

## Louisiana Statutes

### **Title 32 - Motor vehicles and traffic regulation**

#### **RS 32:299**

§299. Off-road vehicles; authorization for use on the shoulders of certain public roads and highways

A.(1) Off-road vehicles, including but not limited to three-wheelers, four-wheelers, or other all-terrain vehicles which are not specifically designated for road use may travel on the shoulders of all public roads and highways except interstate highways in the manner provided for in this Section solely for the purposes of farm-related activities within a five-mile radius of a farmer's farm, provided that the operator possesses a valid Class "E" driver's license. The owner or operator of the off-road vehicle shall carry a copy of the motor vehicle registration, upon his person or on the off-road vehicle, to prove he owns at least one motor vehicle which is registered as a vehicle engaged in the business of actual farming under the provisions of R.S. 47:462. As an alternative to the ownership of the motor vehicle, the operator of the off-road vehicle may carry a sworn affidavit attesting that he is engaged in the business of actual farming under the provisions of R.S. 47:462. Any agricultural consultant as defined in R.S. 3:3202 may also operate off-road vehicles for the purposes of farm-related activities within a five-mile radius of a farmer's farm.

(2) Off-road vehicles may travel on the shoulders of all public roads or highways, except interstate highways, during each day starting thirty minutes after sunrise and ending thirty minutes before sunset. Incidental crossing of public roads or highways shall be authorized.

B. The provisions of this Section do not relieve drivers or operators of the responsibility to comply with all the other applicable provisions of R.S. 32:298 and 301. However, the provisions of R.S. 32:190 shall not apply to this Section.

C. Operators of off-road vehicles shall provide, upon demand, proof that the off-road vehicle is covered by valid liability insurance and other proof required in this Section.

D. The provisions of this Section shall not apply to roads and highways in Orleans Parish.

## RS 47:301

### CHAPTER 2.

#### §301.

As used in this Chapter the following words, terms, and phrases have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:

(1) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect. The term "business" shall not be construed to include the occasional and isolated sales by a person who does not hold himself out as engaged in business.

(2) "Collector" shall mean and include (a) the secretary of the Department of Revenue for the state of Louisiana and includes his duly authorized assistants, when used in reference to a sales and use tax levied by the state, or (b) the individual or entity designated as collector of the appropriate single sales and use tax collection office, and his duly authorized assistants, of any political subdivision authorized under the constitution and laws of the state of Louisiana to levy and collect a sales and use tax, except a statewide political subdivision, when used in reference to a sales and use tax levied by such political subdivision.

(3)(a) "Cost price" means the actual cost of the articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service cost, except those service costs for installing the articles of tangible personal property if such cost is separately billed to the customer at the time of installation, transportation charges, or any other expenses whatsoever, or the reasonable market value of the tangible personal property at the time it becomes susceptible to the use tax, whichever is less.

(b) In the case of tangible personal property which has acquired a tax situs in a taxing jurisdiction and is thereafter transported outside the taxing jurisdiction for repairs performed outside the taxing jurisdiction and is thereafter returned to the taxing jurisdiction, the cost price shall be deemed to be the actual cost of any parts and/or materials used in performing such repairs, if applicable labor charges are separately stated on the invoice. If the applicable labor charges are not separately stated on the invoice, it shall be presumed that the cost price is the total charge reflected on the invoice.

(c) "Cost price" shall not include the supplying and installation of board roads to oil field operators if the installation charges are separately billed to the customer at the time of installation.

(d)(i) In the case of interchangeable components located in Louisiana, a taxpayer may elect to determine the cost price of such components as follows:

(aa) The taxpayer shall send to the secretary written notice of the calendar month selected by the taxpayer as the first month for the determination of cost price under this Paragraph (the "First Month"). The taxpayer may select any month. The taxpayer shall send to the secretary notice of an election to designate a First Month on the first day of the designated First Month, or ninety days from July 1, 1990, whichever is later.

(bb) For the First Month and each month thereafter, cost price shall be based and use tax shall be paid only on one-sixtieth of the aggregate cost price of the interchangeable components deployed and earning revenue within Louisiana during the month, without regard to any credit or other consideration for Louisiana state, political subdivision, or school board use tax previously paid on such interchangeable components.

(cc) Any election made under this Paragraph shall be irrevocable for a period of sixty consecutive months inclusive of the First Month. If at any time after the sixty-month period the taxpayer revokes its election, no credit or other consideration for use taxes paid pursuant thereto shall be applied to any use tax liability arising after such revocation.

(ii)(aa) For purposes of this Paragraph, "interchangeable component" means a component that is used or stored for use in measurement-while-drilling instruments or systems manufactured or assembled by the taxpayer, which measurement-while-drilling instruments or systems collectively generate eighty percent or more of their annual revenue from their use outside of the state.

(bb) "Measurement-while-drilling instruments or systems" means instruments or systems which measure information from a downhole location in a borehole, transmit the information to the surface during the process of drilling the borehole using a wireless technique, and receive and decode the information on the surface.

(iii) The method for determining cost price of interchangeable components provided for in this Paragraph shall apply to any use taxes imposed by a local political subdivision or school board. For purposes of that application, the words "political subdivision" or "school board" as the case may be, shall be substituted for the words "Louisiana" or "State" in each instance where those words appear in this Paragraph and an appropriate official of the local political subdivision or school board shall be designated to receive the notices required by this Paragraph.

(e) "Cost price" shall not include any amount designated as a cash discount or a rebate by a vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this Paragraph "rebate" means any amount offered by the vendor or manufacturer as a deduction from the listed retail price of the vehicle.

(f) The "cost price" of refinery gas shall be fifty-two cents per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a barrel

of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be twenty-nine dollars, and provided further that such cost price shall be the maximum value placed upon refinery gas by the state and by any political subdivision under any authority or grant of power to levy and collect use taxes.

