

Regular Session, 2014

HOUSE BILL NO. 355

BY REPRESENTATIVE DANAHAAY

TAX/ALCOHOLIC BEVERAGE: Authorizes the secretary of the Department of Revenue to waive certain penalties associated with the payment of taxes on certain alcoholic beverages

1 AN ACT

2 To amend and reenact R.S. 26:354(I) and 492(A) and to repeal Part IV of Chapter 17 of
3 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S.
4 47:1471, relative to gallonage taxes; to provide with respect to the reporting and
5 payment of certain state and local taxes by dealers of beverages of certain alcoholic
6 content; to provide for the approval of an application for a waiver of penalties
7 imposed on a dealer for failure to timely report and pay the tax; to provide for
8 authority of the secretary of the Department of Revenue; to provide relative to the
9 jurisdiction of the Board of Tax Appeals regarding certain alcoholic beverage
10 permits; to direct the Louisiana State Law Institute to redesignate and rename certain
11 provisions of current law; to provide for effectiveness; and to provide for related
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 26:354(I) and 492(A) are hereby amended and reenacted to read as
15 follows:

16 §354. Payment and reporting of taxes; discounts; rules and regulations;
17 enforcement; forfeitures and penalties; redemption of tax stamps

18 * * *

19 I. With respect to the twenty percent penalty provided in this Section, the
20 wholesale dealer shall have the right to send a signed application for a waiver of said
21 penalty, which application shall be provided in affidavit form setting forth the

1 reasons for the failure to pay the taxes within the specified time. ~~Any such~~
2 ~~application must be provided directly to the secretary, and after review by him it~~
3 ~~shall be processed with his recommendations and provided to the Board of Tax~~
4 ~~Appeals for approval or disapproval. The Board of Tax Appeals shall notify the~~
5 ~~secretary in writing of its decision with respect thereto. If the failure to pay the tax~~
6 ~~when due is explained to the satisfaction of the secretary, he may remit or waive~~
7 ~~payment of the whole or any part of any penalty due under the provisions of this~~
8 ~~Chapter.~~

9 * * *

10 §492. Local gallonage tax on beverages of low alcoholic content

11 A. Any parish or municipality, through its local governing body, may impose
12 a tax on beverages of low alcoholic content of not more than one dollar and fifty
13 cents per standard barrel of thirty-one gallons. The tax shall be based on the amount
14 of these beverages sold and consumed within the parish or municipality. Parishes
15 and municipalities imposing this tax shall furnish the secretary a certified copy of the
16 ordinance levying it. The secretary shall collect the tax in the same manner as he
17 collects the state tax and shall make such additional rules as are necessary. He shall
18 remit, each quarter, the amount of tax collected less the cost of collection, to the
19 parishes and municipalities levying the tax. If the failure to pay the tax when due is
20 explained to the satisfaction of the secretary, he may, ~~with the approval of the Board~~
21 ~~of Tax Appeals,~~ remit or waive payment of the whole or any part of any penalty due
22 under the provisions of this Chapter.

23 * * *

24 Section 2. Part IV of Chapter 17 of Subtitle II of Title 47 of the Louisiana Revised
25 Statutes of 1950, comprised of R.S. 47:1471, is hereby repealed in its entirety.

26 Section 3. The Louisiana State Law Institute is authorized and directed to
27 redesignate and rename, as appropriate, the Parts of Chapter 17 of Subtitle II of Title 47 of
28 the Louisiana Revised Statutes of 1950, as amended.

- 1 Section 4. This Act shall become effective on July 1, 2014; if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on July 1,
3 2014, or on the day following such approval by the legislature, whichever is later.

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)]

Danahay

HB No. 355

Abstract: Changes the approval authority for the waiver of penalties imposed on a dealer of beverages of high alcohol content who fails to timely report and pay gallonage taxes from the Board of Tax Appeals to the secretary of the Dept. of Revenue.

Present law imposes a gallonage tax on beverages of high alcoholic content, which is collected from the dealer who first handles such beverages in La. Taxes are payable monthly through the filing of a sales and handling report with the secretary of the Dept. of Revenue (secretary).

Present law authorizes the imposition of penalties of either 5% or 20% for failure to timely file the report and pay the tax. With respect to the 20% penalty, a dealer may, by affidavit, apply for a waiver of the penalty. The application for waiver is submitted to the secretary who reviews it and forwards it to the Board of Tax Appeals for approval.

Proposed law changes the approval of the application for the waiver of penalties from the Board of Tax Appeals to the secretary.

Present law authorizes a parish or municipality to impose a tax on beverages of low alcoholic content. Requires the secretary to collect the tax in the same manner as he collects the state tax and to remit the taxes collected quarterly to the parish or municipality levying the tax.

Present law authorizes the secretary, with the approval of the Board of Tax Appeals, to waive payment of penalties for failure to pay the tax timely if the failure to pay the tax is explained satisfactorily to the secretary.

Proposed law retains present law but changes approval of the waiver of penalties from the Board of Tax Appeals to the secretary.

Proposed law repeals provisions for the Board of Tax Appeals' jurisdiction over the permitting of dealers of high alcoholic content.

Proposed law directs the La. State Law Institute to redesignate and rename, as appropriate, the Parts of Chapter 17 of Subtitle II of Title 47 of the La. Revised Statutes of 1950, as amended.

Effective July 1, 2014.

(Amends R.S. 26:354(I) and 492(A); Repeals R.S. 47:1471)