

Regular Session, 2009

SENATE BILL NO. 52

BY SENATOR MARIONNEAUX

TAX EXEMPTIONS. Establishes Annual Second Amendment Weekend Holiday to exempt from state and local sales tax each year consumer purchases of firearms, ammunition, and hunting supplies from the first consecutive Friday through Sunday of September each year.
(gov sig)

1 AN ACT

2 To enact R.S. 47:305.62, relative to the state and local sales and use tax; to enact the Annual
3 Second Amendment Weekend Holiday; to provide that the state and local sales and
4 use tax shall not apply to consumer purchases of firearms, ammunition, and hunting
5 supplies each year for a certain period; to provide for a penalty; to provide for an
6 effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:305.62 is hereby enacted to read as follows:

9 **§305.62. Exemption; Annual Louisiana Second Amendment Weekend Holiday**

10 **A. This Act shall be known as the Annual Louisiana Second Amendment**
11 **Weekend Holiday Act.**

12 **B.(1)(a) Notwithstanding any other provisions of law to the contrary, the**
13 **sales and use tax levied by the state of Louisiana and its political subdivisions**
14 **shall not apply to the sales price or cost price of any consumer purchases of**
15 **firearms, ammunition, and hunting supplies that occur each calendar year on**
16 **the first consecutive Friday through Sunday of September.**

17 **(b)(i) If the dealer fails to apply the sales tax exemption during the**

1 designated sales tax holidays, a penalty of fifty dollars shall be assessed
2 by the department against the dealer for each reported transaction where
3 the department proves that the dealer failed to apply the sales tax exemption.

4 (ii) In order for the department to assess the penalty, the department
5 must receive a report concerning the transaction in which the dealer failed to
6 apply the sales tax exemption along with a copy of the transaction receipt and
7 any other information deemed necessary by the department within sixty days
8 after the end of the sales tax holidays.

9 (iii) The secretary may waive the penalty, in whole or in part, for good
10 cause, such cause to include but not be limited to sales tax being charged due to
11 a computer programming error or computer malfunction. The penalty waiver
12 request shall be in writing and be accompanied by supporting documentation.

13 (2) For purposes of this Section, "consumer purchases" shall mean
14 purchases by individuals of firearms, ammunition, and hunting supplies not for
15 business purposes. Consumer purchases shall not include the purchase of
16 animals for the use of hunting.

17 (3) For the purposes of this Section, "hunting supplies" shall mean
18 purchases of any tangible personal property for the use of hunting, including
19 but not limited to archery, off-road vehicles, and vessels such as ATVs,
20 airboats, and pirogues, accessories, animal feed, apparel, shoes, bags, float
21 tubes, binoculars, tools, firearm and archery cases, firearm and archery
22 accessories, range finders, knives, decoys, treestands, blinds, chairs, optics,
23 hearing protection and enhancements, holsters, belts, slings and miscellaneous
24 gear.

25 (4) For purposes of this Section, "firearms" shall mean a shotgun,
26 rifle, pistol, revolver, or other handgun.

27 C. This provision will apply if and only if during the time period
28 provided for in Paragraph (B)(1) of this Section, one of the following occurs:

29 (1) Title to or possession of firearms, ammunition and hunting supplies

1 are transferred from a selling dealer to a purchaser.

2 (2) A customer selects an eligible item from the selling dealer's inventory
3 for layaway that is physically set aside in the selling dealer's inventory for
4 future delivery to that customer.

5 (3) The customer makes final payment and withdraws an item from
6 layaway that might have been placed before the time period provided for in
7 Paragraph (B)(1) of this Section.

8 (4) The customer orders and pays for an eligible item and the selling
9 dealer accepts the order for immediate shipment, even if delivery is made after
10 the time period provided for in Paragraph (B)(1) of this Section, provided that
11 the customer has not requested delayed shipment.

12 D. Eligible items that customers purchase during the time period
13 provided for in Paragraph (B)(1) of this Section with "rain checks" will qualify
14 for exemption, regardless of when the "rain checks" were issued. However,
15 issuance of "rain checks" during the exemption period will not qualify items for
16 exemption if the otherwise eligible items are actually purchased after the time
17 period provided for in Paragraph (B)(1) of this Section.

