

2021 Regular Session

HOUSE BILL NO. 612

BY REPRESENTATIVE NELSON

TAX: Provides relative state and local taxes

1 AN ACT

2 To amend and reenact R.S. 33:4169(D) and R.S. 47:301(14)(b)(i)(aa), 302(A)(introductory

3 paragraph) and (1), (B), and (D), 305.14(A)(1)(a), 305.20(A) and (C),

4 321(A)(introductory paragraph) and (1) and (B), 331(A)(introductory paragraph) and

5 (1) and (B), 337.9(C)(7) through (9), (12), and (13), and 2303(introductory

6 paragraph) and (A), to enact R.S. 47:301(14)(l) and (31), 305.54(H), 305.58(G),

7 305.62(G), 305.75, and 331.1, and to repeal R.S. 38:2212.4(C) and R.S.

8 47:301(3)(b), (g), and (j), (4)(i), (7)(d), (j), and (l), (8)(d) and (e), (10)(a)(iv), (b)(ii),

9 (i), (k), (l), (n), (s), (t), (v) through (y), (bb), and (ee) through (hh), (13)(e) through

10 (j), (l), and (m), (14)(b)(ii) through (iv) and (k), (16)(b)(iii), (c), (h), (i), (m), (n), and

11 (p), (18)(a)(iv), (d), (f) through (k), (o), and (p), 302(F) through (J) and (L) through

12 (CC), 305(D)(1)(b) through (d), (g), (h), (j), and (m), (3) through (5), and (F), 305.2,

13 305.9, 305.11, 305.14(A)(1)(b) and (5), 305.16, 305.17, 305.26, 305.33, 305.36,

14 305.40 through 305.44, 305.50(B), 305.51 through 305.53, 305.57, 305.59 through

15 305.61, 305.63, 305.65, 305.67, 305.68, 305.70, 305.71, 305.74, 321(E) through (Q),

16 321.1, 331(F) through (W), 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (18)

17 through (20), and (26) through (34), 337.10(E), (G), and (M), 337.11(4) and (8),

18 6001, 6003, and 6040, relative to state and local taxation; to provide with respect to

19 sales and use taxes on sales of tangible personal property; to provide with respect to

20 sales and use taxes on sales of certain services; to provide with respect to sales and

1 use taxes on purchases, services, and rentals for private companies working for local
2 authorities on construction of sewerage and waste water treatment facilities; to
3 provide with respect to sales and use taxes on certain labor charges; to provide with
4 respect to certain cigarette taxes; to provide with respect to sales and use taxes on
5 rentals or purchases of certain airplanes; to provide with respect to sales and use
6 taxes on certain manufacturing and machinery equipment; to provide with respect
7 to sales and use taxes on pallets; to provide with respect to the sales and use taxes on
8 certain bibles, song books, or literature; to provide with respect to sales and use taxes
9 on certain school buses; to provide with respect to sales and use taxes on certain
10 pollution control devices; to provide with respect to sales and use taxes on pelletized
11 paper waste; to provide with respect sales and use taxes on sales of telephone
12 directories; to provide with respect to sales and use taxes of telecommunication
13 services; to provide with respect to sales and use taxes on natural gas; to provide
14 with respect to sales and use taxes on storm shutter devices; to provide with respect
15 to sales and use taxes at certain Louisiana heritage and culture events; to provide
16 with respect to sales and use taxes at festivals; to provide with respect to sales and
17 use taxes on specialty items sold to members by non profit carnival organizations;
18 to provide with respect to sales and use taxes on admissions to certain athletic and
19 entertainment events; to provide with respect to sales and use taxes on admissions
20 to certain places of amusement; to provide with respect to sales and use taxes on
21 computer software; to provide with respect to sales and use taxes on purchases by
22 motor vehicle manufacturers; to provide with respect to sales and use taxes on sales
23 of newspapers; to provide with respect to sales and use taxes on certain medical
24 devices and equipment; to provide with respect to sales and use taxes on sales to
25 nonprofit literacy organizations; to provide with respect to sales and use taxes on
26 certain installation services; to provide with respect to sales and use taxes on motor
27 vehicles; to provide with respect to sales and use taxes on purchases of certain
28 construction materials by charitable or nonprofit organizations; to provide with
29 respect to sales and use taxes on specialty Mardi Gras items; to provide with respect

