2020 Second Extraordinary Session

HOUSE BILL NO. 26

BY REPRESENTATIVE SCHEXNAYDER

TAX/SALES-USE-EXEMPT: Establishes a sales tax holiday to provide relief for recovery as a result of Hurricane Laura and the COVID-19 pandemic (Item #26)

1	AN ACT
2	To enact R.S. 47:302(BB)(113), 305.74, 321(P)(114), 321.1(I)(114), and 331(V)(114),
3	relative to sales and use tax; to establish a sales and use tax holiday for certain
4	purchases; to provide for requirements and limitations; to provide for the
5	effectiveness of the sales and use tax holiday; to provide for an effective date; and
6	to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 47:302(BB)(113), 305.74, 321(P)(114), 321.1(I)(114), and
9	331(V)(114) are hereby enacted to read as follows:
10	§302. Imposition of tax
11	* * *
12	BB. Notwithstanding any other provision of law to the contrary, including
13	but not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
14	through June 30, 2025, there shall be no exemptions and no exclusions to the tax
15	levied pursuant to the provisions of this Section, except for the retail sale, use,
16	consumption, distribution, or storage for use or consumption of the following:
17	* * *
18	(113) Purchases of tangible personal property pursuant to the sales tax
19	holiday as provided for in R.S. 47:305.74.
20	* * *

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

1	§305.74. Exemption; sales tax holiday; November 20th and 21st, 2020; Hurricane
2	Laura and the COVID-19 pandemic
3	A.(1) Notwithstanding any other provision of law to the contrary, the sales
4	and use tax levied by the state of Louisiana shall not apply to the first two thousand
5	five hundred dollars of the sales price or cost price of any consumer purchases of
6	tangible personal property that occur on Friday, November 20, 2020, and Saturday,
7	November 21, 2020, in order to provide tax relief for citizens recovering from
8	Hurricane Laura and the COVID-19 pandemic.
9	(2) For purposes of this Section, "consumer purchases" shall mean purchases
10	of items of tangible personal property other than vehicles subject to license and title.
11	Consumer purchases shall not include the purchase of meals furnished for
12	consumption on the premises where purchased, including to-go orders.
13	B. This Section shall apply if and only if during the eligible tax exemption
14	period one of the following occurs:
15	(1) Title to or possession of an item of tangible personal property is
16	transferred from a selling dealer to a purchaser.
17	(2) A customer selects an eligible item from the selling dealer's inventory for (2)
18	layaway that is physically set aside in the selling dealer's inventory for future
19	delivery to that customer.
20	(3) The customer makes final payment and withdraws an item from layaway
21	that might have been placed in layaway before the eligible tax exemption period.
22	(4) The customer orders and pays for an eligible item and the selling dealer (4)
23	accepts the order for immediate shipment, even if delivery is made after the eligible
24	tax exemption period, provided that the customer has not requested delayed
25	shipment.
26	C. Eligible items that customers purchase during the eligible tax exemption
27	period with "rain checks" shall qualify for exemption, regardless of when the "rain
28	checks" are issued. However, issuance of "rain checks" during the exemption period

1	shall not qualify items for exemption if the otherwise eligible items are actually
2	purchased after conclusion of the eligible tax exemption period.
3	D.(1) When a customer purchases an eligible item during the eligible tax
4	exemption period and exchanges the item without additional cash consideration after
5	conclusion of the eligible tax exemption period for an essentially identical item of
6	different size, color, or other failure, no additional tax is due.
7	(2) When a customer, after conclusion of the eligible tax exemption period
8	returns an eligible item that was purchased during the eligible tax exemption period
9	and receives credit on the purchase of a different item, the appropriate sales tax is
10	due on the purchase of the new item.
11	E. For a sixty-day period after conclusion of the eligible tax exemption
12	period, when a customer returns an item that would qualify for an exemption, no
13	credit or refunds of sales tax shall be given unless the customer provides a receipt or
14	invoice that shows that the state sales tax was paid or the retailer has sufficient
15	documentation that shows that the tax was paid on the specific item. This sixty-day
16	period is not intended to change a dealer's policy concerning the time period during
17	which returns will be accepted.
18	* * *
19	§321. Imposition of tax
20	* * *
21	P. Notwithstanding any other provision of law to the contrary, including but
22	not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
23	through June 30, 2025, there shall be no exemptions and no exclusions to the tax
24	levied pursuant to the provisions of this Section, except for the retail sale, use,
25	consumption, distribution, or storage for use or consumption of the following:
26	* * *
27	(114) Purchases of tangible personal property pursuant to the sales tax
28	holiday as provided for in R.S. 47:305.74.
29	* * *

