

2019 Regular Session

HOUSE BILL NO. 560

BY REPRESENTATIVES ABRAMSON, ARMES, BAGLEY, BILLIOT, TERRY BROWN, CARPENTER, GARY CARTER, STEVE CARTER, COX, DUPLESSIS, JIMMY HARRIS, JAMES, JEFFERSON, JENKINS, JORDAN, TERRY LANDRY, LARVADAIN, LYONS, MARCELLE, DUSTIN MILLER, MOORE, NORTON, SMITH, AND STAGNI

TAX/EXCISE: Authorizes the imposition of tax on hemp and CBD

1 AN ACT

2 To enact Chapter 19 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 47:1692 through 1696, relative to state excise tax on industrial
4 hemp-derived CBD products; to levy an excise tax on industrial hemp-derived CBD
5 products; to provide for certain definitions; to provide for the rate of the excise tax;
6 to exempt certain products from the excise tax; to authorize the promulgation of rules
7 and regulations; to provide for the use of the avails of the excise tax; to provide for
8 an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 19 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
11 1950, to be comprised of R.S. 47:1692 through 1696 is hereby enacted to read as follows:

12 CHAPTER 19. "INDUSTRIAL HEMP-DERIVED CBD TAX"

13 §1692. Definitions

14 As used in this Chapter, the following terms shall have the meaning ascribed
15 to them in this Section unless the context clearly indicates otherwise:

16 (1) "CBD" means cannabidiol.

1 (2) Solely for purposes of the imposition of the industrial hemp-derived CBD
2 tax, "consumer" means either a business entity or a person who purchases industrial
3 hemp-derived CBD products.

4 (3) Solely for purposes of the imposition of the industrial hemp-derived CBD
5 tax, "industrial hemp" means the plant Cannabis sativa and any part of that plant,
6 including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids,
7 salts, and salts of isomers, whether growing or not, with a delta-9
8 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight
9 basis, and cultivated and processed in accordance with the United States Agriculture
10 Improvement Act of 2018, P.L. 115-334, or the plan submitted by the Louisiana
11 Department of Agriculture and Forestry that is in compliance with the U.S.
12 Department of Agriculture rules. Industrial hemp shall not include plants of the
13 Genus Cannabis that meet the definition of "marijuana" as defined in R.S. 40:961.

14 (4) "Industrial hemp-derived CBD product" means any industrial hemp-
15 derived product that contains CBD intended for consumption or topical use.

16 (5) Solely for purposes of the imposition of the industrial hemp-derived CBD
17 tax, "retail sale" means the sale or transfer of industrial hemp-derived CBD products
18 to a consumer for any purpose other than for resale and shall include all transactions
19 as the secretary, upon investigation, finds to be in lieu of sales. Resale shall include,
20 but not be limited to, the sale of industrial hemp-derived CBD products for further
21 processing into a product produced in accordance with R.S. 40:1046.

22 (6) Solely for purposes of the imposition of the industrial hemp-derived CBD
23 tax, "retailer" means a person or entity that sells or offers for sale industrial hemp-
24 derived CBD products to a consumer. Retailer shall also include any person or entity
25 that imports or causes to be imported from any other state industrial hemp-derived
26 CBD products for use or consumption.

27 (7) "Secretary" means the secretary of the Department of Revenue or his
28 duly appointed representatives.

1 §1693. Imposition of tax

2 A. There is hereby levied an excise tax upon each retail sale of industrial
3 hemp-derived CBD products within the state of Louisiana. The tax levied in this
4 Chapter shall be at the rate of three percent of the retail sales price of industrial
5 hemp-derived CBD products. The excise tax shall be levied in addition to state and
6 local sales and use tax or any other tax, and shall be reported monthly by the retailer
7 on forms prescribed by the secretary and paid by the retailer on or before the
8 twentieth day of the month following the month to which the tax is applicable.

9 B. The provisions of this Section shall not apply to any CBD product that has
10 been approved for marketing as a prescription medication by the United States Food
11 and Drug Administration or that is recommended for therapeutic use pursuant to R.S.
12 40:1046.

