

2015 Regular Session

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: Provides relative to requirements for stamping cigarettes

1 AN ACT

2 To amend and reenact R.S. 47:843(D)(1), 847(A) and (D)(1), and 849(B) and (C), relative
3 to tobacco; to provide for requirements relative to stamped and unstamped cigarettes;
4 to remove provisions of law authorizing tobacco dealers to retain stock for interstate
5 sales without affixing stamps to that stock; to remove certain provisions regarding
6 prima facia evidence of a violation of stamping provisions; to provide for
7 requirements relative to products not listed on the attorney general's state directory;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:843(D)(1), 847(A) and (D)(1), and 849(B) and (C) are hereby
11 amended and reenacted to read as follows:

12 §843. Use of stamps or meter impression required; limitations

13 * * *

14 D. Affixing stamps. (1) No person other than a dealer holding a valid
15 stamping agent designation under R.S. 26:902(2) may affix a stamp to any package
16 of cigarettes. Stamps shall be affixed by the dealer, on the smallest container or
17 package of cigarettes that is subject to the tax, to permit the secretary to readily
18 ascertain by an inspection of any dealer's stock on hand, whether or not the tax has
19 been paid. The dealer shall cause to be affixed on every package of cigarettes on
20 which a tax is due, stamps of an amount equaling the tax due thereon, before any
21 person, firm, partnership, corporation, or association of persons sells, offers for sale,

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

5 * * *

6 §847. Dealers required to affix stamps

7 A. Every registered tobacco dealer holding a valid stamping agent
8 designation pursuant to R.S. 26:902(2)(a) shall ~~immediately after receipt of stamp~~
9 any unstamped cigarettes unless sooner offered for sale and prior to selling, offering
10 for sale, removing, or otherwise distributing the cigarettes in or into the state, cause
11 ~~the same to have the requisite denominations and amount of stamp or stamps to~~
12 ~~represent the tax affixed as stated herein. The stamping of the unstamped cigarettes~~
13 ~~shall actually begin as soon as practicable after receipt of the cigarettes in the~~
14 ~~premises of the tobacco dealer and shall be continued with reasonable diligence by~~
15 ~~the dealer until all of the unstamped cigarettes have been stamped as provided by~~
16 law. Stamped cigarettes shall be kept separate and apart from the dealer's stock of
17 unstamped cigarettes.

18 * * *

19 D.(1) If and whenever any of the cigarettes taxed in this Chapter are found
20 in the place of business of any tobacco dealer or any other person, except ~~bonded~~
21 ~~interstate tobacco dealers~~ a dealer holding a valid stamping agent designation
22 pursuant to R.S. 26:902(2), without the stamps affixed as herein provided, the prima
23 facie presumption shall arise that such cigarettes are kept therein in violation of the
24 provisions of this Chapter.

25 * * *

26 §849. Interstate business of tobacco dealers

27 * * *

28 B. A dealer may not purchase or possess unstamped cigarettes in this state
29 for sale into another state where the manufacturer and brand family of the cigarettes

1 are not at the time of sale listed on this state's directory unless it holds an exporter
 2 license pursuant to R.S. 26:902(2)(b). The dealer holding an exporter license shall
 3 affix the stamp required by the other state to the package containing the cigarettes
 4 within seventy-two hours after receipt. However, if the law of the other state permits
 5 the sale of the cigarettes to consumers in a package not bearing a stamp, the dealer
 6 may sell cigarettes into the other state without a stamp only if it first pays an excise,
 7 use, or similar tax imposed on the cigarettes by the other state. The dealer shall
 8 ensure that any cigarettes and roll-your-own tobacco in its stock that are not listed
 9 on the attorney general's state directory of products approved for sale in or into the
 10 state are kept separate and apart from stock that is approved for sale in or into the
 11 state.

12 C. Any registered tobacco dealer desiring to engage in interstate business
 13 shall furnish a bond for that purpose. This bond shall be in addition to the bond
 14 provided for in R.S. 47:848, in an amount and of tenor and solvency satisfactory to
 15 the collector. ~~He shall then be permitted to set aside such part of his stock as may~~
 16 ~~be absolutely necessary for the conduct of such interstate business, without affixing~~
 17 ~~the stamps required by this Chapter. Such interstate stock shall be kept in an entirely~~
 18 ~~separate part of the building, separate and apart from stamped stock, and the~~
 19 ~~interstate business shall be conducted by the dealer in accordance with rules and~~
 20 ~~regulations to be promulgated by the collector.~~

21 * * *

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 Reengrossed 2015 Regular Session Hollis

Abstract: Requires the stamping of cigarettes prior to selling, offering for sale, removing, or otherwise distributing the cigarettes instead of immediately upon receipt.

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

Proposed law changes present law to require that tobacco dealers stamp cigarettes with a tobacco tax stamp prior to selling, offering for sale, removing, or otherwise distributing the cigarettes.

Present law requires a prima facie presumption that cigarettes kept found in the place of business of any tobacco dealer or other person, except bonded interstate tobacco dealers, without the stamps affixed are in violation of present law.

Proposed law retains present law except that it removes the exception for bonded interstate tobacco dealers and provides an exception for a dealer holding a valid stamping agent designation.

Present law prohibits a dealer from purchasing or possessing unstamped cigarettes in this state for sale into another state where the manufacturer and brand family of the cigarettes are not listed on the state's directory unless the dealer holds an exporter license.

Proposed law retains present law and further requires the dealer holding the exporter license to affix the stamp required by the other state to the package within 72 hours after receipt unless the other state does not require the stamp, then the dealer may sell cigarettes into the other state if the excise, use, or similar tax is paid. Proposed law further requires the dealer to ensure that any cigarettes and roll-your-own tobacco in its stock that are not listed on the attorney general's state directory are kept separate and apart from the approved stock.

Present law 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.

Proposed law 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)(1), and 849(B) and (C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Add the requirement that unstamped cigarettes are stamped prior to offering for sale, removing, or distributing them in or into the state.
2. Remove requirement that the stamping of the unstamped cigarette be done as needed prior to cigarettes being shipped from the distributor.
3. Remove the exception for a prima facie presumption for interstate tobacco dealers to be in violation of present law if taxed cigarettes are found in the place of business without stamps affixed, and extend the exception to a dealer holding a valid stamping agent designation.
4. Require the dealer holding the exporter license to affix the stamp required by the other state to the package within 72 hours after receipt unless the other state does not require the stamp, then the dealer may sell cigarettes into the other state if the excise, use, or similar tax is paid.
5. Require the dealer to ensure that any cigarettes and roll-your-own tobacco in its stock that are not listed on the attorney general's state directory are kept separate and apart from approved stock.