

Regular Session, 2014

SENATE BILL NO. 110

BY SENATOR RISER

REVENUE DEPARTMENT. Provides an exception to the Department of Revenue's duty to keep certain tax records confidential. (8/1/14)

1 AN ACT

2 To amend and reenact R.S. 47:1508(B)(11) and to enact R.S. 47:1508(B)(35), relative to the
3 Department of Revenue; to provide for an exception to the duty of the secretary of
4 the department to keep certain tax records confidential; to authorize the sharing or
5 furnishing of certain information to the office of alcohol and tobacco control and
6 other entities; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:1508(B)(11) is hereby amended and reenacted and R.S.
9 47:1508(B)(35) is hereby enacted to read as follows:

10 §1508. Confidential character of tax records

11 * * *

12 B. Nothing herein contained shall be construed to prevent:

13 * * *

14 (11) The secretary from disclosing to any person upon request the name and
15 address of any registered wholesale tobacco dealer who holds a license or permit to
16 operate within this state, but the secretary shall not disclose any tax data whatsoever
17 with respect to the wholesaler, except for information provided to the tobacco

1 settlement enforcement unit of the Louisiana Department of Justice for the
2 enforcement of Parts XIII and XIII-A of Chapter 32 of Title 13 of the Louisiana
3 Revised Statutes of 1950 or to the Louisiana Office of Alcohol and Tobacco Control
4 for the enforcement of Chapter 7 of Title 26 of the Louisiana Revised Statutes of
5 1950. Such disclosure shall include any and all data with respect to dealers, including
6 but not limited to any wholesaler or retailer, as well as manufacturer, sales entity
7 affiliate, or importer. The secretary, attorney general, and commissioner shall share
8 with each other the information received under the provisions of R.S. 13:5061 et
9 seq., 5071 et seq., 26:901 et seq., and R.S. 47:841 et seq. and may share such
10 information with other federal, state, or local taxing agencies or law enforcement
11 authorities only for purposes of enforcement of those Sections and the corresponding
12 laws of other states **and furthermore may share any such information with an**
13 **entity retained for the purpose of calculating the tobacco revenue owed to the**
14 **state pursuant to the Master Settlement Agreement, executed November 23,**
15 **1998, as well as any subsequent agreements that may be executed pertaining**
16 **thereto, if such recipient entity agrees to maintain the confidentiality of such**
17 **information.** The attorney general, commissioner, or secretary may also disclose any
18 information obtained under this Paragraph pursuant to an order by a court of
19 competent jurisdiction or if agreed upon in writing by the registered wholesale or
20 retail tobacco dealer, sales entity affiliate, importer, or manufacturer. **The disclosure**
21 **of information by the attorney general, commissioner, or secretary permitted**
22 **by this Paragraph shall not constitute a violation of any other provisions in law.**

23 * * *

24 **(35) The sharing or furnishing, in the discretion of the secretary, of**
25 **information to the Louisiana Office of Alcohol and Tobacco Control for the**
26 **purposes of carrying out its administrative function of providing the state with**
27 **an effective regulatory system for the alcoholic beverage and tobacco industries.**
28 **Any information shared or furnished shall be considered and held confidential**
29 **and privileged by the Louisiana Office of Alcohol and Tobacco Control to the**

1 **same extent provided for in Subsection A of this Section.**

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 Laura Gail Sullivan.

DIGEST

Riser (SB 110)

Present law provides that records and files of the secretary of the Department of Revenue (DOR) or the records and files maintained pursuant to a tax ordinance of any political subdivision are confidential and privileged, and prohibits any person from divulging or disclosing information obtained from the records and files except in the administration and enforcement of the tax laws of this state or of a political subdivision of this state.

Prohibits any person from divulging or disclosing any information obtained from any examination or inspection of the premises or property of any person in connection with the administration and enforcement of the tax laws of this state or a political subdivision of this state except to the taxing jurisdiction of his employment or, in the case of an already existing independent contractor arrangement, to the contracting taxing jurisdiction.

Present law provides that neither the secretary of DOR nor any employee engaged in the administration or charged with the custody of these records or files shall be required to produce any of the records or files for inspection or use in any action or proceeding, except in an action or proceeding in the administration or enforcement of the tax laws of this state or of a political subdivision.

Present law provides that present law shall not be construed to prevent certain enumerated items.

Present law specifies that present law confidentiality provisions are not to be construed to prevent the secretary from disclosing to any person upon request the name and address of any registered wholesale tobacco dealer who holds a license or permit to operate within this state. Provides that the secretary may disclose certain tax data to other state agencies as well as local or federal agencies for limited enforcement purposes. Provides that the attorney general, commissioner, or secretary may also disclose any information obtained under present law pursuant to an order by a court of competent jurisdiction or if agreed upon in writing by the registered wholesale or retail tobacco dealer, sales entity affiliate, importer, or manufacturer.

Proposed law authorizes the secretary, attorney general, and commissioner to share such information with an entity retained for the purpose of calculating the tobacco revenue owed to the state pursuant to the Master Settlement Agreement and any subsequent agreements, if the recipient entity agrees to maintain the confidentiality of the information.

Proposed law specifies that the disclosure of information by the attorney general, commissioner, or secretary permitted by present law and proposed law shall not constitute a violation of any other provision of law.

Proposed law provides that present law shall not be construed to prevent the sharing or furnishing of information to the Louisiana Office of Alcohol and Tobacco Control for the purposes of carrying out its administrative function of providing the state with an effective regulatory system for the alcoholic beverage and tobacco industries. Provides that information shared or furnished is to be considered and held confidential and privileged by the Louisiana Office of Alcohol and Tobacco Control as provided in present law.

Effective August 1, 2014.

(Amends R.S. 47:1508(B)(11); adds R.S. 47:1508(B)(35))

Summary of Amendments Adopted by Senate

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

1. Authorizes the secretary, attorney general, and commissioner to share information with an entity retained for the purpose of calculating certain tobacco revenue owed to the state pursuant to the Master Settlement Agreement if the recipient entity agrees to maintain the confidentiality of the information.
2. Specifies that the disclosure of information by the attorney general, commissioner, or secretary permitted by present law and proposed law shall not constitute a violation of any other provision of law.