2021 Regular Session

HOUSE BILL NO. 434

BY REPRESENTATIVE NELSON

TAX: Levies taxes on sales of cannabis and provides for the use of the avails of the taxes

1	AN ACT	
2	To amend and reenact the heading of Part I of Chapter 3 of Subtitle IV of Title 47 of the	
3	Louisiana Revised Statutes of 1950, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604,	
4	2607(A) and (C), and 2610, to enact Chapter 20 of Subtitle II of Title 47 of the	
5	Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:1699.1 through	
6	1699.5, and to repeal R.S. 47:2602(3), relative to cannabis; to levy taxes on the retail	
7	sale and wholesale sale of cannabis; to provide for the rate of the taxes; to provide	
8	for the use of the avails of the taxes; to provide for definitions; to provide for the	
9	authority of the secretary of the Department of Revenue; to repeal the marijuana tax	
10	levied on certain dealers; to repeal requirements for the purchase of marijuana tax	
11	stamps; to provide for effectiveness; and to provide for related matters.	
12	Be it enacted by the Legislature of Louisiana:	
13	Section 1. The heading of Part I of Chapter 3 of Subtitle IV of Title 47 of the	
14	Louisiana Revised Statues of 1950, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 2607(A)	
15	and (C), and 2610 are hereby amended and reenacted and Chapter 20 of Subtitle II of Title	
16	47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:1699.1 through 1699.5,	
17	is hereby enacted to read as follows:	

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	CHAPTER 20. CANNABIS TAX AND LICENSE FEES
2	§1691.1. Definitions
3	A. The following terms as used in this Chapter shall have the meaning
4	ascribed to them in this Subsection unless the context clearly indicates otherwise:
5	(1) "Cannabis retail sale" means the sale of a cannabis product by a retailer
6	to a consumer and shall include all transactions as the secretary of the Department
7	of Revenue, upon investigation, finds to be in lieu of sales.
8	(2) "Cannabis wholesale sale" means the sale of cannabis by a commercial
9	grower licensee to a retailer or the sale of a cannabis product by a cannabis processor
10	licensee to a retailer.
11	B. The terms used in this Chapter shall have the meanings ascribed to them
12	in R.S. 40:1058.2 unless the context clearly indicates otherwise.
13	<u>§1699.2.</u> Imposition of tax
14	A. There is hereby levied a tax upon each cannabis retail sale. The tax shall
15	be at the rate of ten percent of the cannabis retail sales price. The tax shall be levied
16	in addition to state and local sales and use tax or any other tax and shall be reported
17	monthly by the retailer on forms prescribed by the secretary and paid by the retailer
18	on or before the twentieth day of the month following the month to which the tax is
19	applicable.
20	B. There is hereby levied a tax upon each cannabis wholesale sale. The tax
21	shall be at the rate of five percent of the cannabis wholesale sales price. The tax
22	shall be reported monthly by the commercial grower licensee or cannabis processor
23	licensee, as applicable, on forms prescribed by the secretary and paid by the
24	commercial grower licensee or cannabis processor licensee on or before the
25	twentieth day of the month following the month to which the tax is applicable. There
26	shall be no duplication of the tax.
27	C. The provisions of this Section shall not apply to any product subject to tax
28	pursuant to R.S. 47:1693 or subject to a fee pursuant to R.S. 40:1046.

1	§1699.3. Enforcement
2	The secretary of the Department of Revenue shall collect, supervise, and
3	enforce the collection of all taxes, penalties, interest, and other charges that may be
4	due under the provisions of this Chapter in the same manner provided for by law
5	under the provisions of this Subtitle.
6	<u>§1699.4. Rules</u>
7	The secretary of the Department of Revenue may promulgate rules in
8	accordance with the Administrative Procedure Act as are deemed necessary by the
9	secretary to implement the provisions of this Chapter.
10	§1699.5. Disposition of collections
11	A. Twenty percent of the taxes levied pursuant to this Chapter shall be
12	remitted to the municipality in which the sale occurred to be used for law
13	enforcement in the municipality. However, if the sale did not take place in a
14	municipality, twenty percent of the taxes levied pursuant to this Chapter shall instead
15	be remitted to the sheriff for the parish in which the sale occurred to be used for law
16	enforcement in the parish.
17	B. Thirty percent of the taxes levied pursuant to this Chapter shall be
18	remitted to the municipality in which the sale occurred. However, if the sale did not
19	take place in a municipality, thirty percent of the taxes levied pursuant to this
20	Chapter shall instead be remitted to the parish in which the sale occurred.
21	C. The remaining fifty percent of the taxes levied pursuant to this Chapter
22	shall be paid into the state treasury and, after compliance with the requirements of
23	Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond
24	Security and Redemption Fund, shall be credited to the state general fund.
25	* * *
26	PART I. MARIJUANA AND CONTROLLED DANGEROUS
27	SUBSTANCES TAX
28	§2601. Imposition of tax
29	There is hereby levied a tax upon dealers of marijuana and controlled
30	dangerous substances, as defined herein, within the state of Louisiana, according to
31	the classification and rates hereinafter set forth:

