HLS 16RS-559 ORIGINAL

AN ACT

2016 Regular Session

HOUSE BILL NO. 605

1

BY REPRESENTATIVE JONES

TAX/SALES & USE: Requires the advance payment of sales tax

2 To enact R.S. 47:306(B), relative to collection of advance sales tax; to provide for the 3 disposition of the tax; to authorize the secretary of the Department of Revenue to 4 promulgate rules; to provide for exemptions; to provide for an effective date; and to 5 provide for related matters. 6 Be it enacted by the Legislature of Louisiana: 7 Section 1. R.S. 47:306(B) is hereby amended and reenacted to read as follows: 8 §306. Returns and payment of tax; penalty for absorption 9 10 B. Advanced sales tax deposit required. (1)(a) Notwithstanding the 11 provisions of Subsection A or any other provision of this Chapter, every dealer 12 required to collect state sales tax pursuant to this Chapter and having an average monthly state sales and use tax liability of at least twenty thousand dollars for the 13 14 twelve-month period commencing April 1, 2015, and ending March 30, 2016, shall 15 be required to remit to the secretary on or before April 20, 2016, and on or before the 16 twentieth day of each succeeding month, an advanced sales tax deposit using either 17 of the following methods: 18 (i) Actual Sales Method. A dealer using the actual sales method is required 19 to remit a deposit equal to at least ninety percent of the dealer's sales and use tax 1

2	fifteenth of the current month.
3	(ii) Estimated Sales Method. A dealer using the estimated sales method is
4	required to remit a deposit equal to at least seventy-five percent of the dealer's sales
5	and use tax liability for the sale of tangible personal property for the comparable
6	month of the preceding year. For the purposes of calculating a dealer's estimated
7	sales tax liability for the comparable month of the preceding year, the dealer is not
8	required to include taxes due on sales of tangible personal property refunded or
9	credited to the customer in accordance with R.S. 47:315.
10	(b) For purposes of this Subsection, a dealer shall include any wholesale
11	dealer of tobacco products as defined in R.S. 47:842(23) or any wholesale dealer of
12	alcoholic beverage products as defined in R.S. 26:2(22) or 241(19).
13	(2) Any adjustment necessary to properly report and pay the tax using either
14	the actual sales method or the estimated sales method shall be reported on and paid
15	with the monthly return due on or before the twentieth day of the month following
16	the month in which the advanced sales tax deposit is paid. Any advance sales tax
17	deposit in excess of the actual tax due for a preceding month may be credited or
18	refunded.
19	(3) Deposits required to be made under this Subsection shall be received by
20	the secretary of the Department of Revenue no later than the twentieth day of the
21	month in order to be considered timely. A dealer that fails to comply with the
22	requirements of this Subsection may be assessed a penalty in an amount equal to ten
23	percent of the difference between any amount of the dealer deposits pursuant to this
24	Subsection and the dealer's actual sales tax liability for the month for which the
25	advanced sales tax deposit was required.
26	(4) Deposits made by a dealer under this Subsection shall not be considered
27	to be collected for the purposes of any sales tax refunds or credits required by law
28	until the dealer files a return for the actual sales taxes collected during the month to
29	which the advanced sales tax deposit applies.

liability for the sale or use of tangible personal property for the first through the

1 (5) This Subsection shall not apply to any agency, department, or 2 instrumentality of the United States, or any agency, department, institution, 3 instrumentality, or political subdivision of the state of Louisiana. 4 5 Section 2. This Act shall become effective upon signature by the governor or, if not 6 signed by the governor, upon expiration of the time for bills to become law without signature 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become 9 effective on the day following such approval.

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 605 Original

2016 Regular Session

Jones

Abstract: Requires advance sales tax deposits by certain dealers and authorizes a credit or refund in certain circumstances.

<u>Present law</u> provides for returns and monthly or quarterly payment of sales tax by dealers. Further requires certain reporting relative to sales by dealers. Authorizes a vendor's compensation of 0.935% of the sales tax remitted by a dealer for timely remitting the sales tax. Requires registration by certain nonresident contractors. Provides for payment of the tax by a licensed vehicle dealer.

<u>Proposed law</u> retains <u>present law</u> and requires dealers who have an average monthly sales and use tax liability of at least \$20,000 between April 1, 2015, and March 30, 2016, to remit an advance sales tax deposit beginning on April 20, 2016, and then on the 20th day of every month thereafter. Further authorizes the secretary to assess a penalty for failure of a dealer to timely remit.

<u>Proposed law</u> authorizes two methods by which a dealer may determine the amount of the advance sales tax deposit to be remitted.

<u>Proposed law</u> authorizes the "actual sales method" by which a dealer is required to remit an advance sales tax deposit in an amount equal to at least 90% of the dealer's sales and use tax liability collected for the 1st through 15th of the current month.

<u>Proposed law</u> further authorizes the "estimated sales method" by which a dealer is required to remit an advance sales tax deposit in an amount equal to at least 75% of the dealer's sales and use tax liability for the comparable month of the preceding year.

<u>Proposed law</u> provides for the remittance required in <u>proposed law</u>, a dealer shall include any wholesale dealer of tobacco products or any wholesale dealer of alcoholic beverage products as defined in <u>present law</u>.

Page 3 of 4

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

<u>Proposed law</u> requires any adjustments necessary for proper reporting and payment of tax collected to be completed with the monthly return due on the 20th day of the month following the month in which the advance sales tax deposit was made.

<u>Proposed law</u> authorizes a credit or refund of any advance sales tax deposit collected in excess of the actual tax due, but prohibits a credit or refund on any advance sales tax deposit prior to the dealer filing the return for the actual sales taxes collected during the month for which the advance sales tax deposit applied.

<u>Proposed law</u> exempts any agency, department, or instrumentality of the U.S. government or any agency, department, institution, instrumentality, or political subdivision of the state.

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

(Adds R.S. 47:306(B))