

First Extraordinary Session, 2005

SENATE BILL NO. 96

BY SENATOR SHEPHERD

TAX/SALES. Provides that the state sales or use tax shall not apply to consumer purchases of tangible personal property for non-business use of \$50,000 or less on December 17th. (gov sig)

AN ACT

To enact R.S. 47:305.54, relative to the state sales and use tax; to enact the 2005 Louisiana Sales Tax Holiday Act; to provide that the state sales and use tax shall not apply to certain consumer purchases of tangible personal property for non-business use on a certain date; to provide restrictions on the types and cost of purchases that are eligible for exemption; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:305.54 is hereby enacted to read as follows:

§305.54. Exemption; 2005 Louisiana Sales Tax Holiday Act

A. This Act shall be known as the 2005 Louisiana Sales Tax Holiday Act.

B.(1) Notwithstanding any other provisions of law to the contrary, the sales tax levied by the state of Louisiana and its political subdivisions whose boundaries are coterminous of those of the state shall not apply to consumer purchases of tangible personal property for non-business use which occur on Saturday, December 17, 2005.

(2) For purposes of this Act, "consumer purchases" shall mean

purchases of items of tangible personal property, other than vehicles subject to license and title, costing fifty thousand dollars or less per unit that are not for use in a trade, business or profession. Manufacturers' coupons and rebates and charges for delivery to the customer shall not be considered in determining whether an item costs fifty thousand dollars or less.

C. This provision will apply if and only if on the one-day period provided in Subsection A of this Section, one of the following occur:

(1) Title to or possession of an item of tangible personal property is transferred from a selling dealer to a purchaser.

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

(3) The customer makes final payment and withdraws an item from layaway that might have been placed before the one-day period provided in Subsection A of this Section.

(4) The customer orders and pays for an eligible item and the selling dealer accepts the order for immediate shipment, even if delivery is made after the one-day period provided in Subsection A of this Section, provided that the customer has not requested delayed shipment.

D. Eligible items that customers purchase on the one-day period provided in Subsection A of this Section, with "rain checks" will qualify for exemption, regardless of when the "rain checks" were issued. However, issuance of "rain checks" during the exemption period will not qualify items for exemption if the otherwise eligible items are actually purchased after such period.

E.(1) When a customer purchases an eligible item during the one-day period provided in Subsection A of this Section, and exchanges the item without additional cash consideration after such period, for an essentially identical item of different size, color, or other failure, no additional tax is due.

1 **(2) When a customer after the one-day period provided in Subsection**
2 **A of this Section, returns an eligible item that was purchased during such**
3 **period, and receives credit on the purchase of a different item, the appropriate**
4 **sales tax is due on the purchase of the new item.**

5 **F. Articles that are normally sold as a unit must continue to be sold in**
6 **that manner, and cannot be priced separately in order to bring the individual**
7 **items below the fifty thousand dollar eligibility threshold. Items that are**
8 **advertised as "buy one, get one free" or "buy one, get one at a reduced price"**
9 **cannot be averaged in order for both items to fall under the fifty thousand**
10 **dollar eligibility threshold.**

11 **G. For a sixty-day period after the one-day period provided in**
12 **Subsection A of this Section, when a customer returns an item that would**
13 **qualify for an exemption, no credit or refunds of sales tax shall be given unless**
14 **the customer provides a receipt or invoice that shows that the state sales tax was**
15 **paid, or the retailer has sufficient documentation that shows that the tax was**
16 **paid on the specific item. This sixty-day period is not intended to change a**
17 **dealer's policy concerning the time period during which returns will be**
18 **accepted.**

19 Section 2. The secretary of the Department of Revenue is authorized to adopt and
20 promulgate rules for the administration of the provisions of this Act in accordance with the
21 Administrative Procedure Act.

22 Section 3. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 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 Thomas L. Tyler.

DIGEST

Proposed law provides for "sales tax holiday" on Saturday, December 17, 2005, affecting only the sales tax levied by the state and the Louisiana Tourism Promotion District. Local sales and use taxes will not be affected by the proposed holiday.

The holiday applies only to consumers and not businesses. The exemption is not applicable to motor vehicles that will be titled or to items costing more than \$50,000.

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

(Adds R.S. 47:305.54)