(g) "Cost price", for purposes of the use tax imposed by the state and its political subdivisions, shall exclude any amount that a manufacturer pays directly to a dealer of the manufacturer's product for the purpose of reducing and that actually results in an equivalent reduction in the retail "cost price" of that product. This exclusion shall not apply to the value of the coupons that dealers accept from purchasers as part payment of the "sales price" and that are redeemable by the dealers through manufacturers or their agents. The value of such coupons is deemed to be part of the "cost price" of the product purchased through the use of the coupons.

(h)(i) For purposes of a publishing business which distributes its news publications at no cost to readers and pays unrelated third parties to print such news publications, the term "cost price" shall mean only the lesser of the following costs:

(aa) The printing cost paid to unrelated third parties to print such news publications, less any itemized freight charges for shipping the news publications from the printer to the publishing business and any itemized charges for paper and ink.

(bb) Payments to a dealer or distributor as consideration for distribution of the news publications.

(ii) The definition of "cost price" provided for in this Subparagraph shall be applicable to taxes levied by all tax authorities in the state.

(i)(i) For purposes of the imposition of the use tax levied by the state and any political subdivision whose boundaries are coterminous with those of the state, the cost price of machinery and equipment used by a manufacturer in a plant facility predominately and directly in the actual manufacturing for agricultural purposes or the actual manufacturing process of an item of tangible personal property, which is for ultimate sale to another and not for internal use, at one or more fixed locations within Louisiana, shall be reduced as follows:

(aa) For the period ending on June 30, 2005, the cost price shall be reduced by five percent.

(bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the cost price shall be reduced by nineteen percent.

(cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the cost price shall be reduced by thirty-five percent.

(dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the cost price shall be reduced by fifty-four percent.

(ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the cost price shall be reduced by sixty-eight percent.

(ff) For the period beginning July 1, 2009, and ending on June 30, 2010, the cost price shall be reduced by eighty-two percent.

(gg) For all periods beginning on or after July 1, 2010, the cost price shall be reduced by one hundred percent.

(ii) For purposes of this Subparagraph, the following definitions shall apply:

(aa) "Machinery and equipment" means tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part in the manufacturing of tangible personal property for sale. "Machinery and equipment" shall also mean tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part of the production, processing, and storing of food and fiber or of timber.

(j) For the purpose of the sales and use taxes imposed by the state or any political subdivision whose boundaries are coterminous with those of the state, the "cost price" of natural gas for the period July 1, 2006, through December 31, 2008, purchased or used by paper or wood products manufacturing facilities shall not include any amount in excess of six dollars and twenty cents per MMBtu.

(I) Machinery and equipment, for purposes of this Subparagraph, also includes but is not limited to the following:

(aaa) Computers and software that are an integral part of the machinery and equipment used directly in the manufacturing process.

(bbb) Machinery and equipment necessary to control pollution at a plant facility where pollution is produced by the manufacturing operation.

(ccc) Machinery and equipment used to test or measure raw materials, the property undergoing manufacturing or the finished product, when such test or measurement is a necessary part of the manufacturing process.

(ddd) Machinery and equipment used by an industrial manufacturing plant to generate electric power for self consumption or cogeneration.

(II) Machinery and equipment, for purposes of this Subparagraph, does not include any of the following:

(aaa) A building and its structural components, unless the building or structural component is so closely related to the machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced.

(bbb) Heating, ventilation, and air-conditioning systems, unless their installation is necessary to meet the requirements of the manufacturing process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities.

(ccc) Tangible personal property used to transport raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete.

(ddd) Tangible personal property used to store raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete.

(bb) "Manufacturer" means:

(I) A person whose principal activity is manufacturing, as defined in this Subparagraph, and who is assigned by the Louisiana Department of Labor a North American Industrial Classification System code within the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in 2002.

(II) A person whose principal activity is manufacturing and who is not required to register with the Louisiana Department of Labor for purposes of unemployment insurance, but who would be assigned a North American Industrial Classification System code within the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in 2002, as determined by the Louisiana Department of Revenue from federal income tax data, if he were required to register with the Louisiana Department of Labor for purposes of unemployment insurance.

(cc) "Manufacturing" means putting raw materials through a series of steps that brings about a change in their composition or physical nature in order to make a new and different item of tangible personal property that will be sold to another. Manufacturing begins at the point at which raw materials reach the first machine or piece of equipment involved in changing the form of the material and ends at the point at which manufacturing has altered the material to its completed form. Placing materials into containers, packages, or wrapping in which they are sold to the ultimate consumer is part of this manufacturing process. Manufacturing, for purposes of this Subparagraph, does not include any of the following:

(I) Repackaging or redistributing.

(II) The cooking or preparing of food products by a retailer in the regular course of retail trade.

(III) The storage of tangible personal property.

(IV) The delivery of tangible personal property to or from the plant.

(V) The delivery of tangible personal property to or from storage within the plant.

(VI) Actions such as sorting, packaging, or shrink wrapping the final material for ease of transporting and shipping.

(dd) "Manufacturing for agricultural purposes" means the production, processing, and storing of food and fiber and the production, processing, and storing of timber.

(ee) "Plant facility" means a facility, at one or more locations, in which manufacturing, referred to in Sectors 11 and 31-33 of the North American Industrial Classification system as of 2002, of a product of tangible personal property takes place.

(ff) "Used directly" means used in the actual process of manufacturing or manufacturing for agricultural purposes.

(iii) No person shall be entitled to purchase, use, lease, or rent machinery or equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321, and 331 before receiving a certificate of exclusion from the secretary of the Department of Revenue certifying that he is a manufacturer as defined herein.

(iv) The secretary of the Department of Revenue is hereby authorized to adopt rules and regulations in order to administer the exclusion provided for in this Subparagraph.

