

2021 Regular Session

HOUSE BILL NO. 692

BY REPRESENTATIVE NEWELL

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

1 AN ACT

2 To enact Subpart Q-4 of Part II of Chapter 1 of Subtitle I of Title 39 of the Louisiana  
3 Revised Statutes of 1950, to be comprised of R.S. 39:100.125, and Chapter 20 of  
4 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised of  
5 R.S. 47:1699.1 through 1699.5, relative to cannabis; to levy taxes on the retail sale  
6 and wholesale sale of cannabis; to provide for the rate of the taxes; to provide for the  
7 use of the avails of the taxes; to create the State Police Operations Fund; to provide  
8 for definitions; to provide for the authority and duties of the secretary of the  
9 Department of Revenue; to provide for effectiveness; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Subpart Q-4 of Part II of Chapter 1 of Subtitle I of Title 39 of the  
13 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.125, is hereby enacted to read  
14 as follows:

15 SUBPART Q-4. STATE POLICE OPERATIONS FUND

16 §100.125. State Police Operations Fund

17 A. There is hereby created in the state treasury, as a special fund, the "State  
18 Police Operations Fund", hereafter in this section referred to as the "fund".

19 B. The monies in the fund shall be used exclusively for operating expenses  
20 of the office of state police.

1           C. After compliance with the requirements of Article VII, Section 9(B) of  
2           the Constitution of Louisiana relative to the Bond Security and Redemption Fund,  
3           an amount equal to ten percent of the taxes levied pursuant to Chapter 20 of Subtitle  
4           II of Title 47 of the Louisiana Revised Statutes of 1950 shall be deposited into the  
5           fund as provided in R.S. 47:1699.5(E).

6           D. Monies in the fund shall be invested in the same manner as monies in the  
7           general fund. Interest earned on investment of monies in the fund shall be credited  
8           to the fund. Unexpended and unencumbered monies in the fund at the end of the  
9           fiscal year shall remain in the fund.

10          Section 2. Chapter 20 of Subtitle II of Title 47 of the Louisiana Revised Statutes of  
11 1950, comprised of R.S. 47:1699.1 through 1699.5, is hereby enacted to read as follows:

12                                   CHAPTER 20. CANNABIS TAX

13           §1691.1. Definitions

14           The following terms as used in this Chapter shall have the meaning ascribed  
15           to them in this section unless the context clearly indicates otherwise:

16           (1) "Cannabis" shall have the same meaning as provided in R.S. 26:941.

17           (2) "Cannabis product" shall have the same meaning as provided in R.S.  
18           26:941.

19           (3) "Cannabis retail sale" means the sale of a cannabis product by a cannabis  
20           retailer to a consumer and shall include all transactions as the secretary of the  
21           Department of Revenue, upon investigation, finds to be in lieu of sales.

22           (4) "Cannabis retailer" shall have the same meaning as provided in R.S.  
23           26:941.

24           (5) "Cannabis wholesale sale" means the sale of cannabis by a production  
25           facility to a cannabis retailer.

26           (6) "Municipality" means any incorporated city, town, or village.

27           (7) "Productivity facility" shall have the same meaning as provided in R.S.  
28           3:4763.

29           §1699.2. Imposition of tax

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           A. There is hereby levied a tax upon each cannabis retail sale. The tax shall  
2           be at the rate of ten percent of the cannabis retail sales price. The tax shall be levied  
3           in addition to state and local sales and use tax or any other tax and shall be reported  
4           monthly by the cannabis retailer on forms prescribed by the secretary of the  
5           Department of Revenue and paid by the cannabis retailer on or before the twentieth  
6           day of the month following the month to which the tax is applicable.

7           B. There is hereby levied a tax upon each cannabis wholesale sale. The tax  
8           shall be at the rate of five percent of the cannabis wholesale sales price. The tax  
9           shall be reported monthly by the production facility on forms prescribed by the  
10          secretary of the Department of Revenue and paid by the production facility on or  
11          before the twentieth day of the month following the month to which the tax is  
12          applicable.

13          C. The provisions of this Section shall not apply to any product subject to tax  
14          pursuant to R.S. 47:1693 or subject to a fee pursuant to R.S. 40:1046.

15          §1699.3. Enforcement

16          The secretary of the Department of Revenue shall collect, supervise, and  
17          enforce the collection of all taxes, penalties, interest, and other charges that may be  
18          due under the provisions of this Chapter in the same manner provided for by law  
19          under the provisions of this Subtitle.

20          §1699.4. Rules

21          The secretary of the Department of Revenue may promulgate rules in  
22          accordance with the Administrative Procedure Act as are deemed necessary by the  
23          secretary to implement the provisions of this Chapter.

24          §1699.5. Disposition of collections

25          A. The Department of Revenue shall remit the amount of twenty percent of  
26          the taxes levied pursuant to this Chapter to the municipality in which the sale  
27          occurred to be used for law enforcement in the municipality. However, if the sale  
28          did not take place in a municipality, the Department of Revenue shall instead remit  
29          the amount of twenty percent of the taxes levied pursuant to this Chapter to the

1 sheriff for the parish in which the sale occurred to be used for law enforcement in the  
2 parish.

3 B.(1)(a) Except as provided in Paragraph (2) of this Subsection, the  
4 Department of Revenue shall remit the amount of five percent of the taxes levied  
5 pursuant to this Chapter on a pro rata basis to the sheriffs for each of the parishes that  
6 do not include a cannabis retailer, to be used for law enforcement in the parishes. In  
7 Orleans Parish, the amount shall be divided equally between and remitted to the  
8 sheriff and the New Orleans Police Department.

