

SENATE BILL NO. 9

BY SENATOR LONG

1 AN ACT

2 To amend and reenact R.S. 47:303(D)(1), 305(D)(1)(i) and (H), and 337.9(D)(25), and to
3 enact R.S. 47:301(16)(q) and 47:305.50(F) and 47:321(H)(3), relative to the sales
4 and use tax of the state and its political subdivisions; to provide for an exemption for
5 certain property used as demonstrators; to provide an exclusion for certain
6 component parts of immovable property; to provide with respect to the legislative
7 intent of Act No. 632 of the 2008 Regular Session of the Legislature as it relates to
8 sales and use tax; to establish a collaborative working group to develop certain
9 proposals and make certain reports regarding component parts of immovable
10 property for purposes of sales and use tax; to provide for applicability and
11 retroactivity; to provide an exemption for certain railroad ties; and to provide for
12 related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 47:303(D)(1), 305(D)(1)(i) and (H), and 337.9(D)(25) are hereby
15 amended and reenacted and R.S. 47:305.50(F) and 321(H)(3) are hereby enacted to read as
16 follows:

17 §303. Collection

18 * * *

19 D. Collection of tax on motorboats and vessels. (1) **Except as provided for**
20 **in R.S. 47:305(D)(1)(i)**, the secretary of the Louisiana Department of Wildlife and
21 Fisheries shall not register or issue a certificate of registration on any new boat or
22 vessel purchased in this state until satisfactory proof has been presented to him that
23 all sales taxes provided by this Part, and all municipal, school board ~~and/or~~ **and**
24 parish sales taxes, have been paid; ~~and~~ nor shall he register or issue a certificate of
25 registration on any boat or vessel brought into this state until satisfactory proof has
26 been presented to him that all use taxes required by this Part, and all municipal,
27 school board ~~and/or~~ **and** parish use taxes, have been paid.

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§305. Exclusions and exemptions from the tax

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

* * *

(i) New trucks, new automobiles, ~~and~~ new aircraft, and new boats, vessels, or other water craft withdrawn from stock by factory authorized new truck, new automobile, ~~and~~ new aircraft dealers, and factory-authorized dealers of new boats, vessels, or other water craft, and used trucks and used automobiles withdrawn from stock by new or used motor vehicle dealers, which are withdrawn for use as demonstrators.

* * *

H. "Demonstrators" as used in Subsection D of this Section for purposes of the sales and use tax levied by all taxing authorities shall mean all of the following:

(1) New and used trucks and automobiles for which dealer inventory plates may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name for use as demonstrators which are kept primarily on the dealer's premises during normal business hours and which are available for demonstration purposes; ~~provided,~~ However, ~~that~~ the occasional use of a demonstrator by authorized personnel of the dealer shall not disqualify such demonstrator from the exemption herein designated.

(2) New boats, vessels, or other water craft, hereafter, "boats," which comply with all the following:

(a) They are registered in a boat, vessel, or water craft dealer's name with the appropriate agency.

(b) They are reported by the dealer to the department as demonstrators and are clearly identified as demonstrators in the manner required by the

1 department.

2 (c) They are used by those designated by such dealer for any activity
3 which results in the advertisement, promotion of sales, or demonstration of the
4 qualities of the boat for the purpose of increasing sales of such boats; provided
5 that such use does not occur on more than six consecutive days and does not
6 occur on more than twelve days in any calendar month. The dealer shall keep
7 such logs or other records of such use as shall be required by the department.

8 (d) They are ultimately sold at retail.

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10 §305.50. Exemption; vehicles used in interstate commerce; rail rolling stock;
11 railroad ties

12 * * *

13 F. The sales and use tax imposed by the state, its statewide taxing
14 authorities, or any of its political subdivisions shall not apply to the "sales
15 price" or "cost price" of railroad ties that a railroad purchases prior to long-
16 term preservative treatment and installs into the railroad's track system outside
17 the taxing jurisdiction of the respective taxing authority, whether it be the state,
18 a statewide taxing authority, or a political subdivision.

