

2018 Third Extraordinary Session

SENATE BILL NO. 1

BY SENATOR MORRELL

TAX/SALES. Changes the effective date for the definition of "dealer" for purposes of the sales and use tax imposed on transactions involving a remote seller. (gov sig)

1 AN ACT

2 To amend and reenact Section 2 of Act No. 5 of the 2018 Second Extraordinary Session of
3 the Legislature and R.S. 47:339(A)(2), relative to sales and use tax; to provide with
4 respect to collection and remittance of sales and use taxes; to provide for the
5 effective date of the definition of dealer; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Section 2 of Act No. 5 of the 2018 Second Extraordinary Session of the
8 Legislature is hereby amended and reenacted to read as follows:

9 Section 2. The provisions of this Act shall apply to all taxable periods
10 beginning on or after ~~the date of the final ruling by the United States Supreme Court~~
11 ~~in *South Dakota v. Wayfair Inc, Overstock.Com, Inc., and Newegg Inc.*, No. 17-494~~
12 ~~(U.S. filed October 2, 2017) finding South Dakota 2016 Senate Bill No. 106~~
13 ~~constitutional~~ **August 1, 2018.**

14 Section 2. R.S. 47:339(A)(2) is hereby amended and reenacted to read as follows:

15 §339. Louisiana Sales and Use Tax Commission for Remote Sellers

16 A. The Louisiana Sales and Use Tax Commission for Remote Sellers,
17 hereinafter referred to as "commission", is created and established within the

1 Department of Revenue for the administration and collection of the sales and use tax
 2 imposed by the state and political subdivisions with respect to remote sales. The
 3 commission shall:

4 * * *

5 (2) Serve as the single entity in Louisiana to require remote sellers and their
 6 designated agents to collect from customers and remit to the commission, sales and
 7 use taxes on remote sales sourced to Louisiana on the ~~uniform~~ Louisiana state and
 8 local sales and use tax base established by Louisiana law ~~with respect~~ **applicable**
 9 **pursuant** to any federal law as may be enacted by the United States Congress or
 10 ~~final~~ ruling by the United States Supreme Court authorizing states to require remote
 11 sellers to collect and remit state and local sales and use taxes on their sales in each
 12 state, except those remote sellers who qualify for exceptions as may be provided by
 13 federal law.

14 * * *

15 Section 3. Any provision of Chapter 2-E of Subtitle II of Title 47 of the Louisiana
 16 Revised Statutes of 1950 requiring a federal law to be enacted or effective for the provision
 17 to become effective shall be effective as of June 21, 2018.

18 Section 4. This Act shall become effective upon signature by the governor or, if not
 19 signed by the governor, upon expiration of the time for bills to become law without signature
 20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 22 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 1 Engrossed

2018 Third Extraordinary Session

Morrell

Present law defines "dealer" as a person who does not have a physical presence in the state and who sells for delivery into La. tangible personal property, products transferred electronically, or services, if either:

- (1) The person's gross revenue from sales in La. exceeds \$100,000; or
- (2) The person engaged in 200 or more separate transactions in La.

Present law applies the definition of dealer to all taxable periods beginning on or after the date of the final ruling by the United States Supreme Court in *South Dakota v. Wayfair Inc, Overstock.Com, Inc., and Newegg Inc.*, finding South Dakota 2016 Senate Bill No. 106 constitutional.

Proposed law applies the definition of dealer to all taxable periods beginning on or after August 1, 2018.

Present law provides for the creation of the Louisiana Sales and Use Tax Commission for Remote Sellers.

Proposed law retains present law but makes technical changes.

Provides that any provision of Chapter 2-E of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 requiring a federal law to be enacted or effective for the provision to become effective shall be effective as of June 21, 2018.

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

(Amends Acts 2018 2nd ES No. 5, §2 and R.S. 47:339(A)(2))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Make technical changes effective to the Louisiana Sales and Use Tax Commission for Remote Sellers.