9 (b) If a cannabis retailer permit is subsequently granted in a parish, the pro  
10 rata portion that the parish would have received pursuant to the provisions of  
11 Subparagraph (a) of this Paragraph shall instead be remitted as provided in Paragraph  
12 (2) of this Subsection, and the remaining portion remitted pursuant to Subparagraph  
13 (a) of this Paragraph shall be reduced.

14 (2) Beginning when the commissioner has issued a cannabis retailer permit  
15 in every parish in the state and thereafter, the Department of Revenue shall not remit  
16 amounts as provided in Paragraph (1) of this Subsection but shall instead remit the  
17 amount of two and one half percent of the taxes levied pursuant to this Chapter to the  
18 state treasury for deposit into the state general fund and remit the amount of two and  
19 one half percent of the taxes levied pursuant to this Chapter to the state treasury for  
20 deposit into the Louisiana Early Childhood Education Fund created pursuant to R.S.  
21 17:407.30 after compliance with the requirements of Article VII, Section 9(B) of the  
22 Constitution of Louisiana relative to the Bond Security and Redemption Fund.

23 C. The Department of Revenue shall divide equally the amount of fifteen  
24 percent of the taxes levied pursuant to this Chapter among and remit to the district  
25 attorneys' offices in the state.

26 D. The Department of Revenue shall transfer the amount of ten percent of  
27 the taxes levied pursuant to this Chapter to the state treasury for deposit into the  
28 Louisiana Early Childhood Education Fund created pursuant to R.S. 17:407.30 after  
29 compliance with the requirements of Article VII, Section 9(B) of the Constitution of  
30 Louisiana relative to the Bond Security and Redemption Fund.

1           E. The Department of Revenue shall transfer the amount of ten percent of  
2           the taxes levied pursuant to this Chapter to the state treasury for deposit into the State  
3           Police Operations Fund created pursuant to R.S. 39:100.125 after compliance with  
4           the requirements of Article VII, Section 9(B) of the Constitution of Louisiana  
5           relative to the Bond Security and Redemption Fund.

6           F. The Department of Revenue shall transfer the amount of fifteen percent  
7           of the taxes levied pursuant to this Chapter to the state treasury for deposit into the  
8           state general fund after compliance with the requirements of Article VII, Section  
9           9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption  
10          Fund.

11          G. The Department of Revenue shall transfer the amount of fifteen percent  
12          of the taxes levied pursuant to this Chapter to the state treasury for deposit into the  
13          Transportation Trust Fund created pursuant to Article VII, Section 27 of the  
14          Constitution of Louisiana after compliance with the requirements of Article VII,  
15          Section 9(B) of the Constitution of Louisiana relative to the Bond Security and  
16          Redemption Fund.

17          H. The Department of Revenue shall transfer the amount of ten percent to  
18          the state treasury to be used to fund addiction treatment programs.

19          Section 3. This Act shall take effect and become operative if and when the Act  
20          which originated as House Bill No. 637 of this 2021 Regular Session of the Legislature is  
21          enacted and becomes effective.

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#### 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)]

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HB 692 Original

2021 Regular Session

Newell

**Abstract:** Levies a tax on cannabis and dedicates the avails of the tax.

Proposed law levies a 10% 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.

Proposed law levies a 5% tax upon each cannabis wholesale sale. Defines "cannabis wholesale sale" as the sale of cannabis by a commercial grower licensee to a retailer or the sale of a cannabis product by a cannabis processor licensee to a retailer. Provides that the tax is reported and paid by the commercial grower licensee or cannabis processor licensee, as applicable.

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

Proposed law provides that the Dept. of Revenue shall remit the avails of the taxes as follows:

- (1) 20% to the municipality in which the sale occurred to be used for law enforcement in the municipality. However, if the sale did not take place in a municipality, 20% to the sheriff for the parish in which the sale occurred to be used for law enforcement in the parish.
- (2)(a) 5% on a pro rata basis to the sheriffs for each of the parishes that do not include a cannabis retailer, to be used for law enforcement in the parishes. In Orleans Parish, the amount is divided equally between and remitted to the sheriff and the New Orleans Police Department. If a cannabis retailer permit is subsequently granted to a parish, the pro rata portion that the parish would have received is instead remitted as provided in paragraph (b) below.
- (b) Beginning when the commissioner has issued a cannabis retailer permit in every parish in the state and thereafter, 7.5% to the state treasury for deposit into the state general fund and 7.5% to the state treasury for deposit into the La. Early Childhood Education Fund created pursuant to present law (R.S. 17:407.30).
- (3) 15% divided equally among and remitted to the district attorneys' offices in the state.
- (4) 10% to the state treasury for deposit into the La. Early Childhood Education Fund.
- (5) 10% to the state treasury for deposit into the State Police Operations Fund created pursuant to proposed law.
- (6) 15% to the state treasury for deposit into the state general fund.
- (7) 15% to the state treasury for deposit into the Transportation Trust Fund created pursuant to present constitution (Art. VII, Sec. 27).
- (8) 10% to the state treasury to be used to fund addiction treatment programs.

Effective if and when House Bill No. 637 of this 2021 R.S. is enacted and becomes effective.

(Adds R.S. 39:100.125 and R.S. 47:1699.1-1699.5)