1 to sales and use taxes on sales by Ducks Unlimited and Bass Life; to provide with
 2 respect to sales and use taxes on tickets to dances, dramas, or performing arts
 3 presentations or events; to provide with respect to sales and use taxes on materials
 4 used in the printing process; to provide with respect to sales and use taxes on certain
 5 carrier buses; to provide with respect to sales and use taxes on purchases of breast-
 6 feeding items; to provide with respect to sales and use taxes on certain materials for
 7 Louisiana commercial fishermen; to provide with respect to sales and use taxes on
 8 certain antique motor vehicle and airplanes; to provide with respect to sales and use
 9 taxes on rentals of motion-picture film; to provide with respect to sales and use taxes
 10 on purchases by and sales by certain nonprofit organizations dedicated to the
 11 conservation of fish and migratory waterfowl; to provide with respect to sales and
 12 use taxes of certain one-of-a-kind works of art; to provide with respect to sales and
 13 use tax holidays; to levy a sales and use tax on certain advertising services; to levy
 14 a sales and use tax on certain digital goods; to provide for definitions related to the
 15 taxation of digital goods; to levy an additional state sales and use tax; to provide for
 16 a sales and use tax exemption from certain residential utilities; to provide for certain
 17 local sales and use tax exemptions; to provide for eligibility for use value assessment
 18 for ad valorem property taxation; to provide for effectiveness; to provide for certain
 19 requirements and limitations; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. R.S. 33:4169(D) is hereby amended and reenacted to read as follows:

22 §4169. Collection contracts for sewerage service charges; access charges;
 23 enforcement procedures for delinquent charges

24 * * *

25 D. Any municipal corporation, parish, or sewerage or water district shall
 26 have the power to execute and enter into a contract with any private company for the
 27 construction of sewerage or wastewater treatment facilities and for the operation of
 28 such facilities. Any such private company shall have in its construction and
 29 operation of such facilities the same ad valorem ~~and sales~~ tax liability exemption as

1 the municipal corporation, parish, or sewerage or water district with which it
2 contracts for such purpose.

3 * * *

4 Section 2. R.S. 47:301(14)(b)(i)(aa), 302(A)(introductory paragraph) and (1), (B),
5 and (D), 305.14(A)(1)(a), 305.20(A) and (C), 321(A)(introductory paragraph) and (1) and
6 (B), 331(A)(introductory paragraph) and (1) and (B), 337.9(C)(7) through (9), (12), and (13),
7 and 2303(introductory paragraph) and (A) are hereby amended and reenacted and R.S.
8 47:301(14)(l) and (31), 305.54(H), 305.58(G), 305.62(G), 305.75, and 331.1 are hereby
9 enacted to read as follows:

10 §301. Definitions

11 As used in this Chapter the following words, terms, and phrases have the
12 meanings ascribed to them in this Section, unless the context clearly indicates a
13 different meaning:

14 * * *

15 (14) "Sales of services" means and includes the following:

16 * * *

17 (b)(i)(aa) The sale of admissions to ~~places of amusement~~, to an athletic and
18 entertainment other than that of schools, colleges, and universities, and recreational
19 events, and the furnishing, for dues, fees, or other consideration of the privilege of
20 access to clubs or the privilege of having access to or the use of amusement,
21 entertainment, athletic, or recreational facilities event held for or by an elementary
22 or secondary school.

23 * * *

24 (l) The sales of digital advertising services rendered by an advertising
25 business, including but not limited to advertising agencies, design firms, or broadcast
26 media businesses or any member, agent, or employee thereof, to any person or entity
27 regardless of the service involving a transfer tangible personal property to the client
28 when the digital advertising service is delivered into Louisiana.