(4) "Dealer" includes every person who manufactures or produces tangible personal property for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined to mean:

(a) Every person who imports, or causes to be imported, tangible personal property from any other state, foreign country, or other taxing jurisdiction for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction.

(b) Every person who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, or consumption, or distribution, or storage to be used or consumed in the taxing jurisdiction, tangible personal property as defined herein.

(c) Any person who has sold at retail, or used, or consumed, or distributed, or stored for use or consumption in the taxing jurisdiction, tangible personal property and who cannot prove that the tax levied by this Chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of said tangible personal property.

(d)(i) Any person who leases or rents tangible personal property for a consideration, permitting the use or possession of the said property without transferring title thereto.

(ii) However, a person who leases or rents tangible personal property to customers who provide information to such person that they will use the property only offshore beyond the territorial limits of the state shall not be included in the term "dealer" for purposes of the collection of the rental or lease tax of the state, statewide political subdivisions, and other political subdivisions on such lease or rental contracts. For purposes of this Item, "use" means the operational or functional use of the property and not other uses related to its possession such as transportation, maintenance, and repair. It is the intention of this Item that the customers of such persons shall remit any tax due on the lease or rental of such property directly to the state and local taxing bodies to whom they are due.

(e) Any person who is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto.

(f) Any person, who sells or furnishes any of the services subject to tax under this Chapter.

(g) Any person, as used in this act, who purchases or receives any of the services subject to tax under this Chapter.

(h) Any person engaging in business in the taxing jurisdiction. "Engaging in business in the taxing jurisdiction" means and includes any of the following methods of transacting business: maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business or by having an agent, salesman, or solicitor operating within the taxing jurisdiction under the authority of the seller or its subsidiary irrespective of whether such place of business, agent, salesman, or solicitor is located in such taxing jurisdiction permanently or temporarily or whether such seller or subsidiary is qualified to do business in such taxing jurisdiction, or any person who makes deliveries of tangible personal property into the taxing jurisdiction other than by a common or contract carrier.

(i) Any person who sells at retail any tangible personal property to a vending machine operator for resale through coin-operated vending machines.

(j) Any person who makes deliveries of tangible personal property into the taxing jurisdiction in a vehicle owned or operated by said person.

(k) The term "dealer" shall not include lessors of railroad rolling stock used either for freight or passenger purposes. However, the term "dealer" shall include lessees, other than a railway company or railroad corporation, of such property and such lessees shall be responsible for the collection and payment of all state and local sales and use taxes.

(l) Every person who engages in regular or systematic solicitation of a consumer market in the taxing jurisdiction by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(5) "Gross sales" means the sum total of all retail sales of tangible personal property, without any deduction whatsoever of any kind or character except as provided in this Chapter.

(6)(a) "Hotel" means and includes any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location.

(b) For purposes of the sales and use taxes of all tax authorities in this state, the term "hotel" as defined herein shall not include camp and retreat facilities owned and operated by nonprofit organizations exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from the organizations's property is devoted wholly to the nonprofit organization's purposes. However, for purposes of this Paragraph, the term "hotel" shall include camp and retreat facilities which shall sell rooms or other accommodations to transient guests who are not attending a function of such nonprofit organization that owns and operates the camp and retreat facilities or a function of another nonprofit organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code. It is the intention of the legislature to tax the furnishing of rooms to those who merely purchase lodging at such facilities.

(7)(a) "Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter, for a consideration, without transfer of the title of such property. For the purpose of the leasing or renting of automobiles, "lease" means the leasing of automobiles and the possession or use thereof by the lessee, for a consideration, without the transfer of the title of such property for a one hundred eighty-day period or more. "Rental" means the renting of automobiles and the possession or use thereof by the renter, for a consideration, without the transfer of the title of such property for a period less than one hundred eighty days.

(b) The term "lease or rental", however, as herein defined, shall not mean or include the lease or rental made for the purposes of re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion, or reworking of oil, gas, sulphur, or other mineral wells.

(c) The term "lease or rental", as herein defined shall not mean or include a lease or rental of property to be used in performance of a contract with the United States Department of the Navy for construction or overhaul of U.S. Naval vessels.

(d) The term "lease or rental", as herein defined, shall not mean the lease or rental of airplanes or airplane equipment by a commuter airline domiciled in Louisiana.

(e) For purposes of state and political subdivision sales and use tax, the term "lease or rental", as herein defined, shall not mean the lease or rental of items, including but not limited to supplies and equipment, which are reasonably necessary for the operation of free hospitals.

(f) Terminated on July 1, 2003.

(g) For purposes of state and political subdivision sales and use tax, "lease or rental" shall not mean the lease or rental of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations for their educational and public service programs for youth.

(h) For purposes of state and political subdivision sales and use tax, the term "lease or rental" shall not mean or include the lease or rental of motor vehicles by licensed motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle manufacturers, as defined in R.S. 32:1252(11), for their use in furnishing such leased or rented motor vehicles to their customers in performance of their obligations under warranty agreements associated with the purchase of a motor vehicle or when the applicable warranty has lapsed and the leased or rented motor vehicle is provided to the customer at no charge.

(i) For purposes of sales and use taxes levied and imposed by local governmental subdivisions, school boards, and other political subdivisions whose boundaries are not coterminous with those of the state, "lease or rental" by a person shall not mean or include the lease or rental of tangible personal property if such lease or rental is made under the provisions of Medicare.

(j) Solely for purposes of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, the term "lease or rental" shall not include the lease or rental in this state of manufacturing machinery and equipment used or consumed in this state to manufacture, produce, or extract unblended biodiesel.

(k)(i) For purposes of any sales, use, or lease tax levied by the state or any political subdivision of the state, the term "lease or rental" shall not include the lease or rental of a crane and related equipment with an operator.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, cranes leased or rented with an operator are subject to the provisions of the sales and use tax law upon first use in Louisiana.

