

2016 First Extraordinary Session

HOUSE BILL NO. 59

BY REPRESENTATIVE MORENO

TAX/SALES-USE, STATE: Provides relative to imposition of the state sales and use tax on hotels (Items #9 and 30)

1 AN ACT

2 To amend and reenact R.S. 47:301(6)(a) and to enact R.S. 47:301(4)(m), (6)(d), and (13)(n)
3 and 306(A)(8), relative to sales and use tax on hotels; to provide certain definitions
4 for purposes of imposing of the state sales and use tax; to provide for remittance of
5 certain information to the secretary of the Department of Revenue; to provide for an
6 effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:301(6)(a) is hereby amended and reenacted and R.S.
9 47:301(4)(m), (6)(d), and (13)(n) and 306(A)(8) are hereby enacted to read as follows:

10 §301. Definitions

11 As used in this Chapter the following words, terms, and phrases have the
12 meaning ascribed to them in this Section, unless the context clearly indicates a
13 different meaning:

14 * * *

15 (4) "Dealer" includes every person who manufactures or produces tangible
16 personal property for sale at retail, for use, or consumption, or distribution, or for

1 storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined
2 to mean:

3 * * *

4 (m) Any person who remarkets sleeping rooms, cottages, or cabins that are
5 located in the state, whether at a single business location or at a residential location,
6 including but not limited to a house, condominium, camp, cabin, or other building
7 structure used as a residence. Remarketing shall include reserving, arranging for,
8 conveying, or furnishing occupancy, whether directly or indirectly, for an occupant
9 for rent in an amount determined by the person remarketing.

10 * * *

11 (6)(a) "Hotel" means and includes any establishment or remarketer engaged
12 in the business of furnishing sleeping rooms, cottages, or cabins to transient guests,
13 where such establishment consists of ~~six or more~~ sleeping rooms, cottages, or cabins
14 at a single business location or at a residential location, including but not limited to
15 a house, condominium, camp, cabin, or other building structure used as a residence.

16 * * *

17 (d) For purposes of this Chapter, the term "remarketer" shall include any
18 person or business entity that reserves, arranges for, conveys, or furnishes
19 occupancy, via Internet or other electronic communication, to an occupant for rent
20 in an amount determined by the remarketer, directly or indirectly.

21 * * *

22 (13)

23 * * *

24 (n) For purposes of the imposition of sales and use taxes imposed or levied
25 by all taxing authorities in the state, the term "sales price" for all furnishing of
26 sleeping rooms, cottages, or cabins by hotels shall include any amount required to
27 be paid as a condition of occupancy of the sleeping room, cottage, or cabin. The
28 furnishing of a sleeping room, cottage, or cabin by a hotel to a remarketer shall not
29 be considered a sale for resale; however, a credit shall be allowed to the purchasing

1 remarketer against any sales tax due on the price for which it furnishes the sleeping
2 room, cottage, or cabin to an occupant for any similar sales tax paid by the
3 purchasing remarketer to the selling hotel.

4 * * *

5 §306. Returns and payment of tax; penalty for absorption

6 A. General provisions.

7 * * *

8 (8)(a) In addition to the returns required by Subparagraph (1)(a) of this
9 Subsection, every dealer as defined in R.S. 47:301(4)(m) shall also remit the
10 following:

11 (i) The physical location of the properties for which the tax is collected.

12 (ii) The ownership information of all properties for which the tax is
13 collected.

14 (iii) Full identification of the property host.

15 (iv) The number of nights that each property is rented.

16 (v) The amount paid per night for each property.

17 (b) The secretary shall maintain the information remitted by dealers under
18 the provisions of this Paragraph in an electronic database as provided for in rule by
19 the secretary.

20 * * *

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

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 59 Original

2016 First Extraordinary Session

Moreno

Abstract: Defines "dealer", "hotel", and "sales price" for purposes of imposing the state sales and use tax and requires certain information be remitted to the secretary of the Department of Revenue with the sales tax return.

Present law provides definitions for use in provisions relative to sales tax.

Present law defines "dealer" to include certain persons who manufacture or produce tangible personal property for sale at retail, for use or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction.

Proposed law retains present law but adds persons who remarket sleeping rooms, cottages, or cabins that are located in the state to the definition of "dealer".

Present law defines "hotel" to include certain establishments engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests.

Proposed law retains present law but adds remarketers that reserve, arrange for, convey, or furnish occupancy to an occupant for rent determined by the remarketer to the definition of "hotel".

Present law defines "sales price" to include amounts for which tangible personal property is sold, less the market value of any article traded-in, including any services.

Proposed law retains present law but adds amounts required to be paid as a condition of occupancy of the sleeping room, cottage, or cabin.

Present law provides for returns and monthly or quarterly payment of sales tax by dealers. Further requires certain reporting relative to sales by dealers.

Proposed law retains present law and adds the requirement that a dealer as defined by proposed law remit to the secretary of the Dept. of Revenue (DOR) the following information:

- (1) The physical location of the properties for which the tax is collected.
- (2) The ownership information of all properties for which the tax is collected.
- (3) Full identification of the property host.
- (4) The number of nights that each property is rented.
- (5) The amount paid per night for each property.

Proposed law requires the secretary to maintain the information required by proposed law in an electronic database maintained by DOR as provided for by rule.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:301(6)(a); Adds R.S. 47:301(4)(m), (6)(d), and (13)(n) and 306(A)(8))