

ACT No. 640

2016 Regular Session

HOUSE BILL NO. 710

BY REPRESENTATIVE HOLLIS

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AN ACT

To amend and reenact R.S. 47:843(D)(1), 847(A) and (D)(1), 849(B) and (C), and 851(D), relative to tobacco; to provide for requirements relative to stamped and unstamped cigarettes; to provide relative to the time period in which cigarettes must be stamped; to provide relative to the inventory or stock of certain cigarettes; to provide relative to prima facie evidence of a violation; to provide for requirements relative to products not listed on the attorney general's state directory; to provide for the maintenance of invoices by nonresident tobacco dealers; to require non-resident tobacco dealers to keep certain stock separated; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:843(D)(1), 847(A) and (D)(1), 849(B) and (C), and 851(D) are hereby amended and reenacted to read as follows:

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

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D. Affixing stamps. (1) No person other than a dealer holding a valid stamping agent designation under R.S. 26:902(2) may affix a stamp to any package of cigarettes. Stamps shall be affixed by the dealer, on the smallest container or package of cigarettes that is subject to the tax, to permit the secretary to readily ascertain by an inspection of any dealer's stock on hand, whether or not the tax has been paid. The dealer shall cause to be affixed on every package of cigarettes on

1 which a tax is due, stamps of an amount equaling the tax due thereon, before any
 2 person, firm, partnership, corporation, or association of persons sells, offers for sale,
 3 ~~handles,~~ removes, or otherwise ~~disturbs or~~ distributes the ~~same~~ cigarettes. The
 4 stamps shall be affixed in such a manner that their removal will require continued
 5 application of steam or water and shall be canceled by placing thereon the license
 6 number of the dealer.

* * *

8 §847. Dealers required to affix stamps

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

* * *

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

* * *

1 §849. Interstate business of tobacco dealers

2 * * *

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

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

25 * * *

26 §851. Dealers receiving unstamped and/or nontax paid cigarettes, cigars, and
27 smoking tobaccos required to file monthly reports and maintain records;
28 vending machine restrictions

29 * * *

1 D. ~~Nonresident tobacco dealers. All purchases of cigars, cigarettes, and~~
2 ~~smoking tobaccos for distribution within the state of Louisiana by any nonresident~~
3 ~~tobacco dealer shall be evidenced by a separate invoice from the seller correctly~~
4 ~~showing the date of purchase and the quantity of each of said articles purchased by~~
5 ~~said dealer for distribution within the state of Louisiana. Such stock purchased for~~
6 ~~distribution within the state of Louisiana shall be kept in an entirely separate part of~~
7 ~~the building, separate and apart from stock purchased for sale or distribution, or both,~~
8 ~~in another state.~~ A nonresident tobacco dealer shall maintain invoices correctly
9 showing the date, quantity, recipient, manufacturer, and brand of cigars, cigarettes,
10 and smoking tobaccos sold by the dealer for distribution in or into the state of
11 Louisiana. The nonresident tobacco dealer shall keep stock affixed with a Louisiana
12 tax stamp separate and apart from the remainder of the dealer's stock. Every
13 nonresident tobacco dealer shall, at the time of shipping or delivering any cigars,
14 cigarettes, or smoking tobaccos in or into the state of Louisiana, make a true
15 duplicate invoice of the same which shall show full and complete details of the sale
16 or delivery of the taxable article and shall retain the same subject to the use and
17 inspection of the collector for the period of two years. Nonresident tobacco dealers
18 shall also keep a record of all cigarettes, cigars and smoking tobaccos purchased by
19 them for distribution within the state of Louisiana, and hold all books, records and
20 memoranda pertaining to the purchase and sale of such cigars, cigarettes, and
21 smoking tobaccos open to the inspection of the collector.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____