HLS 15RS-1193 ORIGINAL

2015 Regular Session

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HOUSE BILL NO. 380

BY REPRESENTATIVE HOLLIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SALES/TOBACCO DEALERS: Requires cigarettes to be stamped prior to selling or distribution

1 AN ACT 2 To amend and reenact R.S. 47:843(D)(1), 847(A) and (D), and 849(C), relative to tobacco; 3 to require tobacco dealers to stamp unstamped cigarettes prior to cigarettes being 4 shipped; to remove provisions of law authorizing tobacco dealers to retain stock for 5 interstate sales without affixing stamps to that stock; to remove provisions regarding 6 prima facia evidence of a violation of stamping provisions; and to provide for related 7 matters. 8 Be it enacted by the Legislature of Louisiana: 9 Section 1. R.S. 47:843(D)(1), 847(A) and (D), and 849(C) are hereby amended and 10 reenacted to read as follows: 11 §843. Use of stamps or meter impression required; limitations 12 13 D. Affixing stamps. (1) No person other than a dealer holding a valid 14 stamping agent designation under R.S. 26:902(2) may affix a stamp to any package 15 of cigarettes. Stamps shall be affixed by the dealer, on the smallest container or 16 package of cigarettes that is subject to the tax, to permit the secretary to readily 17 ascertain by an inspection of any dealer's stock on hand, whether or not the tax has 18 been paid. The dealer shall cause to be affixed on every package of cigarettes on

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which a tax is due, stamps of an amount equaling the tax due thereon, before any

person, firm, partnership, corporation, or association of persons sells, offers for sale,

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handles, removes, or otherwise disturbs or distributes the same. The stamps shall be affixed in such a manner that their removal will require continued application of steam or water and shall be canceled by placing thereon the license number of the dealer.

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§847. Dealers required to affix stamps

A. Every registered tobacco dealer holding a valid stamping agent designation pursuant to R.S. 26:902(2)(a) shall immediately after receipt of stamp any unstamped cigarettes unless sooner offered for sale and prior to selling the cigarettes in or into the state, cause the same to have the requisite denominations and amount of stamp or stamps to represent the tax affixed as stated herein. The stamping of the unstamped cigarettes shall actually begin as soon as practicable after receipt of the cigarettes in the premises of the tobacco dealer and shall be continued with reasonable diligence by the dealer until all of the unstamped cigarettes have been stamped as provided by law be done as needed prior to cigarettes being shipped from the distributor.

* * *

- D.(1) If and whenever any of the cigarettes taxed in this Chapter are found in the place of business of any tobacco dealer or any other person, except bonded interstate tobacco dealers, without the stamps affixed as herein provided, the prima facie presumption shall arise that such cigarettes are kept therein in violation of the provisions of this Chapter.
- (2) A manufacturer or importer may, in accordance with R.S. 47:862, possess, transport, or cause to be transported unstamped cigarettes in or into the state to a stamping agent under either of the following circumstances:
- (a) The manufacturer and brand family of the cigarettes are at the time of sale listed on the state directory.
- (b) The manufacturer and brand family of cigarettes are not at the time of sale listed on the state directory, but all of following conditions apply:

1	(i) The stamping agent is authorized to affix the stamp or, when permitted
2	by R.S. 47:849, pays the taxes imposed by another state on whose directory the
3	manufacturer and brand family of the cigarettes are listed at the time of the sale.
4	(ii) The stamping agent would be permitted to resell the cigarettes from this
5	state into that other state as provided in R.S. 47:849.
6	(iii) The stamping agent receiving the cigarettes holds an exporter license
7	pursuant to R.S. 26:902(5)(b) and submits a report pursuant to R.S. 47:851(E).
8	(3) (2) A manufacturer or importer may sell unstamped cigarettes as
9	permitted under Paragraph (2) (1) of this Subsection through its sales entity affiliate
10	whose status as a sales entity affiliate has been provided by the manufacturer or
11	importer to the satisfaction of the attorney general in accordance with R.S.
12	13:5073(A)(7) and prior to the sales entity affiliate selling any cigarettes in or into
13	the state. If the manufacturer or importer does so:
14	(a) It may sell or otherwise transfer the unstamped cigarettes to its sales
15	entity affiliate in connection with the sale.
16	(b) The sales entity affiliate may possess, transport, or cause to be
17	transported the unstamped cigarettes in connection with the sale to the same extent
18	the manufacturer or importer could under this Section if it were making the sale
19	directly.
20	(c) In the case of sales permitted under Paragraph (2) (1) of this Subsection,
21	the stamping agent will be deemed to have purchased the cigarettes directly from the
22	manufacturer or importer.
23	* * *
24	§849. Interstate business of tobacco dealers
25	* * *
26	C. Any registered tobacco dealer desiring to engage in interstate business
27	shall furnish a bond for that purpose. This bond shall be in addition to the bond
28	provided for in R.S. 47:848, in an amount and of tenor and solvency satisfactory to
29	the collector. He shall then be permitted to set aside such part of his stock as may

be absolutely necessary for the conduct of such interstate business, without affixing
the stamps required by this Chapter. Such interstate stock shall be kept in an entirely
separate part of the building, separate and apart from stamped stock, and the
interstate business shall be conducted by the dealer in accordance with rules and
regulations to be promulgated by the collector.

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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 380 Original

2015 Regular Session

Hollis

Abstract: Requires the stamping of cigarettes prior to selling and distribution instead of immediately upon receipt.

<u>Present law</u> requires the stamping of cigarettes with tobacco tax stamps immediately upon receipt of the cigarettes by a tobacco dealer.

<u>Proposed law</u> changes <u>present law</u> to require that tobacco dealers stamp cigarettes with a tobacco tax stamp prior to the sale or distribution of the cigarettes.

<u>Proposed law</u> removes prima facia presumption that cigarettes in possession of a tobacco dealer which are unstamped are possessed in violation of <u>present law</u>.

<u>Present law</u> requires a tobacco dealer engaged in interstate business to furnish a bond. Further allows a tobacco dealer to set aside a certain amount of his cigarette inventory for interstate commerce business without being stamped.

<u>Proposed law</u> removes the inventory provisions allowing for cigarettes to be set aside and retains the furnishing of the bond requirements as provided by present law.

(Amends R.S. 47:843(D)(1), 847(A) and (D), and 849(C))