

2016 First Extraordinary Session

HOUSE BILL NO. 121

BY REPRESENTATIVE JACKSON

TAX/SALES-USE, STATE: Provides relative to the imposition of state sales tax on certain motor fuels (Items #9 and 36)

1 AN ACT

2 To amend and reenact R.S. 47:301(10)(x) and 305(D)(1)(a) and to enact R.S. 47:301.3,
3 relative to the state sales and use tax; to provide for certain definitions for purposes
4 of imposing the state sales and use tax on certain motor fuels; to provide for certain
5 exemptions relative to sales of gasoline; to impose state sales tax on the sales of
6 certain motor fuels; to provide for applicability; to provide for effectiveness; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:301(10)(x) and 305(D)(1)(a) are hereby amended and reenacted
10 and R.S. 47:301.3 is hereby enacted to read as follows:

11 §301. Definitions

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

15 * * *

16 (10)

17 * * *

18 (x) For purposes of the sales and use tax imposed by the state ~~or any political~~
19 ~~subdivision whose boundaries are coterminous with those of the state~~, the terms
20 "retail sale" or "sale at retail" shall not include the following:

1 ~~(i) The sale or purchase by a person of any fuel or gas, including but not~~
2 ~~limited to butane and propane.~~

3 (ii) Beginning July 1, 2008, the sale or purchase by any person of butane and
4 propane.

5 * * *

6 §301.3. Gasoline, diesel fuels, and special fuels

7 A. The sales and use tax levied by Chapters 2, 2-A, and 2-B of Subtitle II of
8 Title 47 shall apply to the sales of gasoline, diesel fuels, and special fuels as provided
9 in this Section. On January 1, 2017, and then on the first day of January for each
10 subsequent calendar year, the secretary of the Department of Revenue shall set the
11 base rate for the price of oil per barrel based upon the average New York Mercantile
12 Exchange price per barrel for the three-month period preceding the month in which
13 the base rate is set. Imposition of the state sales and use tax on sales of gasoline,
14 diesel fuels, and special fuels shall be as follows:

15 (1) When the base rate is less than forty dollars per barrel, sales of gasoline,
16 diesel fuels, and special fuels shall be subject to the state sales and use tax levied in
17 R.S. 47:302, 321, and 331 for the calendar year in which the base rate is set.

18 (2) When the base rate is forty dollars per barrel or more, but less than sixty
19 dollars per barrel, sales of gasoline, diesel fuels, and special fuels shall be subject to
20 the state sales and use tax levied in R.S. 47:302 but shall be exempt from the state
21 sales and use taxes levied in R.S. 47:321 and 331 for the calendar year in which the
22 base rate is set.

23 (3) When the base rate is sixty dollars per barrel or more, sales of gasoline,
24 diesel fuels, and special fuels shall be exempt from the state sales and use taxes
25 levied in R.S. 47:302, 321, and 331 for the calendar year in which the base rate is set.

26 B. The avails of the tax collected pursuant to the provisions of this Section
27 shall be deposited into the Transportation Trust Fund, as provided for in Article VII,
28 Section 27 of the Constitution of Louisiana.

29 * * *

1 §305. Exclusions and exemptions from the tax

2 * * *

3 D.(1) The sale at retail, the use, the consumption, the distribution, and the
4 storage to be used or consumed in the taxing jurisdiction of the following tangible
5 personal property is hereby specifically exempted from the tax imposed by taxing
6 authorities, except as otherwise provided in this Paragraph:

7 (a) Gasoline, for purposes of sales and use taxes imposed by any political
8 subdivision.

9 * * *

10 Section 2. This Act shall take effect and become operative if and when the proposed
11 amendment of Article VII, Section 27(A) of the Constitution of Louisiana contained in the
12 Act which originated as House Bill No. 84 of this 2016 First Extraordinary Session of the
13 Legislature is adopted at a statewide election and becomes effective.

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 121 Original 2016 First Extraordinary Session Jackson

Abstract: Imposes a state sales tax on sales of gasoline, diesel fuels, and special fuels with the amount of the exemption depending on the price of oil per barrel.

Present law provides definitions for purposes of the state sales and use tax and for the sales and use taxes imposed by certain political subdivisions.

Present law excludes sales of fuel, gas, butane, and propane from the definition of "sale at retail" for purposes of imposition of the state sales tax and sales tax imposed by a political subdivision with boundaries coterminous with the state.

Proposed law retains present law with respect to the exclusion for purposes of imposition of a sales tax imposed by the state on butane and propane but deletes the exclusion for sales of fuel and gas for purposes of imposition of the state sales tax.

Present law exempts the sale of gasoline from sales tax imposed by a taxing authority.

Proposed law repeals this exemption.

Proposed law imposes on the sale of gasoline, diesel fuels, and special fuels, the state sales and use taxes levied in R.S. 47:302, 321, and 331 as follows:

- (1) When the price of oil per barrel is less than \$40, all state sales and use tax levies shall apply.

- (2) When the price of oil per barrel is \$40 or greater, and less than \$60, the state sales and use tax levied in R.S. 47:302 shall apply.
- (3) When the price of oil per barrel is \$60 or greater, no state sales and use tax levies shall apply so that sales of gasoline, diesel fuels, and special fuels are exempt from state sales and use tax.

Proposed law requires the secretary of the Dept. of Revenue to annually set the base rate of the price of oil per barrel using the average New York Mercantile Exchange for the three months preceding Jan. 1st for purposes of determining the rate of state sales tax that applies to the sale of gasoline, diesel fuels, and special fuels for the calendar year.

Proposed law requires the avails the tax collected pursuant to proposed law to be deposited in the Transportation Trust Fund.

Effective when the proposed amendment of Article VII, §27(A) of the La. Const. is adopted at a statewide election and becomes effective.

(Amends R.S. 47:301(10)(x) and 305(D)(1)(a); Adds R.S. 47:301.3)