(8)(a) "Person", except as provided in Subparagraph (c), includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any parish, city and parish, municipality, district or other political subdivision thereof or any board, agency, instrumentality, or other group or combination acting as a unit, and the plural as well as the singular number.

(b) Solely for purposes of the payment of state sales or use tax on the lease or rental or the purchase of tangible personal property or services, "person" shall not include a regionally accredited independent institution of higher education which is a member of the Louisiana Association of Independent Colleges and Universities, if such lease or rental or purchase is directly related to the educational mission of such institution. However, the term "person" shall include such institution for purposes of the payment of tax on sales by such institution if the sales are not otherwise exempt.

(c) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, "person" shall not include this state, any parish, city and parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, or instrumentality of this state or its political subdivisions.

(d)(i) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, the term "person" shall not include a church or synagogue that is recognized by the United States Internal Revenue Service as entitled to exemption under Section 501(c)(3) of the United States Internal Revenue Code.

(ii) The secretary of the Department of Revenue shall promulgate rules and regulations defining the terms "church" and "synagogue" for purposes of this exclusion. The definitions shall be consistent with the criteria established by the U.S. Internal Revenue Service in identifying organizations that qualify for church status for federal income tax purposes.

(iii) No church or synagogue shall claim exemption or exclusion from the state sales and use tax or the sales and use tax levied by any political subdivision before having obtained a certificate of authorization from the secretary of the Department of Revenue. The secretary shall develop applications for such certificates. The certificates shall be issued without charge to the institutions that qualify.

(iv) The exclusion from the sales and use tax authorized by this Subparagraph shall apply only to purchases of bibles, song books, or literature used for religious instruction classes.

(e)(i) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, the term "person" shall not include the Society of the Little Sisters of the Poor.

(ii) The secretary of the Department of Revenue shall promulgate rules and regulations for purposes of this exclusion. The definitions shall be consistent with the criteria established by the U.S. Internal Revenue Service in identifying tax-exempt status for federal income tax purposes.

(iii) No member of the Society of the Little Sisters of the Poor shall claim exemption or exclusion from the state sales and use tax or the sales and use tax levied by any political subdivision before having obtained a certificate of authorization from the secretary of the Department of Revenue. The secretary shall develop applications for such certificates. The certificates shall be issued without charge to the entities which qualify.

(f)(i) For purposes of the payment of sales and use tax levied by this state and any political subdivision whose boundaries are coterminous with those of the state, the term "person" shall not include a nonprofit entity which sells donated goods and spends seventy-five percent or more of its revenues on directly employing or training for employment persons with disabilities or workplace disadvantages.

(ii) The secretary shall promulgate rules and regulations for the use of exclusion certificates for purposes of implementation of this Subparagraph. Each nonprofit entity electing to utilize the exclusion provided for in this Subparagraph shall apply for an exclusion certificate annually. Any exclusion certificate granted by the Department of Revenue shall be effective for a one-year period.

(iii) The secretary shall provide forms for nonprofit entities to request an exclusion certificate.

(9) "Purchaser" means and includes any person who acquires or receives any tangible personal property, or the privilege of using any tangible personal property, or receives any services pursuant to a transaction subject to tax under this Chapter.

(10)(a)(i) Solely for the purposes of the imposition of the state sales and use tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property, or for the lease of automobiles in an arm's length transaction, and shall mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale or for lease of automobiles in an arm's length transaction must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale or for the lease of

automobiles, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax.

(ii) Solely for purposes of the imposition of the sales and use tax levied by a political subdivision or school board, "retail sale" or "sale at retail" shall mean a sale to a consumer or to any other person for any purpose other than for resale in the form of tangible personal property, and shall mean and include all such transactions as the collector, upon investigation, finds to be in lieu of sales; provided that sales for resale be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations shall himself be liable for and pay the tax.

(iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes imposed by the state on transactions involving the sale for rental of automobiles which take place on or after January 1, 1991, and by political subdivisions on such transactions on or after July 1, 1996, and state sales and use taxes imposed on transactions involving the lease or rental of tangible personal property other than automobiles which take place on or after July 1, 1991, means a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property, or for lease or rental in an arm's length transaction in the form of tangible personal property, and shall mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale or for lease or rental in an arm's length transaction must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale or for lease or rental, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax. For purposes of the imposition of the tax imposed by any political subdivision of the state, for the period beginning on July 1, 1999, and ending on June 30, 2000, the term "retail sale" or "sale at retail" shall not include one-fourth of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. For purposes of the imposition of the tax imposed by any political subdivision of the state, for the period beginning on July 1, 2000, and ending on June 30, 2001, the term "retail sale" or "sale at retail" shall not include one-half of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. For purposes of the imposition of the tax imposed by any political subdivision of the state, for the period beginning on July 1, 2001, and ending on June 30, 2002, the term "retail sale" or "sale at retail" shall not include three-fourths of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. Beginning July 1, 2002, for the purposes of imposition of the tax levied by any political subdivision of the state, the term "retail sale" or "sale at retail" shall not include the sale of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property.

(iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes imposed by the state on transactions involving the sale for rental of automobiles which take place prior to January 1, 1991, and by political subdivisions on such transactions prior to July

1, 1996, and imposed on transactions involving the lease or rental of tangible personal property other than autos which take place prior to July 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions except for transactions involving the sale for rental of automobiles on or after July 1, 1996, means a sale to a consumer or to any other person for any purpose other than for resale in the form of tangible personal property, and shall mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax. However, contrary provisions of law notwithstanding, any political subdivision may, by ordinance, adopt the definition of "retail sale" or "sale at retail" provided in Item (iii) of this Subparagraph for purposes of the imposition of its sales and use tax.

(v)(aa) For purposes of sales and use taxes of all tax authorities in the state, the term "sale at retail" shall not apply to any capital expenditure for new research equipment by a biotechnology company.