29 * * *

1 (31)(a) Digital goods shall mean:

2 (i) Digital products or prewritten computer software delivered electronically
3 to an end user, regardless of whether the end user receives permanent or temporary
4 rights to access or utilize the product or software or whether the end user is required
5 to make continued payments for the rights or access.

6 (ii) Digital products or prewritten computer software in which a person may
7 be permitted rights for access or use and possession is maintained by the seller or a
8 third party, regardless of whether charges for access or utilization are per use, per
9 user, per license, or by subscription.

10 (iii) Digital codes.

11 (iv) Rights, licenses, or benefits delivered electronically to enhance,
12 maintain, update, renew, upgrade, or expand benefits for digital products or
13 prewritten computer software.

14 (b) For purposes of this Subparagraph the following words have the
15 following meanings:

16 (i) Digital code shall mean a key, activation, or enabling code that provides
17 the purchaser with a right or access to obtain one or more digital products that may
18 be obtained by any means including electronic delivery or any tangible means.
19 Digital code shall not include a code that represents stored monetary value that is
20 deducted from a total as it is used by the purchaser, or a redeemable card, gift card,
21 or gift certificate that entitles the holder of the instrument to select specified digital
22 products of an indicated cash value.

23 (ii) Digital product shall include the following:

24 (aa) Digital audiovisual works.

25 (bb) Digital audio works.

26 (cc) Digital books.

27 (dd) Digital artwork.

28 (ee) Digital photographs.

29 (ff) Digital periodicals.

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* * *

D.(1) Notwithstanding any other provision of law to the contrary, except as provided by Paragraph (2) of this Subsection, no sales or use tax of any taxing authority shall be levied on any advertising service rendered by an advertising business, including but not limited to advertising agencies, design firms, and print and broadcast media, or any member, agent, or employee thereof, to any client whether or not such service also involves a transfer to the client of tangible personal property. However, a transfer of mass-produced advertising items by an advertising business which manufactures the items itself to a client for the client's use, which transfer involves the furnishing of minimal services other than manufacturing services by the advertising business shall be a taxable sale or use of tangible personal property; provided that in no event shall tax be levied on charges for creative services which are separately invoiced.

(2) The sales of digital advertising services rendered by an advertising business shall be subject to all state sales and use tax levies provided for in this Chapter pursuant to R.S. 47:301(14)(l).

* * *

§305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption; limitations; qualifications; ~~newspapers~~; determination of tax exempt status
A.(1)(a) The sales and use taxes imposed by taxing authorities shall not apply to sales of tangible personal property at, or admission charges for, outside gate admissions to, or parking fees associated with, events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit, when the entire proceeds, except for necessary expenses such as fees paid for guest speakers, chair and table rentals, and food and beverage utility related items connected therewith, are used for educational, charitable, religious, or historical restoration purposes, including the furtherance of the civic, educational, historical, charitable, fraternal, or religious purpose of the organization. ~~In addition, newspapers published in this state by religious organizations shall also be exempt~~

1 from such taxes, provided that the price paid for the newspaper or a subscription to
2 the newspaper does not exceed the cost to publish such newspaper.

3 * * *

4 §305.20. Exclusions and exemptions; Louisiana commercial fishermen

5 A. A Louisiana resident, domiciled in Louisiana, who possesses such valid
6 Louisiana commercial fishing license(s) as may be necessary for commercial fishing
7 ventures, including but not limited to a vessel license issued pursuant to R.S. 56:304,
8 and who is an owner of a vessel operated primarily for the conduct of commercial
9 fishing as a trade or business and which the Louisiana Department of Wildlife and
10 Fisheries determines will be predominantly and principally used for commercial
11 fishing ventures and whose catch is for human consumption shall be exempt from
12 state sales, use, lease, and services taxes as set forth in Subsection C of this Section.
13 Possession of a commercial fishing license issued by the Department of Wildlife and
14 Fisheries shall not be used as the sole determination that a vessel will be used
15 predominantly and principally for commercial fishing ventures. ~~This exemption~~
16 ~~shall also apply to facilities which process the catch from owners of commercial~~
17 ~~fishing vessels for which this exemption is granted when such vessels are owned by,~~
18 ~~or leased or contracted exclusively to, the seafood processing facility.~~

