

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)(1), and 849(B) and (C), relative  
3 to tobacco; to provide for requirements relative to stamped and unstamped cigarettes;  
4 to provide relative to the time period in which cigarettes must be stamped; to provide  
5 relative to the inventory or stock of certain cigarettes; to provide relative to prima  
6 facie evidence of a violation; to provide for requirements relative to products not  
7 listed on the attorney general's state directory; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:843(D)(1), 847(A) and (D)(1) and 849(B) and (C) are hereby  
10 amended and 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,  
21 ~~handles~~, removes, or otherwise ~~disturbs or~~ distributes the ~~same~~ cigarettes. The

1 stamps shall be affixed in such a manner that their removal will require continued  
2 application of steam or water and shall be canceled by placing thereon the license  
3 number of the dealer.

4 \* \* \*

5 §847. Dealers required to affix stamps

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

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~~ a dealer holding a valid stamping agent designation  
21 pursuant to R.S. 26:902(2), without the stamps affixed as herein provided, the prima  
22 facie presumption shall arise that such cigarettes are kept therein in violation of the  
23 provisions of this Chapter.

24 \* \* \*

25 §849. Interstate business of tobacco dealers

26 \* \* \*

27 B. A dealer may not purchase or possess unstamped cigarettes in this state  
28 for sale into another state where the manufacturer and brand family of the cigarettes  
29 are not at the time of sale listed on this state's directory unless it holds an exporter

1 license pursuant to R.S. 26:902(2)(b). The dealer holding an exporter license shall  
 2 affix the stamp required by the other state to the package containing the cigarettes  
 3 within seventy-two hours after receipt. However, if the law of the other state permits  
 4 the sale of the cigarettes to consumers in a package not bearing a stamp, the dealer  
 5 may sell cigarettes into the other state without a stamp only if it first pays an excise,  
 6 use, or similar tax imposed on the cigarettes by the other state. The dealer shall  
 7 ensure that any cigarettes and roll-your-own tobacco in its stock that are not listed  
 8 on the attorney general's state directory of products approved for sale in or into the  
 9 state are kept separate and apart from stock that is approved for sale in or into the  
 10 state.

11 C. Any registered tobacco dealer desiring to engage in interstate business  
 12 shall furnish a bond for that purpose. This bond shall be in addition to the bond  
 13 provided for in R.S. 47:848, in an amount and of tenor and solvency satisfactory to  
 14 the collector. ~~He shall then be permitted to set aside such part of his stock as may~~  
 15 ~~be absolutely necessary for the conduct of such interstate business, without affixing~~  
 16 ~~the stamps required by this Chapter. Such interstate stock shall be kept in an entirely~~  
 17 ~~separate part of the building, separate and apart from stamped stock, and the~~  
 18 ~~interstate business shall be conducted by the dealer in accordance with rules and~~  
 19 ~~regulations to be promulgated by the collector.~~

20 \* \* \*

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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 710 Reengrossed                      2016 Regular Session                      Hollis

**Abstract:** Requires the stamping of cigarettes prior to selling, offering for sale, removing, or otherwise distributing the cigarettes 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 prior to selling, offering for sale, removing, or otherwise distributing the cigarettes.

Present law provides a prima facie presumption that cigarettes found in the place of business of any tobacco dealer or other person, except bonded interstate tobacco dealers, without the stamps affixed are in violation of present law.

Proposed law retains present law except that it removes the exception for bonded interstate tobacco dealers and provides an exception for a dealer holding a valid stamping agent designation.

Present law prohibits a dealer from purchasing or possessing unstamped cigarettes in this state for sale into another state where the manufacturer and brand family of the cigarettes are not listed on the state's directory unless the dealer holds an exporter license.

Proposed law retains present law and further requires the dealer holding the exporter license to affix the stamp required by the other state to the package within 72 hours after receipt unless the other state does not require the stamp, then the dealer may sell cigarettes into the other state if the excise, use, or similar tax is paid. Proposed law further requires the dealer to ensure that any cigarettes and roll-your-own tobacco in its stock that are not listed on the attorney general's state directory are kept separate and apart from the approved stock.

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

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Adds the requirement that the stamping of the unstamped cigarettes occur prior to offering for sale, removing, or distributing them in or into the state.
2. Adds that stamped cigarettes shall be kept separate and apart from the dealer's stock of unstamped cigarettes.
3. Removes the prima facie presumption exception for bonded interstate tobacco dealers and extends the exception to a dealer holding a valid stamping agent designation.
4. Requires a dealer holding an exporter license to affix the stamp required by another state to the package within 72 hours after receipt unless the other state does not require the stamp, then the dealer may sell cigarettes into the other state if the excise, use, or similar tax is paid.
5. Requires the dealer to ensure that any cigarettes and roll-your own tobacco in its stock that are not listed on the attorney general's state directory are kept separate and apart from approved stock.
6. Makes technical amendments.