19 * * *

20 §321. Imposition of tax

21 * * *

22 H. * * *

23 (3) Notwithstanding any other provision of the law or any other
24 provision of this Chapter to the contrary, the exemption provided in R.S.
25 47:305(D)(1)(i) for new boats, vessels, or other water craft used as
26 demonstrators shall be applicable, operable, and effective for all taxable periods
27 beginning on or after July 1, 2009.

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29 §337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other
30 exemptions applicable

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(25) R.S. 47:305.50, "key words": vehicles used in interstate commerce; rail rolling stock sold or leased in this state; **railroad ties**.

Section 2. R.S. 47:301(16)(q) is hereby enacted to read as follows:

§301. Definitions

* * *

(16)

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(q) For purposes of sales and use taxes imposed by the state, any statewide taxing authority, or any political subdivision, the term "tangible personal property" shall not include any property that would have been considered immovable property prior to the enactment on July 1, 2008, of Act No. 632 of the 2008 Regular Session of the Legislature.

* * *

Section 3.A. The purpose of Sections 2 and 3 of this Act are to restore the prior definition of a component part for sales tax purposes consistent with Act No. 301 of the 2005 Regular Session of the Louisiana Legislature and Act No. 594 of the 2006 Regular Session of the Louisiana Legislature.

B. Act No. 632 of the 2008 Regular Session of the Legislature was enacted to define component parts of immovable property within the Louisiana Civil Code. Such instrument was introduced, considered, and enacted in accordance with the provisions of Article III, Section 2(A)(3) of the Constitution of Louisiana. The amendment of Civil Code Articles 466 and 508 as contained in Act No. 632 of the 2008 Regular Session of the Legislature shall not be interpreted or in any way construed to change the characterization of component parts of immovable property for proposes of any tax imposed by the state or any of its political subdivisions.

Section 4.A. There is hereby established the following collaborative working group of state and local tax administrators and industry representatives for the

1 purpose of assisting in developing policy regarding the determination of which items
2 should be considered as moveable or immovable property for the purposes of state
3 and local sales and use tax. Representatives of each of the following shall serve as
4 members of the group:

- 5 (1) The Louisiana Association of Business and Industry.
- 6 (2) The Louisiana Hospital Association.
- 7 (3) The Louisiana Chemical Association.
- 8 (4) The Louisiana Pulp and Paper Association.
- 9 (5) The Louisiana Mid-Continent Oil and Gas Association.
- 10 (6) The Society of Louisiana Certified Public Accountants.
- 11 (7) The tax section of the Louisiana State Bar Association.
- 12 (8) The Louisiana Association of Tax Administrators.
- 13 (9) The Police Jury Association of Louisiana.
- 14 (10) The Louisiana Municipal Association.
- 15 (11) The Louisiana School Boards Association.
- 16 (12) Three persons designated by the Louisiana Department of Revenue.

17 B. The Department of Revenue shall call an organizational meeting of the
18 group no later than August 15, 2009, at which the group shall elect a chairman who
19 shall be responsible for calling future meetings and organizing the work of the group.
20 The group shall meet at least once each calendar quarter thereafter. The members
21 of the group shall serve without compensation.

22 C. The group shall study and develop specific proposals on the definition of
23 tangible personal property under Chapters 2, 2-A, 2-B and 2-D of Title 47 of the
24 Louisiana Revised Statutes of 1950. The group shall report its policy
25 recommendations to the chairmen of the House Committee on Ways and Means and
26 Senate Committee on Revenue and Fiscal Affairs no later than January 31, 2011.

27 D. The group shall cease to exist on June 30, 2011.

28 Section 5. The provisions of Sections 2 and 3 of this Act are declared to be
29 remedial, curative, and procedural and therefore shall be applied retroactively as well
30 as prospectively, and shall apply to all transactions occurring on or after the

1 enactment on July 1, 2008, of Act No. 632 of the 2008 Regular Session of the
2 Legislature.

3 Section 6. This Act shall become effective on July 1, 2009; if vetoed by the
4 governor and subsequently approved by the legislature, this Act shall become effective on
5 July 1, 2009, or on the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____