19 * * *

20 C. An owner who has obtained a certificate of exemption shall, with respect
21 to the vessel identified in the certificate for the harvesting or production of fish and
22 other aquatic life, including shrimp, oysters, and clams, ~~and certain seafood~~
23 ~~processing facilities described in Subsection A~~, be exempt from the taxes described
24 in Subsection A, as follows:

25 (1) Taxes applied to the materials and supplies necessary for repairs to the
26 vessel ~~or facility~~ if they are purchased by the owner and later become a component
27 part of the vessel ~~or facility~~.

28 (2) Taxes applied to materials and supplies purchased by the owner of the
29 vessel or facility where such materials and supplies are loaded upon the vessel ~~or~~

1 ~~delivered to the facility~~ for use or consumption in the maintenance and operation
2 thereof for commercial fishing ~~and processing ventures~~. For purposes of this
3 Paragraph, it shall make no difference whether the vessel is engaged in interstate,
4 foreign, or intrastate commerce.

5 (3) Taxes applied to repair services performed upon the vessel ~~or facility~~.
6 For the purposes of this Paragraph, it shall make no difference whether the vessel is
7 engaged in intrastate, interstate, or foreign commerce.

8 (4) Taxes applied to the purchase of gasoline, diesel fuel, and lubricants for
9 the vessel ~~and to sources of energy and fuels for the facility~~.

10 * * *

11 §305.54. Exemption; Annual Louisiana Sales Tax Holidays Act

12 * * *

13 H. Notwithstanding any other provision of law, the exemption provided for
14 in this Section shall not apply to state sales and use taxes.

15 * * *

16 §305.58. Exemption; annual sales tax holiday; hurricane-preparedness items or
17 supplies; dates; restrictions

18 * * *

19 G. Notwithstanding any other provision of law, the exemption provided for
20 in this Section shall not apply to state sales and use taxes.

21 * * *

22 §305.62. Exemption; Annual Louisiana Second Amendment Weekend Holiday

23 * * *

24 G. Notwithstanding any other provision of law, the exemption provided for
25 in this Section shall not apply to state sales and use taxes.

26 * * *

27 §305.75. Exemption; utilities

28 The sale at retail, the use, the consumption, the distribution, and the storage
29 to be used or consumed within the applicable taxing authority of the following

1 utilities shall be exempt from the sales and use taxes levied in R.S. 47:302.1, 321,
2 and 331:

3 (a) Steam.

4 (b) Water, not including mineral water, carbonated water, or any water put
5 in bottles, jugs, or containers.

6 (c) Electric power or energy and any materials or energy sources used to fuel
7 the generation of electric power for resale or use by an industrial manufacturing plant
8 for self-consumption or cogeneration.

9 (d) Natural gas.

10 (e) All energy sources used for boiler fuel, not including refinery gas.

11 * * *

12 §321. Imposition of tax

13 A. In addition to the tax levied by R.S. 47:302(A) and 331(A) and collected
14 under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied
15 an additional tax upon the sale at retail, the use, the consumption, the distribution,
16 and the storage for use or consumption in this state of each item or article of tangible
17 personal property and upon the sale of each digital good delivered into this state, as
18 defined in Chapter 2 of Subtitle II of this Title. The levy of said tax shall be as
19 follows:

20 (1) At the rate of one percent of the sales price of each item or article of
21 tangible personal property when sold at retail in this state except for prepaid calling
22 service and prepaid wireless calling service and of the sales price of each digital
23 good delivered into this state, the tax to be computed on gross sales for the purpose
24 of remitting the amount of tax to the state, and to include each and every retail sale.

