples shall be distributed in a business-to-business exchange as part of a genuine effort to sell or market the product being sampled.
2. Make technical changes.