HLS 21RS-493 ENGROSSED

2021 Regular Session

HOUSE BILL NO. 434

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is hereby enacted to read as follows:

BY REPRESENTATIVE NELSON

TAX: Levies taxes on sales of cannabis and provides for the use of the avails of the taxes

AN ACT

2 To amend and reenact the heading of Part I of Chapter 3 of Subtitle IV of Title 47 of the 3 Louisiana Revised Statutes of 1950, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 4 2607(A) and (C), and 2610, to enact Chapter 20 of Subtitle II of Title 47 of the 5 Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:1699.1 through 6 1699.5, and to repeal R.S. 47:2602(3), relative to cannabis; to levy taxes on the retail 7 sale of cannabis; to provide for the rate of the taxes; to provide for the use of the 8 avails of the taxes; to provide for definitions; to provide for the authority of the 9 secretary of the Department of Revenue; to repeal the marijuana tax levied on certain 10 dealers; to repeal requirements for the purchase of marijuana tax stamps; to provide 11 for effectiveness; and to provide for related matters. 12 Be it enacted by the Legislature of Louisiana: 13 Section 1. The heading of Part I of Chapter 3 of Subtitle IV of Title 47 of the 14 Louisiana Revised Statues of 1950, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 2607(A) 15 and (C), and 2610 are hereby amended and reenacted and Chapter 20 of Subtitle II of Title

47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:1699.1 through 1699.5,

1	CHAPTER 20. CANNABIS TAX AND LICENSE FEES
2	§1691.1. Definitions
3	A. The following terms as used in this Chapter shall have the meaning
4	ascribed to them in this Subsection unless the context clearly indicates otherwise:
5	(1) "Cannabis retail sale" means the sale of a cannabis product by a retailer
6	to a consumer and shall include all transactions as the secretary of the Department
7	of Revenue, upon investigation, finds to be in lieu of sales.
8	(2) "Cannabis wholesale sale" means the sale of cannabis by a commercial
9	grower licensee to a retailer or the sale of a cannabis product by a cannabis processor
10	licensee to a retailer.
11	B. The terms used in this Chapter shall have the meanings ascribed to them
12	in R.S. 26:941 unless the context clearly indicates otherwise.
13	§1699.2. Imposition of tax
14	A. There is hereby levied a tax upon each cannabis retail sale. The tax shall
15	be at the rate of fifteen percent of the cannabis retail sales price. The tax shall be
16	levied in addition to state and local sales and use tax or any other tax and shall be
17	reported monthly by the retailer on forms prescribed by the secretary and paid by the
18	retailer on or before the twentieth day of the month following the month to which the
19	tax is applicable.
20	B. The provisions of this Section shall not apply to any product subject to tax
21	pursuant to R.S. 47:1693 or subject to a fee pursuant to R.S. 40:1046.
22	§1699.3. Enforcement
23	The secretary of the Department of Revenue shall collect, supervise, and
24	enforce the collection of all taxes, penalties, interest, and other charges that may be
25	due under the provisions of this Chapter in the same manner provided for by law
26	under the provisions of this Subtitle.

	HB NO. 434
1	§1699.4. Rules
2	The secretary of the Department of Revenue may promulgate rules in
3	accordance with the Administrative Procedure Act as are deemed necessary by the
4	secretary to implement the provisions of this Chapter.
5	§1699.5. Disposition of collections
6	A. Twenty percent of the taxes levied pursuant to this Chapter shall be
7	remitted to the municipality in which the sale occurred to be used for law
8	enforcement in the municipality. However, if the sale did not take place in a
9	municipality, twenty percent of the taxes levied pursuant to this Chapter shall instead
10	be remitted to the sheriff for the parish in which the sale occurred to be used for law
11	enforcement in the parish.
12	B. Thirty percent of the taxes levied pursuant to this Chapter shall be
13	remitted to the municipality in which the sale occurred. However, if the sale did not
14	take place in a municipality, thirty percent of the taxes levied pursuant to this
15	Chapter shall instead be remitted to the parish in which the sale occurred.
16	C. The remaining fifty percent of the taxes levied pursuant to this Chapter
17	shall be paid into the state treasury and, after compliance with the requirements of
18	Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond
19	Security and Redemption Fund, shall be credited to the state general fund.
20	* * *
21	PART I. MARIJUANA AND CONTROLLED DANGEROUS
22	SUBSTANCES TAX
23	§2601. Imposition of tax
24	There is hereby levied a tax upon dealers of marijuana and controlled
25	dangerous substances, as defined herein, within the state of Louisiana, according to
26	the classification and rates hereinafter set forth:
27	(1) Marijuana. Upon each gram of marijuana, or each portion of a gram, a

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dangerous substance, or portion of a gram, a tax of two hundred dollars.

(2) Controlled dangerous substances. (a)(1) Upon each gram of controlled

tax of three dollars and fifty cents.

