

2016 First Extraordinary Session

HOUSE BILL NO. 105

BY REPRESENTATIVES DAVIS, CHAD BROWN, DANAHAY, DEVILLIER,
DWIGHT, HALL, HILFERTY, MAGEE, REYNOLDS, THIBAUT, AND
ZERINGUE

TAX/SALES & USE: Requires the advance payment of sales tax by certain tobacco and
alcoholic beverage wholesalers (Item #35)

1 AN ACT

2 To enact R.S. 47:306(B), relative to collection of advance sales tax; to require the advance
3 collection of sales tax by certain wholesalers; to authorize the secretary of the
4 Department of Revenue to promulgate rules; to provide for an effective date; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:306(B) is hereby enacted to read as follows:

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

9 * * *

10 B. Collection by Wholesalers. (1)(a) Notwithstanding the provisions of
11 Subsection A or any other provision of this Chapter to the contrary, every wholesale
12 dealer who sells for resale to any person any tobacco or alcoholic beverage products,
13 the retail sale of which is taxable under this Chapter, shall collect as advance sales
14 tax, a percent of the sales price of the article equal to the sales tax levied on the
15 article by this Chapter.

16 (b) For purposes of this Subsection, wholesaler shall mean any wholesale
17 dealer of tobacco products as defined in R.S. 47:842(23) or any wholesale dealer of
18 alcoholic beverage products as defined in R.S. 26:2(22) or 241(19).

19 (c) The secretary of the Department of Revenue shall promulgate rules and
20 regulations necessary to implement the provisions of this Subsection.

1 (2)(a) The amount paid by dealers to wholesalers shall be advance payment
2 of the Louisiana sales tax that the dealer is required to collect upon the sale at retail,
3 and the advance payment is required only as a means of facilitating collection of the
4 sales tax.

5 (b) Wholesalers who collect advance sales tax from a dealer pursuant to this
6 Subsection shall remit the tax to the collector of revenue in the manner provided in
7 Subsection A for dealers and in accordance with the rules and regulations prescribed
8 by the collector.

9 (3) In making returns to the collector, dealers who have paid advance sales
10 tax shall deduct from the total tax collected upon the retail sale of the tobacco or
11 alcoholic beverage product the amount of advance sales tax paid by the dealer during
12 the reporting period, provided the dealer claiming the refund or credit has retained
13 the invoices evidencing the amount of tax paid. If the amount of advance sales tax
14 paid during any reporting period is greater than the tax collected by the dealer for the
15 reporting period, the excess amount paid shall be allowed as a refund or credit
16 against the tax collected by the dealer during the succeeding period or periods.

17 (4) Wholesalers collecting advance sales taxes as hereinabove provided shall
18 be allowed a 0.935 percent deduction from the amount of advance sales tax collected
19 and remitted to the secretary as compensation for the collection. This compensation
20 shall be allowed only if the payment of the wholesaler is timely paid and the return
21 is timely filed.

22 (5) Parishes, municipalities, school boards, and other local governing
23 authorities that levy a sales tax are prohibited from requiring manufacturers,
24 wholesalers, jobbers, or suppliers to collect advance local sales taxes from dealers.

25 (6) Absorption of the tax as defined in this Section by any wholesaler shall
26 constitute a misdemeanor and, upon conviction, shall be punishable by a fine of not
27 more than two thousand dollars, or by imprisonment in the parish jail for not more
28 than two years, or both.

29 * * *

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 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 105 Original

2016 First Extraordinary Session

Davis

Abstract: Requires advance payment of sales tax to be collected and remitted by certain tobacco and alcoholic beverage wholesalers and authorizes compensation for those wholesalers collecting advance sales tax.

Present law provides for returns and monthly or quarterly payment of sales tax by dealers. Further requires certain reporting relative to sales by dealers. Authorizes a vendor's compensation of 0.935% of the sales tax remitted by a dealer for timely remitting the sales tax. Requires registration by certain nonresident contractors. Provides for payment of the tax by a licensed vehicle dealer.

Proposed law retains present law and requires collection of advance sales tax by wholesale dealers of tobacco products and alcohol beverage products as defined in present law.

Proposed law requires the advance payment amount collected by the wholesaler from the dealer to be the same amount the dealer would be required to collect upon the sale of the item.

Proposed law authorizes dealers to deduct out of the sales tax collected upon the retail sale of an item that amount of advance sales tax paid by the dealer to the wholesaler for the item.

Proposed law authorizes wholesalers collecting advance sales tax to deduct 0.935% from the amount collected and remitted as compensation for the collection.

Proposed law prohibits local governing bodies from requiring advance sales tax collection.

Proposed law prohibits absorption of the tax by any wholesaler. Proposed law establishes a misdemeanor crime for absorption, punishable by a fine of not more than \$2,000, not more than two years in parish jail, or both.

Proposed law authorizes the secretary to promulgate rules to administer advance sales tax implementation.

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

(Adds R.S. 47:306(B))