18 E.(1) When a customer purchases an eligible item during the time period
19 provided for in Paragraph (B)(1) of this Section and exchanges the item without
20 additional cash consideration after such time period for an essentially identical
21 item of different size, caliber, color, or other feature, no additional tax is due.

22 (2) When a customer after the time period provided for in Paragraph
23 (B)(1) of this Section, returns an eligible item that was purchased during such
24 time period and receives credit on the purchase of a different item, the
25 appropriate sales tax is due on the purchase of the new item.

26 F. For a sixty-day period after the time period provided for in Paragraph
27 (B)(1) of this Section, when a customer returns an item that would qualify for
28 an exemption, no credit or refunds of sales tax shall be given unless the
29 customer provides a receipt or invoice that shows that the sales tax was paid, or

1 **the retailer has sufficient documentation that shows that the tax was paid on the**
 2 **specific item. This sixty-day period is not intended to change a dealer's policy**
 3 **concerning the time period during which returns will be accepted.**

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

DIGEST

Proposed law provides for a "Second Amendment Weekend Holiday" from the first consecutive Friday through Sunday of September each year to exempt state and local sales and use tax for consumer purchases of firearms, ammunition and hunting supplies.

Proposed law applies only to consumers and not businesses. The exemption is not applicable for hunting dogs or animals.

Proposed law provides a fifty dollar penalty against the dealer if the dealer fails to apply the sales tax exemption during the designated sales tax holiday. It further provides that the department must receive a report of a violation within sixty days after the end of the sales tax holiday to be able to assess the penalty. The department shall waive the penalty for good cause, such as a computer programming error or computer malfunction, and shall have the waiver request in writing with supporting documentation.

Proposed law defines "hunting supplies" as any tangible personal property for the use of hunting, including but not limited to archery, vehicles and vessels such as ATVs, airboats, and pirogues, accessories, animal feed, apparel, shoes, bags, float tubes, binoculars, tools, firearm and archery cases, firearm and archery accessories, range finders, knives, decoys, treestands, blinds, chairs, optics, hearing protection and enhancements, holsters, belts, slings and miscellaneous gear.

Proposed law defines "firearms" as a shotgun, rifle, pistol, revolver, or other handgun.

Proposed law provides that, in order to be exempt, one of the following needs to occur during the tax holiday period:

1. Title to or possession of the item must be transferred from a selling dealer to a purchaser.
2. A customer must select an eligible item from the selling dealer's inventory for layaway, which is physically set aside in the selling dealer's inventory for future delivery to that customer.
3. The customer must make final payment and withdraw the item from a layaway that might have been placed before the tax holiday period.

4. The customer must order and pay for the item and the dealer must accept the order for immediate shipment, even if delivery is made after the tax holiday period, provided the customer has not requested delayed shipment.

Items which customers purchase during the tax holiday period with "rain checks" are exempt, regardless of when the "rain checks" are issued. However, purchases with "rain checks" issued during the tax holiday period are not exempt if the items are actually purchased after the tax holiday period. The exchange of an item purchased during the tax holiday period without additional cash consideration for an essentially identical item is exempt, but if the exchange results in credit on the purchase of a new item, the sale is taxable.

Proposed law prohibits a refund or credit of sales tax on returns of items eligible for the exemption for a 60-day period after the tax holidays unless the customer provides a receipt or invoice that shows that the sales tax was paid or the retailer has sufficient documentation showing that the tax is paid.

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

(Adds R.S. 47:305.62)

Summary of Amendments Adopted by Senate

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

1. Provides a fifty dollar penalty against the dealer if the dealer fails to apply the sales tax exemption during the designated sales tax holiday. It further requires that the department shall receive a report of a violation within sixty days after the end of the sales tax holiday to assess the penalty. The department must waive the penalty for good cause, such as a computer programming error or computer malfunction, and must have the waiver request in writing with supporting documentation.
2. Defines "firearms" as a shotgun, rifle, pistol, revolver, or other handgun.