25 * * *

26 B. In addition to the tax levied by R.S. 47:302(B) and 331(B) and collected
27 under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised
28 Statutes of 1950, there is hereby levied a tax upon the lease or rental within this state
29 of each item or article of tangible personal property and upon the lease or rental of

1 each digital good delivered into this state, as defined by said Chapter 2 of Subtitle
2 II of Title 47 of the Louisiana Revised Statutes of 1950; the levy of said tax to be as
3 follows:

4 (1) At the rate of one percent of the gross proceeds derived from the lease
5 or rental of tangible personal property or digital good, as defined in Chapter 2 of
6 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, where the lease or
7 rental of such property or digital good is in an established business, or part of an
8 established business, or the same is incidental or germane to the business.

9 (2) At the rate of one percent of the monthly lease or rental price paid by a
10 lessee or rentee, or contracted or agreed to be paid by a lessee or rentee to the owner
11 of the tangible personal property or digital good.

12 * * *

13 §331. Imposition of tax

14 A. In addition to the tax levied by R.S. 47:302(A) and collected under the
15 provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes
16 of 1950, there is hereby levied an additional tax upon the sale at retail, the use, the
17 consumption, the distribution, and the storage for use or consumption in this state of
18 each item or article of tangible personal property and upon the sale of each digital
19 good delivered into this state, as defined in Chapter 2 of Subtitle II of Title 47 of the
20 Louisiana Revised Statutes of 1950; the levy of said tax to be as follows:

21 (1) At the rate of ninety-seven one hundredths of one percentum of the sales
22 price of each item or article of tangible personal property when sold at retail in this
23 state and of the sales price of each digital good delivered into this state, the tax to be
24 computed on gross sales for the purpose of remitting the amount of tax to the state,
25 and to include each and every retail sale.

26 * * *

27 B. In addition to the tax levied by R.S. 47:302(B) and collected under the
28 provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes
29 of 1950, there is hereby levied a tax upon the lease or rental within this state of each

1 item or article of tangible personal property and upon the lease or rental of each
2 digital good delivered into the state, as defined by said Chapter 2 of Subtitle II of
3 Title 47 of the Louisiana Revised Statutes of 1950; the levy of said tax to be as
4 follows:

5 (1) At the rate of ninety-seven one hundredths of one percentum of the gross
6 proceeds derived from the lease or rental of tangible personal property or digital
7 good, as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised
8 Statutes of 1950, where the lease or rental of such property or digital good is in an
9 established business, or part of an established business, or the same is incidental or
10 germane to the business.

11 (2) At the rate of ninety-seven one hundredths of one percentum of the
12 monthly lease or rental price paid by a lessee or rentee, or contracted or agreed to be
13 paid by a lessee or rentee to the owner of the tangible personal property or digital
14 good.

15 * * *

16 §331.1. Imposition of tax

17 A. In addition to the taxes levied in R.S. 47:302(A), 321(A), and 331(A) and
18 collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana
19 Revised Statutes of 1950, there is hereby levied an additional tax upon the sale at
20 retail, the use, the consumption, the distribution, and the storage for use or
21 consumption in this state of each item or article of tangible personal property and
22 upon the sale of each digital good delivered into the state, as defined in Chapter 2 of
23 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The levy of the tax
24 shall be as follows:

25 (1) At the rate of two and six hundredths percent of the sales price of each
26 item or article of tangible personal property when sold at retail in this state and of
27 each digital good delivered into this state, the tax to be computed on gross sales for
28 the purpose of remitting the amount of tax to the state, and to include each and every
29 retail sale.

1 (2) At the rate of two and six hundredths percent of the cost price of each
2 item or article of tangible personal property when the same is not sold but is used,
3 consumed, distributed, or stored for use or consumption in this state, provided that
4 there shall be no duplication of the tax.

