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**HOUSE COMMITTEE AMENDMENTS**

2015 Regular Session

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 536 by Representative Patrick Williams

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1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete "R.S. 47:301(4)(h), and to enact R.S. 47:301(4)(m)"  
3 and insert "R.S. 47:302(U) and 305(E) and to enact R.S. 47:302(V)"

4 AMENDMENT NO. 2

5 On page 1, line 8, after "Section 1." delete the remainder of the line and from the beginning  
6 of line 9, delete "47:301(4)(m)" and insert the following:

7 "R.S. 47:302(U) and 305(E) are hereby amended and reenacted, and R.S. 47:302(V)"

8 AMENDMENT NO. 3

9 On page 1, delete lines 10 through 19 in their entirety and on page 2, delete lines 1 through  
10 12 in their entirety, and insert the following:

11 "§302. Imposition of tax

\* \* \*

12  
13  
14 U. It is the duty of the secretary of the Department of Revenue to collect all  
15 taxes imposed pursuant to this Chapter and Chapters 2-A and 2-B of this Subtitle  
16 which may be due upon the sale by a remote ~~seller~~ dealer of tangible personal  
17 property or services in Louisiana. The secretary is authorized and directed to employ  
18 all means available to ensure the collection of the tax in an equitable, efficient, and  
19 effective manner.

20 V. In addition to the definition of "dealer" as provided in R.S. 47:301(4), for  
21 purposes of the consumer use tax, the term "dealer" includes every person who  
22 manufactures or produces tangible personal property for sale at retail, for use, or  
23 consumption, or distribution, or for storage to be used or consumed in a taxing  
24 jurisdiction. "Dealer" is further defined to mean:

25 (1) Any person engaging in business in the taxing jurisdiction which shall  
26 include:

27 (a) Any of the following methods of transacting business:

28 (i) Maintaining directly, indirectly, or through a subsidiary, an office,  
29 distribution house, sales house, warehouse, or other place or location of business.

30 (ii) Having an agent, salesman, independent contractor, or solicitor operating  
31 within the taxing jurisdiction under the authority of or through an agreement with the  
32 person or its subsidiary irrespective of whether the place of business, agent,  
33 salesman, or solicitor is located in the taxing jurisdiction permanently or temporarily  
34 or whether the person or subsidiary is qualified to do business in the taxing  
35 jurisdiction.

36 (iii) Making deliveries of tangible personal property into the taxing  
37 jurisdiction other than by a common or contract carrier."

38 AMENDMENT NO. 4

39 On page 2, at the beginning of line 13, delete "(ii)" and insert "(b)"

1 AMENDMENT NO. 5

2 On page 2, line 17, after "website" delete the remainder of the line, delete lines 18 through  
3 27 in their entirety, insert a comma ",," and insert the following:

4 "an in-person oral presentation, telemarketing, or otherwise to the seller. If the  
5 cumulative gross receipts from sales of tangible personal property to customers in  
6 this state who are referred to the person through such an agreement exceeds fifty  
7 thousand dollars during the preceding twelve months, the presumption regarding the  
8 status of that person as a dealer may be rebutted if the person can demonstrate, to the  
9 satisfaction of the secretary, that he cannot reasonably be expected to have gross  
10 receipts in excess of fifty thousand dollars for the succeeding twelve months."

11 AMENDMENT NO. 6

12 On page 2, at the beginning of line 28, delete "(m)(i)" and insert "(2)"

13 AMENDMENT NO. 7

14 On page 3, at the beginning of line 1, delete "(aa)" and insert "(a)"

15 AMENDMENT NO. 8

16 On page 3, at the beginning of line 5, delete "(bb)" and insert "(b)"

17 AMENDMENT NO. 9

18 On page 3, at the beginning of line 8, delete "(cc)" and insert "(c)"

19 AMENDMENT NO. 10

20 On page 3, delete lines 19 and 20 in their entirety and insert the following:

21 "(3) In addition to those persons established as dealers according to  
22 Paragraph (2) of this Subsection, the provisions of this Subsection shall be presumed  
23 by"

24 AMENDMENT NO. 11

25 On page 3, line 25, delete "(bb) For purposes of this Subparagraph" and insert "For purposes  
26 of this Paragraph"

27 AMENDMENT NO. 12

28 On page 4, delete line 3 in its entirety, and insert the following:

29 "(4) A dealer, as defined in and for purposes of this Subsection, shall file"

30 AMENDMENT NO. 13

31 On page 4, at the beginning of line 7, delete "(iv) The provisions of this Subparagraph" and  
32 insert "(5) The provisions of this Subsection"

1 AMENDMENT NO. 14

2 On page 4, between lines 11 and 12, insert the following:

3 "§305. Exclusions and exemptions from the tax

4 \* \* \*

5 E. It is not the intention of any taxing authority to levy a tax upon articles of  
6 tangible personal property imported into this state, or produced or manufactured in  
7 this state, for export; nor is it the intention of any taxing authority to levy a tax on  
8 bona fide interstate commerce; however, nothing herein shall prevent the collection  
9 of the taxes due on sales of tangible personal property into this state which are  
10 promoted through the use of catalogs and other means of sales promotion and for  
11 which federal legislation or federal jurisprudence enables the enforcement of the  
12 sales tax of a taxing authority upon the conduct of such business. It is, however, the  
13 intention of the taxing authorities to levy a tax on the sale at retail, the use, the  
14 consumption, the distribution, and the storage to be used or consumed in this state,  
15 of tangible personal property after it has come to rest in this state and has become a  
16 part of the mass of property in this state. At such time as federal legislation or  
17 federal jurisprudence as to sales in interstate commerce promoted through the use of  
18 catalogs and other means of sales promotions enables the enforcement of this  
19 Chapter or any other law or local ordinance imposing a sales tax against vendors that  
20 have no other nexus with the taxing jurisdiction, the following provisions shall apply  
21 to such sales on which sales and use tax would not otherwise be collected.

22 \* \* \*

23 AMENDMENT NO. 15

24 On page 4, line 12, after "shall apply" delete the remainder of the line and insert the  
25 following:

26 "to tax periods beginning on and after July 1, 2015. If the United States Congress  
27 enacts legislation authorizing states to require a remote seller to collect sales taxes  
28 on taxable transactions, such legislation shall preempt the provisions of R.S.  
29 47:302(V) and the Department of Revenue shall have the authority to promulgate  
30 regulations under the Louisiana Administrative Procedure Act to carry out the  
31 provisions of the federal legislation. The Department of Revenue shall begin to  
32 promulgate such rules within ninety days of the effective date of the federal  
33 legislation."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.