(bb) "Biotechnology company" means and includes qualified commercial biotechnology research companies identified by the North American Industry Classification System by code numbers 541710, 325412, 325414, 334516, or 339112.

(cc) The exclusion provided for in Subitem (i) shall not apply to the purchase of any consumable by a qualified biotechnology company.

(vi) Solely for purposes of the payment of state sales and use tax, until January 1, 2007, the term "sale at retail" shall not include purchases made in connection with the filming or production of a motion picture by a motion picture production company which has been relieved from the payment of state sales and use tax under the provisions of Chapter 12 of Subtitle II of this Title, also known as the "Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively revoked if it is determined that a motion picture production company that has been relieved from payment of state sales and use tax under Chapter 12 failed to meet the conditions of such relief.

(b)(i) Solely for purposes of the sales and use tax levied by the state, the sale of tangible personal property to a dealer who purchases said property for resale through coin-operated vending machines shall be considered a "sale at retail", subject to such tax. The subsequent resale of the property by the dealer through coin-operated vending machines shall not be considered a "sale at retail".

(ii) Solely for purposes of the sales and use tax levied by political subdivisions, the term "sale at retail" shall include the sale of tangible personal property by a dealer through coin-operated vending machines.

(c)(i)(aa) The term "sale at retail" does not include sale of materials for further processing into articles of tangible personal property for sale at retail.

(bb) Solely for purposes of the sales and use tax levied by the state, natural gas when used in the production of iron in the process known as the "direct reduced iron process" is not a catalyst and is recognized by the legislature to be a material for further processing into an article of tangible personal property for sale at retail.

(ii)(aa) Solely for purposes of the sales and use tax levied by the state, the term "sale at retail" does not include sales of electricity for chlor-alkali manufacturing processes.

(bb) The term "sale at retail" does not include an isolated or occasional sale of tangible personal property by a person not engaged in such business.

(d) The term "sale at retail" does not include the sale of any human tissue transplants, which shall be defined to include all human organs, bone, skin, cornea, blood, or blood products transplanted from one individual into another recipient individual.

(e) The term "sale at retail" does not include the sale of raw agricultural commodities, including but not limited to feed, seed, and fertilizer, to be utilized in preparing, finishing, manufacturing, or producing crops or animals for market. The Department of Agriculture and Forestry shall develop and promulgate guidelines to determine who meets this definition. Any person meeting such guidelines shall receive a certificate from the Department of Agriculture and Forestry indicating that such person is eligible to purchase such items without paying tax thereon. The guidelines promulgated pursuant to this Paragraph shall not become effective prior to January 1, 1995.

(f) Notwithstanding any other law to the contrary, for purposes of the imposition of the sales and use tax of any political subdivision, the sale of a vehicle subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be deemed to be a "retail sale" or a "sale at retail":

(i) In the political subdivision of the principal residence of the purchaser if the vehicle is purchased for private use, or

(ii) In the political subdivision of the principal location of the business if the vehicle is purchased for commercial use, unless the vehicle purchased for commercial use is assigned, garaged, and used outside of such political subdivision, in which case the sale shall be deemed a "retail sale" or a "sale at retail" in the political subdivision where the vehicle is assigned, garaged, and used.

(g) The term "retail sale" does not include a sale of corporeal movable property which is intended for future sale to the United States government or its agencies, when

title to such property is transferred to the United States government or its agencies prior to the incorporation of that property into a final product.

(h) The term "sale at retail" does not include the sale of food items by youth serving organizations chartered by congress.

(i) The term "sale at retail" does not include the purchase of a new school bus or a used school bus which is less than five years old by an independent operator, when such bus is to be used exclusively in a public school system. This exclusion shall apply to all sales and use taxes levied by any local political subdivision.

(j) The term "sale at retail" does not include the sale of tangible personal property to food banks, as defined in R.S. 9:2799.

(k) The term "sale at retail" shall not include the sale of airplanes or airplane equipment or parts to a commuter airline domiciled in Louisiana.

(l) Solely for purposes of the state sales and use tax, the term "sale at retail" shall not include the sale of a pollution control device or system. Pollution control device or system shall mean any tangible personal property approved by the Department of Revenue and the Department of Environmental Quality and sold or leased and used or intended for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana. For the purposes of any sales and use tax levied by a political subdivision, the term "sale at retail" shall include the sale of a pollution control device or system. In order to qualify, the pollution control device or system must demonstrate either: a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or that installation is necessary to comply with federal or state environmental laws or regulations.

(m) The term "sale at retail" shall not include the sales of Louisiana manufactured or assembled passenger aircraft with a capacity in excess of fifty persons, if, after all transportation, including transportation by the purchaser, has been completed, the aircraft is ultimately received by the purchaser outside of Louisiana.

(n) For purposes of sales and use taxes imposed or levied by the state or any political subdivision thereof, the term "sale at retail" shall not include the sales of pelletized paper waste when purchased for use as combustible fuel by an electric utility or in an industrial manufacturing, processing, compounding, reuse, or production process, including the generation of electricity or process steam, at a fixed location in this state. However, such sale shall not be excluded unless the purchaser has signed a certificate stating that the fuel purchased is for the exclusive use designated herein. For purposes of this Subparagraph, "pelletized paper waste" means pellets produced from discarded waste paper that has been diverted or removed from solid waste which is not marketable for

recycling and which is wetted, extruded, shredded, or formulated into compact pellets of various sizes for use as a supplemental fuel in a permitted boiler.

(o) For the purposes of sales and use taxes imposed or levied by the state or any local governmental subdivision or school board, the term "sale at retail" shall not include the sale or purchase of equipment used in fire fighting by bona fide volunteer and public fire departments.

(p) For purposes of state and political subdivision sales and use tax, the term "sale at retail" shall not include the sale of items, including but not limited to supplies and equipment, or the sale of services as provided in this Section, which are reasonably necessary for the operation of free hospitals.