5 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
6 collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana
7 Revised Statutes of 1950, there is hereby levied a tax upon the lease or rental within
8 this state of each item or article of tangible personal property and upon the lease or
9 rental of each digital good delivered into this state, as defined by Chapter 2 of
10 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The levy of the tax
11 shall be as follows:

12 (1) At the rate of two and six hundredths percent of the gross proceeds
13 derived from the lease or rental of tangible personal property or digital good, as
14 defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
15 1950, where the lease or rental of such property or digital good is in an established
16 business, or part of an established business, or the same is incidental or germane to
17 the business.

18 (2) At the rate of two and six hundredths percent of the monthly lease or
19 rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee
20 or rentee to the owner of the tangible personal property or digital good.

21 C. In addition to the tax levied on sales of services by R.S. 47:302(C),
22 321(C), and 331(C) and collected under the provisions of Chapter 2 of Subtitle II of
23 Title 47 of the Louisiana Revised Statutes of 1950, there is hereby levied a tax upon
24 all sales of services in this state, as those services are defined by Chapter 2 of
25 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, at the rate of two
26 and six hundredths percent of the amounts paid or charged for the services.

27 D. The tax levied herein shall be collected from the dealer or wholesaler as
28 provided for and as defined by Chapter 2 of Subtitle II of Title 47 of the Louisiana
29 Revised Statutes of 1950. The tax shall be paid at the time and in the manner

1 provided therein, shall be in addition to all other taxes, whether levied in the form
2 of sales, excise, license, or privilege taxes, and shall be in addition to taxes levied
3 under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised
4 Statutes of 1950.

5 * * *

6 §337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other
7 exemptions applicable

8 * * *

9 C.(1)

10 * * *

11 (7) ~~R.S. 47:305(D)(1)(b)~~, R.S. 47:305.75(a), "key words": steam.

12 (8) ~~R.S. 47:305(D)(1)(c)~~, R.S. 47:305.75(b), "key words": water.

13 (9) ~~R.S. 47:305(D)(1)(d)~~, R.S. 47:305.75(c), "key words": electric power or
14 energy and fuel.

15 * * *

16 (12) ~~R.S. 47:305(D)(1)(g)~~, R.S. 47:305.75(d), "key words": natural gas.

17 (13) ~~R.S. 47:305(D)(1)(h)~~, R.S. 47:305.75(e), "key words": boiler fuel except
18 refinery gas.

19 * * *

20 §2303. Eligibility for use value assessment

21 In order to be classified as bona fide agricultural, horticultural, ~~marsh~~ or
22 timber land and assessed at its use value under the provisions of Article VII, Section
23 18(C) of the Louisiana Constitution of 1974, it must meet the definition of bona fide
24 agricultural, horticultural, ~~marsh~~ or timber land as described in R.S. 47:2302 and, in
25 the case of bona fide agricultural, horticultural, or timber land:

26 A. Be at least ~~three~~ ten acres in size, or have produced an average gross
27 annual income of at least two thousand dollars in one or more of the designated
28 classifications for the four preceding years, and

29 * * *

1 Section 3. R.S. 38:2212.4(C) and R.S. 47:301(3)(b), (g), and (j), (4)(i), (7)(d), (j), and
 2 (l), (8)(d) and (e), (10)(a)(iv), (b)(ii), (i), (k), (l), (n), (s), (t), (v) through (y), (bb), and (ee)
 3 through (hh), (13)(e) through (j), (l), and (m), (14)(b)(ii) through (iv) and (k), (16)(b)(iii),
 4 (c), (h), (i), (m), (n), and (p), (18)(a)(iv), (d), (f) through (k), (o), and (p), 302(F) through (J)
 5 and (L) through (CC), 305(D)(1)(b) through (d), (g), (h), (j), and (m), (3) through (5), and
 6 (F), 305.2, 305.9, 305.11, 305.14(A)(1)(b) and (5), 305.16, 305.17, 305.26, 305.33, 305.36,
 7 305.40 through 305.44, 305.50(B), 305.51 through 305.53, 305.57, 305.59 through 305.61,
 8 305.63, 305.65, 305.67, 305.68, 305.70, 305.71, 305.74, 321(E) through (Q), 321.1, 331(F)
 9 through (W), 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (18) through (20), and (26)
 10 through (34), 337.10(E), (G), and (M), 337.11(4) and (8), 6001, 6003, and 6040 are hereby
 11 repealed in their entirety.