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1	(b)(2) Upon each ten dosage units unit of a controlled dangerous substance
2	that is not sold by weight, or portion thereof, a tax of four hundred dollars.
3	§2602. Definitions
4	As used in this Part, the following terms shall have the meaning ascribed to
5	them in this Section unless the context clearly indicates otherwise:
6	* * *
7	(2) "Dealer" means a person who in violation of Louisiana law manufactures,
8	produces, ships, transports, or imports into Louisiana or in any manner acquires or
9	possesses more than forty-two and one-half grams of marijuana, or seven or more
10	grams of any controlled dangerous substance, or ten or more dosage units of any
11	controlled dangerous substance which is not sold by weight.
12	* * *
13	§2603. Use of stamps required
14	A. Tax stamps. In order to enforce the collection of the tax levied by this
15	Part, the secretary shall design and have printed or manufactured stamps of such size
16	and denomination as may be determined by him and so prepared as to permit them
17	to be easily affixed to or stamped on marijuana or controlled dangerous substances;
18	or containers thereof.
19	* * *
20	C. Affixing stamps. Stamps shall be affixed by the dealer on the smallest
21	container or package of marijuana or controlled dangerous substance that is subject
22	to the tax; to permit the secretary to readily ascertain by an inspection of any dealer's
23	stock on hand whether or not the tax has been paid. The dealer shall cause to be
24	affixed on every gram or unit of marijuana or controlled dangerous substance on
25	which a tax is due stamps of an amount equaling the tax due thereon, before any
26	dealer sells, offers for sale, handles, removes, or otherwise disturbs or distributes the

same. Each stamp may be used only once.

1	§2604. Authority to issue rules and regulations
2	The secretary is hereby authorized to issue rules and regulations not in
3	conflict herewith in order to make effective the provisions of this Part. The secretary
4	shall adopt a uniform system of providing, affixing, and displaying official stamps
5	for marijuana and controlled dangerous substances on which a tax is imposed.
6	* * *
7	§2607. Penalties
8	A. No dealer may possess any marijuana or controlled dangerous substance
9	upon which a tax is imposed by this Part. In addition to any other criminal penalties,
10	if a dealer possesses any marijuana or controlled dangerous substance upon which
11	the tax has not been paid as evidenced by a stamp, such dealer shall be subject to the
12	additional penalties contained in this Part.
13	* * *
14	C. In addition to the tax penalty imposed, a dealer distributing or possessing
15	marijuana or controlled dangerous substances without affixing the appropriate
16	stamps is guilty of a crime and, upon conviction, may be sentenced to imprisonment
17	for not more than five years or receive a penalty of not more than ten thousand
18	dollars, or both.
19	* * *
20	§2610. Exceptions
21	Nothing in this Part requires persons lawfully in possession of marijuana or
22	a controlled dangerous substance to pay the tax required under this Part.
23	Section 2. R.S. 47:2602(3) is hereby repealed in its entirety.
24	Section 3. This Act shall become effective if and when the Act which originated as
25	House Bill No. 699 of this 2021 Regular Session of the Legislature is enacted and becomes
26	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 434 Engrossed

2021 Regular Session

Nelson

**Abstract:** Levies a tax on cannabis, dedicates the avails of the tax, and repeals the marijuana tax levied on certain dealers.

<u>Proposed law</u> levies a 15% tax upon each cannabis retail sale. Defines "cannabis retail sale" as the sale of a cannabis product by a retailer to a consumer. Provides that the tax is levied in addition to state and local sales and use tax or any other tax and shall be reported and paid by the retailer.

<u>Proposed law provides that it does not apply to any product subject to tax pursuant to present law</u> (R.S. 47:1693) or subject to a fee pursuant to <u>present law</u> (R.S. 40:1046).

<u>Proposed law</u> provides that 20% of the taxes levied pursuant <u>proposed law</u> shall be remitted to the municipality in which the sale occurred to be used for law enforcement in the municipality. However, provides that if the sale did not take place in a municipality, 20% of the taxes levied pursuant to <u>proposed law</u> shall instead be remitted to the sheriff for the parish in which the sale occurred to be used for law enforcement in the parish.

<u>Proposed law</u> provides that 30% of the taxes levied pursuant to <u>proposed law</u> shall be remitted to the municipality in which the sale occurred. However, provides that if the sale did not take place in a municipality, 30% of the taxes levied pursuant to <u>proposed law</u> shall instead be remitted to the parish in which the sale occurred.

<u>Proposed law</u> provides that the remaining 50% of the taxes levied pursuant to <u>proposed law</u> shall be paid into the state treasury and, after compliance with the requirements of <u>present constitution</u> (Art. VII, §9(B)) relative to the Bond Security and Redemption Fund, shall be credited to the state general fund.

Proposed law provides for definitions.

<u>Present law</u> provides for the imposition of a tax on marijuana to be paid by marijuana dealers at the rate of \$3.50 per gram. In order to enforce the tax, marijuana dealers must purchase tax stamps from the Dept. of Revenue and affix the stamp to the marijuana container or package to evidence that the tax has been paid.

<u>Proposed law</u> repeals the imposition of the tax on marijuana and all provisions relative to the tax stamp.

Effective if and when House Bill No. 699 of this 2021 R.S. is enacted and becomes effective.

(Amends the heading of Part I of Chapter 3 of Subtitle IV of Title 47, R.S. 47:2601, 2602(2), 2603(A) and (C), 2604, 2607(A) and (C), and 2610; Adds R.S. 47:1699.1-1699.5; Repeals R.S. 47:2602(3))

## 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. Remove provisions related to the wholesale tax on cannabis.
- 2. Change the tax rate on the retail sale of cannabis <u>from</u> 10% <u>to</u> 15%.
- 3. Make technical changes.