

First Extraordinary Session, 2005

SENATE BILL NO. 96

BY SENATORS SHEPHERD, AMEDEE AND MARIONNEAUX

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 \$25,000 or less between 3:00 P.M. Tuesday, December 6, 2005, and midnight Sunday, December 11, 2005. (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 certain dates; 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 between 3:00 p.m. Tuesday, December 6, 2005, and midnight Sunday, December 11, 2005.**

1           (2) For purposes of this Act, "consumer purchases" shall mean  
2           purchases of items of tangible personal property costing twenty-five thousand  
3           dollars or less per unit that are not for use in a trade, business or profession.  
4           Manufacturers' coupons and rebates and charges for delivery to the customer  
5           shall not be considered in determining whether an item costs twenty-five  
6           thousand dollars or less. "Consumer purchases" as used in this Paragraph shall  
7           not mean the purchase of a vehicle subject to license and title.

8           C. This provision will apply if and only if during the period provided in  
9           Subsection A of this Section, one of the following occur:

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

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

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

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

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

27           E.(1) When a customer purchases an eligible item during the period  
28           provided in Subsection A of this Section, and exchanges the item without  
29           additional cash consideration after such period, for an essentially identical item

1 of different size, color, or other failure, no additional tax is due.

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

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

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

19 H. Notwithstanding any other provisions of law to the contrary, the  
20 terms of this Section shall be voluntary for retail dealers; however all retailers  
21 who intend to not grant the sales tax holiday authorized in this Section shall  
22 notify the Department of Revenue not less than three days prior to the holiday  
23 period and shall place public notice signs prominently displayed in their  
24 establishment to that effect.

25 I. All retail dealers who must make adjustments to their cash registers  
26 resulting from offering the sales tax holiday authorized in this Section shall be  
27 reimbursed at a rate of fifty dollars per cash register.

28 Section 2. The secretary of the Department of Revenue is authorized to adopt and  
29 promulgate rules for the administration of the provisions of this Act in accordance with the

1 Administrative Procedure Act.

2 Section 3. This Act shall become effective upon signature by the governor or, if not  
3 signed by the governor, upon expiration of the time for bills to become law without signature  
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
6 effective on the day following such approval.

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The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Todd Parker.

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#### DIGEST

Shepherd (SB 96)

Proposed law provides for "sales tax holidays" between 3:00 P.M. Tuesday, December 6, 2005, and midnight Sunday, December 11, 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 holidays.

The holidays apply only to consumers and not businesses. The exemption is not applicable to motor vehicles that will be titled or to items costing more than \$25,000.

Proposed law provides that the terms of proposed law shall be voluntary for retail dealers. Requires all retailers who intend to not grant the sales tax holiday to notify the Department of Revenue not less than 3 days prior to the holiday period and to prominently display public notice signs in their establishment to that effect.

Proposed law further provides that all retail dealers who must make adjustments to their cash registers resulting from offering the sales tax holiday shall be reimbursed at a rate of \$50 per cash register.

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

(Adds R.S. 47:305.54)

#### Summary of Amendments Adopted by Senate

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

1. Expands the holiday period from a one-day period to a six-day period.
2. Lowers the exemption from one for items costing \$50,000 or less to one for items costing \$25,000 or less.

##### Senate Floor Amendments to the engrossed bill.

1. Makes proposed law voluntary for retail dealers.

2. Requires all retailers who intend to not grant the sales tax holiday to notify the Department of Revenue not less than 3 days prior to the holiday period and to prominently display public notice signs in their establishment to that effect.
3. Provides that all retail dealers who must make adjustments to their cash registers resulting from offering the sales tax holiday shall be reimbursed at a rate of \$50 per cash register.