(q) Repealed by Acts 1996, No. 15, eff. July 1, 2003, as amended by Acts 1998, No. 47, and Acts 2000, No. 33.

(r) For purposes of state and political subdivision sales and use tax, the term "sale at retail" shall not include the sale of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations for their educational and public service programs for youth.

(s) The term "sale at retail" or "retail sale", for purposes of sales and use taxes imposed by the state or any political subdivision or other taxing entity, shall not include any charge, fee, money, or other consideration received, given, or paid for the performance of funeral directing services. For purposes of this Subparagraph, "funeral directing services" means the operation of a funeral home, or by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematorium, or other agent for the purpose of disposition. However, such services shall not mean or include the sale, lease, rental, or use of any tangible personal property as those terms are defined in this Section.

(t) For purposes of sales and use taxes levied by the state or any political subdivision of the state, the term "sale at retail" shall not include the transfer of title to or possession of telephone directories by an advertising company that is not affiliated with a provider of telephone services if the telephone directories will be distributed free of charge to the recipients of the telephone directories.

(u) For purposes of sales and use taxes levied and imposed by local governmental subdivisions, school boards, and other political subdivisions whose boundaries are not coterminous with those of the state, "sale at retail" by a person shall not mean or include the sale of tangible personal property if such sale is made under the provisions of Medicare.

(v) For purposes of the imposition of sales and use taxes imposed or levied by all taxing authorities in the state, in the case of the sale or other disposition by a dealer of any cellular, PCS, or wireless telephone, or any electronic accessories that are physically connected with such telephones and personal communication devices used in connection with the sale or use of mobile telecommunications services, the term "retail sale" or "sale at retail" shall mean and include the sale or any other disposition of such cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communication devices by the dealer to the purchaser, but shall not mean or include the withdrawal, use, distribution, consumption, storage, donation, or any other disposition of any such cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communication devices by the dealer. For purposes of this Section, the term "mobile telecommunications services" shall have the same meaning as that term has in R.S. 47:301(14)(i)(ii)(bb), as amended by Section 1 of Act No. 1175 of the 2001 Regular Session of the Legislature.

(w) For purposes of the imposition of sales and use taxes imposed or levied by any political subdivision of the state, in the case of the sale or other disposition by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other wireless personal communication device that is used in connection with the sale or use of mobile telecommunications services, or any electronic accessory that is physically connected with any such telephone or personal communication device, the term "retail sale" or "sale at retail" shall mean and include the sale or any other disposition of any such telephone, other personal communication device, or electronic accessory. For purposes of this Section, the term "mobile telecommunication services" shall have the same meaning as that term has in R.S. 47:301(14)(i)(ii)(bb), as amended by Section 1 of Act No. 1175 of the 2001 Regular Session of the Legislature.

(x) For purposes of the sales and use tax imposed by the state or any political subdivision whose boundaries are coterminous with those of the state, the terms "retail sale" or "sale at retail" shall not include the sale or purchase by a consumer of any fuel or gas, including but not limited to butane and propane, for residential use by the consumer.

(y)(i) Solely for the purposes of sales and use taxes levied by the state or any political subdivision whose boundaries are coterminous with those of the state, the term "sale at retail" shall not include the sale of manufacturing machinery and equipment used or consumed in this state to manufacture, produce, or extract unblended biodiesel.

(ii) As used in this Subparagraph, the following words and phrases have the meaning ascribed to them:

(aa) "Manufacturing machinery and equipment" means tangible property used or consumed, or held for use or consumption, as an integral part of a biodiesel manufacturing, production, or extraction facility, process, or item of equipment. Property shall be considered to be an integral part of such biodiesel manufacturing, production, or extraction facility, process, or item of equipment only if such property is used or

consumed directly in the manufacturing, production, or extraction process or is part of, physically attached to, or otherwise directly associated with such property. Property, the installation of which is reasonably necessary for the proper installation, operation, maintenance of property which directly results in such manufacturing, production, or extraction shall be considered as directly associated with such property.

(bb) "Unblended biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of the definition provided for in D 6751 of the American Society of Testing and Materials (ATDM D 6751), before such fuel is blended with a petroleum-based diesel fuel.

(z) Solely for the purposes of sales and use taxes levied by the state or any political subdivision whose boundaries are coterminous with those of the state, the term "sale at retail" shall not include the sale of any alternative substance when such alternative substance is used as a fuel by a manufacturer. "Alternative substance" means any substance other than oil and natural gas and any product of oil and natural gas. "Alternative substance" shall include petroleum coke, landfill gas, reclaimed or waste oil, unblended biodiesel, or tire-derived fuel, but not coal, lignite, refinery gas, nuclear fuel, or electricity. "Manufacturer" means a person whose principal activity is manufacturing and who is assigned by the Louisiana Department of Labor a North American Industrial Classification System code with the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in 2002.

(aa)(i) For purposes of sales and use taxes imposed or levied by the state or any political subdivision of the state, the term "sale at retail" shall not include the sale of toys to a non-profit organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code if the sole purpose of the purchasing organization is to donate toys to minors and the toys are, in fact, donated.

(ii) The exclusion provided in this Subparagraph shall not apply if the donation is intended to ultimately yield a profit to a promoter of the organization or to any individual contracted to provide services or equipment, or both, to the organization.

(iii) A certificate of exclusion shall be obtained from the secretary or the tax collector of the political subdivision, under such regulations as he shall prescribe, in order for nonprofit organizations to qualify for the exclusion provided for in this Subparagraph.

(bb) For purposes of sales and use taxes imposed or levied by the state, the terms "retail sale" and "sale at retail" shall not include sales of natural gas to be held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.