13 §1694. Enforcement

14 The secretary shall collect, supervise and enforce the collection of all taxes,
15 penalties, interest, and other charges that may be due under the provisions of this
16 Chapter in the same manner provided for by law under the provisions of this Subtitle.
17 The secretary shall administer legislative mandates contained in this Subtitle. To
18 that end the secretary is vested with all of the power and authority conferred by this
19 Subtitle, except as conferred upon other officials.

20 §1695. Rules and regulations

21 The department may promulgate rules and regulations in accordance with the
22 Administrative Procedure Act as are necessary to implement the provisions of this
23 Chapter.

24 §1696. Disposition of collections

25 After satisfaction of the requirements of the Bond Security and Redemption
26 Fund as required under Article VII, Section 9(B) of the Louisiana Constitution, the
27 state treasurer shall deposit in and credit to the Early Childhood Education Fund the
28 revenues collected as provided in this Chapter.

1 Section 2. This Act shall take effect and become operative if and when the Act
2 which originated as House Bill No. 138 of this 2019 Regular Session of the Legislature is
3 enacted and becomes effective and shall be applicable for all tax periods beginning on or
4 after January 1, 2020.

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 560 Reengrossed

2019 Regular Session

Abramson

Abstract: Authorizes the levy of an excise tax at the rate of 3% on the retail sale of industrial hemp-derived CBD products.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property.

Proposed law retains present law and levies an excise tax on the sale of industrial hemp-derived CBD products by a retailer to a consumer at the rate of 3% based on the retail sales price of these products, in addition to other taxes, including state and local sales and use taxes. However, CBD products that have been approved by the U.S. Food and Drug Administration (FDA) as prescription medications or products that have been recommended for therapeutic use are excluded from the excise tax levied in proposed law.

Proposed law defines "CBD" as cannabidiol.

Proposed law defines "industrial hemp" as any part of the plant *Cannabis sativa*, including the seeds and all derivatives, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis and cultivated and processed in accordance with federal law or rules. Industrial hemp does not include plants that meet the definition of marijuana.

Proposed law defines an "industrial hemp-derived CBD product" as any industrial hemp-derived product that contains CBD and is intended for consumption or topical use.

Proposed law requires retailers to use Dept. of Revenue (DOR) prescribed forms to report the excise tax monthly and to pay the tax on or before the 20th day of the month following the month in which the tax is applicable.

Proposed law authorizes DOR to collect, supervise, and enforce the collection of taxes, penalties, and interest related to the excise tax. Further authorizes the DOR to promulgate rules and regulations to implement the provisions of proposed law.

Proposed law dedicates the avails of the excise tax levied on industrial hemp to the Early Childhood Education Fund.

Effective if and when House Bill No. 579 of this 2019 R.S. is enacted and becomes effective.

(Applicable for all tax periods beginning on or after Jan. 1, 2020.)

(Adds R.S. 47:1692 through 1696)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the name of and references to the tax from hemp and CBD tax to hemp-derived CBD tax.
2. Decrease the excise tax rate from 15% of the retail sales price of hemp-derived CBD products to 3% of the retail sales price of hemp-derived CBD products.
3. Define hemp-derived CBD products as any hemp-derived product that contains CBD intended for consumption or topical use.
4. Remove the requirement for a consumer to be 21 years of age or older to purchase hemp-derived products.
5. Remove requirement for tax stamps to be purchased and affixed to containers or packages of CBD, CBD products, hemp, and hemp products.
6. Change the contingent effectiveness of proposed law from enactment of HB No. 138 from the 2019 R.S. to enactment of HB No. 579 of the 2019 R.S.
7. Change the dedication of funds derived from the excise tax from the New Opportunities Waiver Fund to the Early Childhood Education Fund.

The House Floor Amendments to the engrossed bill:

1. Change references throughout proposed law from "hemp" to "industrial hemp".
2. Establish certain definitions for purposes of the industrial hemp-derived CBD tax in proposed law.
3. Require "industrial hemp" to be cultivated and processed in accordance with federal law or rules.
4. Require retailers to report the excise tax monthly and to pay the tax on or before the 20th day of the month following the month to which the tax is applicable.
5. Exclude CBD products approved by the FDA as prescription medication or products recommended for therapeutic use and sales of industrial hemp for resale from the excise tax.