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1	§321.1. Imposition of tax
2	* * *
3	I. Notwithstanding any other provision of law to the contrary, including but
4	not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
5	through June 30, 2025, there shall be no exemptions and no exclusions to the tax
6	levied pursuant to the provisions of this Section, except for the retail sale, use,
7	consumption, distribution, or storage for use or consumption of the following:
8	* * *
9	(114) Purchases of tangible personal property pursuant to the sales tax
10	holiday as provided for in R.S. 47:305.74.
11	* * *
12	§331. Imposition of tax
13	* * *
14	V. Notwithstanding any other provision of law to the contrary, including but
15	not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
16	through June 30, 2025, there shall be no exemptions and no exclusions to the tax
17	levied pursuant to the provisions of this Section, except for the retail sale, use,
18	consumption, distribution, or storage for use or consumption of the following:
19	* * *
20	(114) Purchases of tangible personal property pursuant to the sales tax
21	holiday as provided for in R.S. 47:305.74.
22	* * *
23	Section 2. This Act shall become effective upon signature by the governor or, if not
24	signed by the governor, upon expiration of the time for bills to become law without signature
25	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26	vetoed by the governor and subsequently approved by the legislature, this Act shall become
27	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 26 Engrossed2020 Second Extraordinary SessionSchexnayder

Abstract: Provides for a state sales tax holiday on the first \$2,500 of the sales price of consumer purchases of tangible personal property that occur on Friday, Nov. 20, 2020, and Saturday, Nov. 21, 2020, in order to provide tax relief from Hurricane Laura and the COVID-19 pandemic.

<u>Present law</u> imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies in the following amounts:

R.S. 47:302 - 2% R.S. 47:321 - 1% R.S. 47:321.1 - .45% R.S. 47:331 - .97% R.S. 51:1286 - .03%

<u>Proposed law</u> authorizes a state sales and use tax exemption (sales tax holiday) on the first \$2,500 of the sales price of any consumer purchases of tangible personal property that occur on Friday, Nov. 20, 2020, and Saturday, Nov. 21, 2020, in order to provide tax relief for citizens recovering from Hurricane Laura and the COVID-19 pandemic.

<u>Proposed law</u> defines "consumer purchases" as purchases of items of tangible personal property other than vehicles subject to license and title but excludes purchases of meals furnished for consumption on the premises where purchased, including to-go orders.

<u>Proposed law</u> sets forth requirements for sales in order for the exemption to apply and terms and conditions for "rain checks", items bought on "layaway", and returns.

<u>Present law</u> suspends numerous exemptions from the four levies of state sales and use tax (R.S. 47:302, 321, 321.1, and 331) through June 30, 2025; however, some exemptions are specifically given effectiveness.

<u>Proposed law</u> changes <u>present law</u> by adding the sales and use tax holiday in <u>proposed law</u> to the list of exemptions that are effective through June 30, 2025.

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

(Adds R.S. 47:302(BB)(113), 305.74, 321(P)(114), 321.1(I)(114), and 331(V)(114))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Ways and Means</u> to the <u>original</u> bill:

1. Delete authorization for the governing authority of a political subdivision to establish a local sales tax holiday during the same time period as the state sales tax holiday.