12 Section 4. This Act shall take effect and become operative if and when the proposed
 13 amendment of Articles VI, VII, and VIII of the Constitution of Louisiana contained in the
 14 Act which originated as House Bill No. _____ of this 2021 Regular Session of the
 15 Legislature is adopted at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 612 Original

2021 Regular Session

Nelson

Abstract: Provides for state and local sales and use taxes.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies in the following amounts:

R.S. 47:302 - 2%

R.S. 47:321 - 1%

R.S. 47:321.1 - .45%

R.S. 47:331 - .97%

R.S. 51:1286 - .03%

Present law suspends numerous exemptions from the four levies of state sales and use tax (R.S. 47:302, 321, 321.1, and 331) through June 30, 2025, and provides a list of exemptions that are currently effective.

Present law authorizes numerous sales and use tax exemptions and exclusions.

Present law suspends effectiveness of various sales and use tax exemptions and exclusions, through June 30, 2025, thereby making these items subject to state sales and use tax.

Proposed law repeals the exemptions and exclusions currently ineffective including exemptions and exclusions for:

- (1) Sales and use taxes on purchases, services and rentals for private companies working for local authorities on construction of sewerage and waste water treatment facilities.
- (2) Sales and use taxes on certain labor charges.
- (3) Sales and use taxes on purchases of certain utilities,
- (4) Sales and use taxes on rentals or purchases of certain airplanes.
- (5) Sales and use taxes on certain manufacturing and machinery equipment.
- (6) Sales and use taxes on certain pallets.
- (7) Sales and use taxes on certain bibles, song books, or literature.
- (8) Sales and use taxes on certain school buses.
- (9) Sales and use taxes on certain pollution control devices.
- (10) Sales and use taxes on pelletized paper waste.
- (11) Sales and use taxes on sales of telephone directories.
- (12) Sales and use taxes of certain telecommunication services.
- (13) Sales and use taxes on natural gas.
- (14) Sales and use taxes on storm shutter devices.
- (15) Sales and use taxes at certain Louisiana heritage and culture events.
- (16) Sales and use taxes at festivals.
- (17) Sales and use taxes on specialty items sold to members by nonprofit carnival organizations.
- (18) Sales and use taxes on admissions to certain athletic and entertainment events.
- (19) Sales and use taxes on admissions to certain places of amusement.
- (20) Sales and use taxes on computer software.
- (21) Sales and use taxes on purchases by motor vehicle manufacturers.
- (22) Sales and use taxes on sales of newspapers.
- (23) Sales and use taxes on medical devices and equipment.
- (24) Sales and use taxes on sales to nonprofit literacy organizations.
- (25) Sales and use taxes on certain installation services.
- (26) Sales and use taxes on motor vehicles.

- (28) Sales and use taxes on purchases of certain construction materials by certain charitable or nonprofit organizations.
- (29) Sales and use taxes on specialty Mardi Gras items.
- (30) Sales and use taxes on sales by Ducks Unlimited and Bass Life.
- (31) Sales and use taxes on tickets to dances, dramas, or performing arts presentations or events.
- (32) Sales and use taxes on materials used in the printing process.
- (33) Sales and use taxes on certain carrier buses.
- (34) Sales and use taxes on purchases of breast-feeding items.
- (35) Sales and use taxes on certain materials for Louisiana commercial fishermen.
- (36) Sales and use taxes on certain antique motor vehicle and airplanes.
- (37) Sales and use taxes on certain rentals of motion-picture film.
- (38) Sales and use taxes on purchases by and sales by certain nonprofit organizations dedicated to the conservation of fish and migratory waterfowl.
- (39) Sales and use taxes of certain one-of-a-kind works of art.