(cc) For purposes of the sales and use tax imposed by the state or any political subdivision of the state, the terms "retail sale" or "sale at retail" shall not mean or include

the purchase of textbooks and course-related software by a private postsecondary academic degree-granting institution, accredited by a national or regional commission that is recognized by the United States Department of Education and is licensed by the Board of Regents, which institution has its main location within this state and offers only online instruction, when all of the following apply:

(i) The textbooks and course-related software are physically outside of this state when purchased from a vendor outside of this state and then imported into this state.

(ii) The first student use of the textbooks and course-related software occurs outside of this state.

(iii) The textbooks and course-related software are provided to the student free of charge.

(11) "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use or consumption, or storage to be used or consumed in this state.

(12) "Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, for a consideration, of any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

(13)(a) "Sales price" means the total amount for which tangible personal property is sold, less the market value of any article traded in including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate and a service charge not to exceed six percent of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling, or repairing property sold.

(b) The term "sales price" shall not include any amount designated as a cash discount or a rebate by the vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this Paragraph "rebate" means any amount offered by a vendor or manufacturer as a deduction from the listed retail price of the vehicle.

(c) "Sales price" shall not include the first fifty thousand dollars of the sale price of new farm equipment used in poultry production.

(d) Notwithstanding any other provision of law to the contrary, for purposes of state and political subdivision sales and use tax, the "sales price" of refinery gas, except for feedstock, not ultimately consumed as an energy source by the person who owns the facility in which the refinery gas is created as provided for in Subparagraph (18)(d) of this Section, but sold to another person, whether at retail or wholesale, shall be fifty-two cents per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be twenty-nine dollars, and provided further that such sales price shall be the maximum value placed upon refinery gas by the state and by any political subdivision under any authority or grant of power to levy and collect sales or use taxes, and such sale shall be taxable.

(e) The term "sales price", for purposes of the sales tax imposed by the state and its political subdivisions, shall exclude any amount that a manufacturer pays directly to a dealer of the manufacturer's product for the purpose of reducing and that actually results in an equivalent reduction in the retail "sales price" of that product. This exclusion shall not apply to the value of the manufacturer's coupons that dealers accept from purchasers as part payment of the "sales price" and that are redeemable by the dealers through manufacturers or their agents. The value of such coupons is deemed to be part of the "sales price" of the product purchased through the use of the coupons.

(f) The term "sales price" shall exclude any charge, fee, money, or other consideration received, given, or paid for the performance of funeral directing services as defined in Subparagraph (10)(s) of this Section.

(g) For purposes of the imposition of sales and use taxes imposed or levied by all taxing authorities in the state, in the case of the retail sale by a dealer of any cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communications devices used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the term "sales price" shall mean and include only the amount of money, if any, actually received by the dealer from the purchaser for each such cellular, PCS, or wireless telephone and any electronic accessories that are physically connected with such telephones and personal communication devices, but shall not include (i) any amount received by the dealer from the purchaser for providing mobile telecommunications services, or (ii) any commissions, fees, rebates, or other amounts received by the dealer from any source other than the purchaser as a result of or in connection with the sale of the cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communication devices.

(h) For the purpose of the imposition of sales and use tax imposed or levied by all taxing authorities in the state of any cellular, PCS, or wireless telephone used in connection with the sale or use of mobile telecommunications services, as defined in R.S.

47:301(10)(v), after January 1, 2002, the term "sales price" shall mean and include the greater of (i) the amount of money actually received by the dealer from the purchaser for each such telephone, or (ii) twenty-five percent of the cost of such telephone to the dealer, but shall not include any amount received by the dealer from the purchaser for providing mobile telecommunications services or any commissions, fees, rebates, or other amounts received by the dealer from any source other than the purchaser as a result of or in connection with the sale of the telephone.

(i)(i) For purposes of a publishing business which distributes its news publications at no cost to readers and pays unrelated third parties to print such news publications, the term "sales price" shall mean only the lesser of the following costs:

(aa) The printing cost paid to unrelated third parties to print such news publications, less any itemized freight charges for shipping the news publications from the printer to the publishing business and any itemized charges for paper and ink.

(bb) Payments to a dealer or distributor as consideration for distribution of the news publications.

(ii) The definition of "sales price" provided for in this Subparagraph shall be applicable to taxes levied by all tax authorities in the state.

(j) For the purpose of the imposition of sales and use tax imposed or levied by any political subdivision of the state, in the case of any retail sale or sale at retail, of any cellular telephone, PCS telephone, or wireless telephone used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(w), or any electronic accessory that is physically connected with any such telephone or personal communication device, the term "sales price" shall mean and include the greater of (i) the amount of money, if any, actually received by the dealer from the purchaser at the time of the retail sale or sale at retail by the dealer to the purchaser for each such telephone, personal communication device, or electronic accessory, or (ii) twenty-five percent of the cost of such telephone to the dealer, but shall not include any amount received by the dealer from the purchaser for providing mobile telecommunications services or any commissions, fees, rebates, activation charges, or other amounts received by the dealer from any source other than the purchaser as a result of or in connection with the sale of the telephone.

(k)(i) For purposes of the imposition of the sales tax levied by the state and any political subdivision whose boundaries are coterminous with those of the state, the sales price of machinery and equipment purchased by a manufacturer for use in a plant facility predominately and directly in the actual manufacturing for agricultural purposes or the actual manufacturing process of an item of tangible personal property, which is for ultimate sale to another and not for internal use, at one or more fixed locations within Louisiana shall be reduced as follows:

(aa) For the period ending on June 30, 2005, the sales price shall be reduced by five percent.

(bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the sales price shall be reduced by nineteen percent.

(cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the sales price shall be reduced by thirty-five percent.

(dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the sales price shall be reduced by fifty-four percent.

(ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the sales price shall be reduced by sixty-eight percent.

(ff) For the period beginning July 1, 2009, and ending on June 30, 2010, the sales price shall be reduced by eighty-two percent.

