

2016 Regular Session

HOUSE BILL NO. 710

BY REPRESENTATIVE HOLLIS

SALES/TOBACCO DEALERS: Changes the time period in which cigarettes must be stamped

1 AN ACT

2 To amend and reenact R.S. 47:843(D)(1), 847(A) and (D), and 849(C), relative to tobacco;
3 to require tobacco dealers to stamp unstamped cigarettes prior to cigarettes being
4 shipped; to remove provisions of law authorizing tobacco dealers to retain stock for
5 interstate sales without affixing stamps to that stock; to remove provisions regarding
6 prima facia evidence of a violation of stamping provisions; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:843(D)(1), 847(A) and (D), and 849(C) are hereby amended and
10 reenacted to read as follows:

11 §843. Use of stamps or meter impression required; limitations

12 * * *

13 D. Affixing stamps. (1) No person other than a dealer holding a valid
14 stamping agent designation under R.S. 26:902(2) may affix a stamp to any package
15 of cigarettes. Stamps shall be affixed by the dealer, on the smallest container or
16 package of cigarettes that is subject to the tax, to permit the secretary to readily
17 ascertain by an inspection of any dealer's stock on hand, whether or not the tax has
18 been paid. The dealer shall cause to be affixed on every package of cigarettes on
19 which a tax is due, stamps of an amount equaling the tax due thereon, before any
20 person, firm, partnership, corporation, or association of persons sells, offers for sale,

1 ~~handles~~, removes, or otherwise ~~disturbs or~~ distributes the same. The stamps shall be
2 affixed in such a manner that their removal will require continued application of
3 steam or water and shall be canceled by placing thereon the license number of the
4 dealer.

5 * * *

6 §847. Dealers required to affix stamps

7 A. Every registered tobacco dealer holding a valid stamping agent
8 designation pursuant to R.S. 26:902(2)(a) shall ~~immediately after receipt of stamp~~
9 any unstamped cigarettes ~~unless sooner offered for sale and~~ prior to selling the
10 cigarettes in or into the state, ~~cause the same to have the requisite denominations and~~
11 ~~amount of stamp or stamps to represent the tax affixed as stated herein.~~ The
12 stamping of the unstamped cigarettes shall ~~actually begin as soon as practicable after~~
13 ~~receipt of the cigarettes in the premises of the tobacco dealer and shall be continued~~
14 ~~with reasonable diligence by the dealer until all of the unstamped cigarettes have~~
15 ~~been stamped as provided by law~~ be done as needed prior to cigarettes being shipped
16 from the distributor.

17 * * *

18 D.(1) ~~If and whenever any of the cigarettes taxed in this Chapter are found~~
19 ~~in the place of business of any tobacco dealer or any other person, except bonded~~
20 ~~interstate tobacco dealers, without the stamps affixed as herein provided, the prima~~
21 ~~facie presumption shall arise that such cigarettes are kept therein in violation of the~~
22 ~~provisions of this Chapter.~~

23 (2) A manufacturer or importer may, in accordance with R.S. 47:862,
24 possess, transport, or cause to be transported unstamped cigarettes in or into the
25 state to a stamping agent under either of the following circumstances:

26 (a) The manufacturer and brand family of the cigarettes are at the time of
27 sale listed on the state directory.

28 (b) The manufacturer and brand family of cigarettes are not at the time of
29 sale listed on the state directory, but all of following conditions apply:

1 (i) The stamping agent is authorized to affix the stamp or, when permitted
2 by R.S. 47:849, pays the taxes imposed by another state on whose directory the
3 manufacturer and brand family of the cigarettes are listed at the time of the sale.

4 (ii) The stamping agent would be permitted to resell the cigarettes from this
5 state into that other state as provided in R.S. 47:849.

6 (iii) The stamping agent receiving the cigarettes holds an exporter license
7 pursuant to R.S. 26:902(5)(b) and submits a report pursuant to R.S. 47:851(E).

8 ~~(3)~~ (2) A manufacturer or importer may sell unstamped cigarettes as
9 permitted under Paragraph ~~(2)~~ (1) of this Subsection through its sales entity affiliate
10 whose status as a sales entity affiliate has been provided by the manufacturer or
11 importer to the satisfaction of the attorney general in accordance with R.S.
12 13:5073(A)(7) and prior to the sales entity affiliate selling any cigarettes in or into
13 the state. If the manufacturer or importer does so:

14 (a) It may sell or otherwise transfer the unstamped cigarettes to its sales
15 entity affiliate in connection with the sale.

16 (b) The sales entity affiliate may possess, transport, or cause to be
17 transported the unstamped cigarettes in connection with the sale to the same extent
18 the manufacturer or importer could under this Section if it were making the sale
19 directly.

20 (c) In the case of sales permitted under Paragraph ~~(2)~~ (1) of this Subsection,
21 the stamping agent will be deemed to have purchased the cigarettes directly from the
22 manufacturer or importer.

23 * * *

24 §849. Interstate business of tobacco dealers

25 * * *

26 C. Any registered tobacco dealer desiring to engage in interstate business
27 shall furnish a bond for that purpose. This bond shall be in addition to the bond
28 provided for in R.S. 47:848, in an amount and of tenor and solvency satisfactory to
29 the collector. ~~He shall then be permitted to set aside such part of his stock as may~~

1 ~~be absolutely necessary for the conduct of such interstate business, without affixing~~
 2 ~~the stamps required by this Chapter. Such interstate stock shall be kept in an entirely~~
 3 ~~separate part of the building, separate and apart from stamped stock, and the~~
 4 ~~interstate business shall be conducted by the dealer in accordance with rules and~~
 5 ~~regulations to be promulgated by the collector.~~

6 * * *

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 710 Original 2016 Regular Session Hollis

Abstract: Requires the stamping of cigarettes prior to selling and distribution instead of immediately upon receipt.

Present law requires the stamping of cigarettes with tobacco tax stamps immediately upon receipt of the cigarettes by a tobacco dealer.

Proposed law changes present law to require that tobacco dealers stamp cigarettes with a tobacco tax stamp prior to the sale or distribution of the cigarettes.

Proposed law removes prima facia presumption that cigarettes in possession of a tobacco dealer which are unstamped are possessed in violation of present law.

Present law requires a tobacco dealer engaged in interstate business to furnish a bond. Further allows a tobacco dealer to set aside a certain amount of his cigarette inventory for interstate commerce business without being stamped.

Proposed law removes the inventory provisions allowing for cigarettes to be set aside and retains the furnishing of the bond requirements as provided by present law.

(Amends R.S. 47:843(D)(1), 847(A) and (D), and 849(C))