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1	(1) Marijuana. Upon each gram of marijuana, or each portion of a gram, a
2	tax of three dollars and fifty cents.
3	(2) Controlled dangerous substances. (a)(1) Upon each gram of controlled
4	dangerous substance, or portion of a gram, a tax of two hundred dollars.
5	(b)(2) Upon each ten dosage units unit of a controlled dangerous substance
6	that is not sold by weight, or portion thereof, a tax of four hundred dollars.
7	§2602. Definitions
8	As used in this Part, the following terms shall have the meaning ascribed to
9	them in this Section unless the context clearly indicates otherwise:
10	* * *
11	(2) "Dealer" means a person who in violation of Louisiana law manufactures,
12	produces, ships, transports, or imports into Louisiana or in any manner acquires or
13	possesses more than forty-two and one-half grams of marijuana, or seven or more
14	grams of any controlled dangerous substance, or ten or more dosage units of any
15	controlled dangerous substance which is not sold by weight.
16	* * *
17	§2603. Use of stamps required
18	A. Tax stamps. In order to enforce the collection of the tax levied by this
19	Part, the secretary shall design and have printed or manufactured stamps of such size
20	and denomination as may be determined by him and so prepared as to permit them
21	to be easily affixed to or stamped on marijuana or controlled dangerous substances,
22	or containers thereof.
23	* * *
24	C. Affixing stamps. Stamps shall be affixed by the dealer on the smallest
25	container or package of marijuana or controlled dangerous substance that is subject
26	to the tax _{$\frac{1}{2}$} to permit the secretary to readily ascertain by an inspection of any dealer's
27	stock on hand whether or not the tax has been paid. The dealer shall cause to be
28	affixed on every gram or unit of marijuana or controlled dangerous substance on
29	which a tax is due stamps of an amount equaling the tax due thereon, before any

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1	dealer sells, offers for sale, handles, removes, or otherwise disturbs or distributes the
2	same. Each stamp may be used only once.
3	§2604. Authority to issue rules and regulations
4	The secretary is hereby authorized to issue rules and regulations not in
5	conflict herewith in order to make effective the provisions of this Part. The secretary
6	shall adopt a uniform system of providing, affixing, and displaying official stamps
7	for marijuana and controlled dangerous substances on which a tax is imposed.
8	* * *
9	§2607. Penalties
10	A. No dealer may possess any marijuana or controlled dangerous substance
11	upon which a tax is imposed by this Part. In addition to any other criminal penalties,
12	if a dealer possesses any marijuana or controlled dangerous substance upon which
13	the tax has not been paid as evidenced by a stamp, such dealer shall be subject to the
14	additional penalties contained in this Part.
15	* * *
16	C. In addition to the tax penalty imposed, a dealer distributing or possessing
17	marijuana or controlled dangerous substances without affixing the appropriate
18	stamps is guilty of a crime and, upon conviction, may be sentenced to imprisonment
19	for not more than five years or receive a penalty of not more than ten thousand
20	dollars, or both.
21	* * *
22	§2610. Exceptions
23	Nothing in this Part requires persons lawfully in possession of marijuana or
24	a controlled dangerous substance to pay the tax required under this Part.
25	Section 2. R.S. 47:2602(3) is hereby repealed in its entirety.
26	Section 3. This Act shall become effective if and when the Act which originated as
27	House Bill No of this 2021 Regular Session of the Legislature is enacted and becomes
28	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 434 Original	2021 Regular Session	Nelson
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Abstract: Levies a tax on cannabis, dedicates the avails of the tax, and repeals the marijuana tax levied on certain dealers.

<u>Proposed law</u> levies a 10% tax upon each cannabis retail sale. Defines "cannabis retail sale" as the sale of a cannabis product by a retailer to a consumer. Provides that the tax is levied in addition to state and local sales and use tax or any other tax and shall be reported and paid by the retailer.

<u>Proposed law</u> levies a 5% tax upon each cannabis wholesale sale. Defines "cannabis wholesale sale" as the sale of cannabis by a commercial grower licensee to a retailer or the sale of a cannabis product by a cannabis processor licensee to a retailer. Provides that the tax is reported and paid by the commercial grower licensee or cannabis processor licensee, as applicable.

<u>Proposed law</u> provides that it does not apply to any product subject to tax pursuant to <u>present</u> law (R.S. 47:1693) or subject to a fee pursuant to <u>present law</u> (R.S. 40:1046).

<u>Proposed law</u> provides that 20% of the taxes levied pursuant <u>proposed law</u> shall be remitted to the municipality in which the sale occurred to be used for law enforcement in the municipality. However, provides that if the sale did not take place in a municipality, 20% of the taxes levied pursuant to <u>proposed law</u> shall instead be remitted to the sheriff for the parish in which the sale occurred to be used for law enforcement in the parish.

<u>Proposed law</u> provides that 30% of the taxes levied pursuant to <u>proposed law</u> shall be remitted to the municipality in which the sale occurred. However, provides that if the sale did not take place in a municipality, 30% of the taxes levied pursuant to <u>proposed law</u> shall instead be remitted to the parish in which the sale occurred.

<u>Proposed law</u> provides that the remaining 50% of the taxes levied pursuant to <u>proposed law</u> shall be paid into the state treasury and, after compliance with the requirements of <u>present</u> <u>constitution</u> (Art. VII, §9(B)) relative to the Bond Security and Redemption Fund, shall be credited to the state general fund.

Proposed law provides for definitions.

<u>Present law</u> provides for the imposition of a tax on marijuana to be paid by marijuana dealers at the rate of \$3.50 per gram. In order to enforce the tax, marijuana dealers must purchase tax stamps from the Dept. of Revenue and affix the stamp to the marijuana container or package to evidence that the tax has been paid.

<u>Proposed law</u> repeals the imposition of the tax on marijuana and all provisions relative to the tax stamp.

Effective if and when House Bill No. ____ of this 2021 R.S. is enacted and becomes effective.

(Amends the heading of Part I of Chapter 3 of Subtitle IV of Title 47, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 2607(A) and (C), and 2610; Adds R.S. 47:1699.1-1699.5; Repeals R.S. 47:2602(3))

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