

2016 First Extraordinary Session

HOUSE BILL NO. 121

BY REPRESENTATIVES JACKSON, BOUIE, DAVIS, JIMMY HARRIS, HILFERTY,  
AND HUNTER

TAX/SALES-USE, STATE: Provides relative to the imposition of state sales tax on certain motor fuels (Items #9 and 36)

1 AN ACT

2 To amend and reenact R.S. 47:301(10)(x) and 305(D)(1)(a) and to enact R.S. 47:301.3,  
3 relative to the state sales and use tax; to provide for certain definitions for purposes  
4 of imposing the state sales and use tax on certain motor fuels; to provide for certain  
5 exemptions relative to sales of gasoline; to impose state sales tax on the sales of  
6 certain motor fuels; to provide for applicability; to provide for effectiveness; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:301(10)(x) and 305(D)(1)(a) are hereby amended and reenacted  
10 and R.S. 47:301.3 is hereby enacted to read as follows:

11 §301. Definitions

12 As used in this Chapter the following words, terms, and phrases have the  
13 meaning ascribed to them in this Section, unless the context clearly indicates a  
14 different meaning:

15 \* \* \*

16 (10)

17 \* \* \*

1 (x) For purposes of the sales and use tax imposed by the state ~~or any political~~  
2 ~~subdivision whose boundaries are coterminous with those of the state~~, the terms  
3 "retail sale" or "sale at retail" shall not include the following:

4 (i) ~~The sale or purchase by a person of any fuel or gas, including but not~~  
5 ~~limited to butane and propane.~~

6 (ii) ~~Beginning July 1, 2008, the sale or purchase by any person of butane and~~  
7 ~~propane.~~

8 \* \* \*

9 §301.3. Gasoline, diesel fuels, and special fuels

10 A. The sales and use tax levied by Chapters 2, 2-A, and 2-B of Subtitle II of  
11 Title 47 shall apply to the sales of gasoline as provided in this Section. On January  
12 1, 2017, and then on the first day of January for each subsequent calendar year, the  
13 secretary of the Department of Revenue shall set the base rate for the price of oil per  
14 barrel based upon the average New York Mercantile Exchange price per barrel for  
15 the three-month period preceding the month in which the base rate is set. Imposition  
16 of the state sales and use tax on sales of gasoline, diesel fuels, and special fuels shall  
17 be as follows:

18 (1) When the base rate is less than forty dollars per barrel, sales of gasoline  
19 shall be subject to the state sales and use tax levied in R.S. 47:302, 321, and 331 for  
20 the calendar year in which the base rate is set.

21 (2) When the base rate is forty dollars per barrel or more, but less than sixty  
22 dollars per barrel, sales of gasoline shall be subject to the state sales and use tax  
23 levied in R.S. 47:302 but shall be exempt from the state sales and use taxes levied  
24 in R.S. 47:321 and 331 for the calendar year in which the base rate is set.

25 (3) When the base rate is sixty dollars per barrel or more, sales of gasoline  
26 shall be exempt from the state sales and use taxes levied in R.S. 47:302, 321, and 331  
27 for the calendar year in which the base rate is set.

1           B. The avails of the tax collected pursuant to the provisions of this Section  
2           shall be deposited into the Transportation Trust Fund, as provided for in Article VII,  
3           Section 27 of the Constitution of Louisiana.

4   \*       \*       \*

5           §305. Exclusions and exemptions from the tax

6   \*       \*       \*

7           D.(1) The sale at retail, the use, the consumption, the distribution, and the  
8           storage to be used or consumed in the taxing jurisdiction of the following tangible  
9           personal property is hereby specifically exempted from the tax imposed by taxing  
10          authorities, except as otherwise provided in this Paragraph:

11           (a) Gasoline, for purposes of sales and use taxes imposed by any political  
12          subdivision.

13   \*       \*       \*

14          Section 2. This Act shall take effect and become operative if and when the proposed  
15          amendment of Article VII, Section 27(A) of the Constitution of Louisiana contained in the  
16          Act which originated as House Bill No. 84 of this 2016 First Extraordinary Session of the  
17          Legislature is adopted at a statewide election and becomes 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 121 Engrossed                   2016 First Extraordinary Session                   Jackson

**Abstract:** Imposes a state sales tax on sales of gasoline with the amount of the exemption depending on the price of oil per barrel.

Present law provides definitions for purposes of state and local sales and use taxes and excludes sales of fuel, gas, butane, and propane from the definition of "sale at retail" for purposes of imposition of the state sales and use tax.

Proposed law retains present law with respect to the exclusion for purposes of imposition of a sales tax imposed by the state on butane and propane but deletes the exclusion for sales of fuel and gas for purposes of imposition of the state sales tax.

Present law exempts the sale of gasoline from sales tax imposed by a taxing authority.

Proposed law repeals this exemption.

Proposed law imposes on the sale of gasoline, the state sales and use taxes levied in R.S. 47:302, 321, and 331 as follows:

- (1) When the price of oil per barrel is less than \$40, all state sales and use tax levies shall apply.
- (2) When the price of oil per barrel is \$40 or greater, and less than \$60, the state sales and use tax levied in R.S. 47:302 shall apply.
- (3) When the price of oil per barrel is \$60 or greater, no state sales and use tax levies shall apply so that sales of gasoline are exempt from state sales and use tax.

Proposed law requires the secretary of the Dept. of Revenue to annually set the base rate of the price of oil per barrel using the average New York Mercantile Exchange for the three months preceding Jan. 1st for purposes of determining the rate of state sales tax that applies to the sale of gasoline for the calendar year.

Proposed law requires the avails the tax collected pursuant to proposed law to be deposited in the Transportation Trust Fund.

Effective when the proposed amendment of Article VII, §27(A) of the La. Const. is adopted at a statewide election and becomes effective.

(Amends R.S. 47:301(10)(x) and 305(D)(1)(a); Adds R.S. 47:301.3)

#### Summary of Amendments Adopted by House

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

1. Delete diesel fuels and special fuels from imposition of the state sales and use tax.