Proposed law levies a sales and use tax on digital goods delivered into La.

Proposed law defines digital goods as:

- (1) Digital products or prewritten computer software delivered electronically to an end user, regardless of whether the end user receives permanent or temporary rights to access or utilize the product or software or whether the end user is required to make continued payments for the rights or access.
- (2) Digital products or prewritten computer software in which a person may be permitted rights for access or use and possession is maintained by the seller or a third party, regardless of whether charges for access or utilization are per use, per user, per license, or by subscription.
- (3) Digital codes.
- (4) Rights, licenses, or benefits delivered electronically to enhance, maintain, update, renew, upgrade, or expand benefits for digital products or prewritten computer software.

Proposed law defines digital code as a key, activation, or enabling code that provides the purchaser with a right or access to obtain one or more digital products that may be obtained by any means including electronic or tangible means. Digital code shall not include a code that represents stored monetary value that is deducted from a total as it is used by the purchaser or a redeemable card, gift card, or gift certificate that entitles the holder of the instrument to select specified digital products of an indicated cash value.

Proposed law provides digital product shall include the following:

- (1) Digital audiovisual works.

- (2) Digital audio works.
- (3) Digital books.
- (4) Digital artwork.
- (5) Digital photographs.
- (6) Digital periodicals.
- (7) Digital newspapers.
- (8) Digital magazines.
- (9) Digital video greeting cards.
- (10) Audio greeting cards.
- (11) Digital greeting cards or invitations.
- (12) Video games.

Present law exempts sales of advertising services from sales and use tax.

Proposed law changes present law levies a tax on the sales of digital advertising services rendered by an advertising business when the advertisement service is delivered into La.

Present law provides that land, in order to be classified as bonafide agricultural, horticultural, marsh or timberland and assessed at its use value, must be at least three acres in size or have produced an average gross annual income of at least \$2,000 in one or more of the designated classification for the previous four years.

Proposed law retains present law but changes the minimum acreage from three acres to ten acres.

(Amends R.S. 33:4169(D) and R.S. 47:301(14)(b)(i)(aa), 302(A)(intro. para.) and (1), (B), and (D), 305.14(A)(1)(a), 305.20(A) and (C), 321(A)(intro. para.) and (1) and (B), 331(A)(intro. para.) and (1) and (B), 337.9(C)(7)-(9), (12), and (13), and 2303(A); Adds R.S. 47:301(14)(l) and (31), 305.54(H), 305.58(G), 305.62(G), 305.75, and 331.1; Repeals R.S. 38:2212.4(C) and R.S. 47:301(3)(b), (g), and (j), (4)(i), (7)(d), (j), and (l), (8)(d) and (e), (10)(a)(iv), (b)(ii), (i), (k), (l), (n), (s), (t), (v)-(y), (bb), and (ee)-(hh), (13)(e)-(j), (l), and (m), (14)(b)(ii)-(iv) and (k), (16)(b)(iii), (c), (h), (i), (m), (n), and (p), (18)(a)(iv), (d), (f)-(k), (o), and (p), 302(F)-(J) and (L)-(CC), 305(D)(1)(b)-(d), (g), (h), (j), and (m), (3)-(5), and (F), 305.2, 305.9, 305.11, 305.14(A)(1)(b) and (5), 305.16, 305.17, 305.26, 305.33, 305.36, 305.40-305.44, 305.50(B), 305.51-305.53, 305.57, 305.59-305.61, 305.63, 305.65, 305.67, 305.68, 305.70, 305.71, 305.74, 321(E)-(Q), 321.1, 331(F)-(W), 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (18)-(20) and (26)-(34), 337.10(E), (G), and (M), 337.11(4) and (8), 6001, 6003, and 6040)