(gg) For all periods beginning on or after July 1, 2010, the sales price shall be reduced by one hundred percent.

(ii) For purposes of this Subparagraph, "machinery and equipment", "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant facility", and "used directly" shall have the same meaning as defined in R.S. 47:301(3)(i)(ii).

(iii) No person shall be entitled to purchase, use, lease, or rent machinery or equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321, and 331 before receiving a certificate of exclusion from the secretary of the Department of Revenue certifying that he is a manufacturer as defined herein.

(iv) The secretary of the Department of Revenue is hereby authorized to adopt rules and regulations in order to administer the exclusion provided for in this Subparagraph.

(l)(i) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, the term "sales price" shall not include the price of specialty items sold to members for fund-raising purposes by nonprofit carnival organizations domiciled within Louisiana and participating in a parade sponsored by a carnival organization.

(ii) The secretary of the Department of Revenue shall promulgate rules and regulations for purposes of this exclusion.

(iii) No nonprofit carnival organization domiciled within Louisiana and participating in a parade sponsored by a carnival organization shall claim exemption or

exclusion from the state sales and use tax or the sales and use tax levied by any political subdivision before having obtained a certificate of authorization from the secretary of the Department of Revenue. The secretary shall develop applications for such certificates. The certificates shall be issued without charge to the entities which qualify.

(m) For purposes of the sales and use tax imposed by the state or any political subdivision whose boundaries are coterminous with those of the state, the "sales price" of natural gas for the period July 1, 2006, through December 31, 2008, sold for use by paper or wood products manufacturing facilities shall not include any amount in excess of six dollars and twenty cents per MMBtu.

(14) "Sales of services" means and includes the following:

(a) The furnishing of sleeping rooms, cottages or cabins by hotels.

(b)(i) The sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges, and universities, and recreational events, and the furnishing, for dues, fees, or other consideration of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic, or recreational facilities; but the term "sales of services" shall not include membership fees or dues of nonprofit, civic organizations, including by way of illustration and not of limitation the Young Men's Christian Association, the Catholic Youth Organization, and the Young Women's Christian Association.

(ii) Places of amusement shall not include "museums", which are hereby defined as public or private nonprofit institutions which are organized on a permanent basis for essentially educational or aesthetic purposes and which use professional staff to do all of the following:

(aa) Own or use tangible objects, whether animate or inanimate.

(bb) Care for those objects.

(cc) Exhibit them to the public on a regular basis.

(iii) Museums include but are not limited to the following institutions:

(aa) Museums relating to art, history, including historic buildings, natural history, science, and technology.

(bb) Aquariums and zoological parks.

(cc) Botanical gardens and arboretums.

(dd) Nature centers.

(ee) Planetariums.

(iv) For purposes of the sales and use taxes of all tax authorities in the state, the term "places of amusement" as used herein shall not include camp and retreat facilities owned and operated by nonprofit organizations exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from the organization's property is devoted wholly to the nonprofit organization's purposes.

(c) The furnishing of storage or parking privileges by auto hotels and parking lots.

(d) The furnishing of printing or overprinting, lithographic, multilith, blue printing, photostating or other similar services of reproducing written or graphic matter.

(e) The furnishing of laundry, cleaning, pressing and dyeing services, including by way of extension and not of limitation, the cleaning and renovation of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, furs and rugs.

(f) The furnishing of cold storage space, except that space which is furnished pursuant to a bailment arrangement, and the furnishing of the service of preparing tangible personal property for cold storage where such service is incidental to the operation of storage facilities.

(g)(i)(aa) The furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and equipment, watches, jewelry, refrigerators, radios, shoes, and office appliances and equipment.

(bb) Solely for purposes of the sales and use tax levied by the state, charges for the furnishing of repairs to tangible personal property may be excluded from sales of services, as defined in this Subparagraph, when the repaired property is delivered to the customer in another state either by common carrier or the repair dealer's own vehicle, however, as to aircraft, delivery may be by the best available means. This exclusion shall not apply to sales and use taxes levied by any parish, municipality or school board. However, any parish, municipality or school board may apply the exclusion as defined in this Subparagraph to sales or use taxes levied by any such parish, municipality, or school board. Offshore areas shall not be considered another state for the purpose of this Subparagraph.

(ii) For the purposes of this Subparagraph, tangible personal property shall include machinery, appliances, and equipment which have been declared immovable by declaration under the provisions of Article 467 of the Louisiana Civil Code, and things which have been separated from land, buildings, or other constructions permanently

attached to the ground or their component parts as defined in Article 466 of the Civil Code.

(h) The term "sale of service" shall not include an action performed pursuant to a contract with the United States Department of the Navy for construction or overhaul of U.S. Naval vessels.

(i)(i) Solely for purposes of the sales and use tax levied by the state, the furnishing of telecommunication services for compensation. "Telecommunication services" shall not be subject to the sales and use tax of political subdivisions except as provided for in Item (vi) of this Subparagraph (i).

(ii) Except as otherwise provided in this Subparagraph, the term "telecommunication services" means:

(aa) Local telephone service, private communication service, toll telephone service, including such service provided by alternate operator service providers, and teletypewriter or computer exchange service.

(bb) Mobile telecommunications service which means a mobile service that is provided for profit, is an interconnected service, and is available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public; or which is the functional equivalent of such a mobile service. Mobile telecommunications services provided by a customer's home service provider shall be subject to the tax imposed by this Chapter when the customer's place of primary use is in this state. In the case of mobile telecommunications service:

(I) "Charges for mobile telecommunications service" means any charge for, or associated with, the provision of mobile telecommunications service, or any charge for, or associated with, a service provided as an adjunct to a mobile telecommunications service, that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(II) "Customer" means any person or entity that contracts with a home service provider or the end user of the mobile telecommunications service if the end user is not the person or entity that contracts with the home service provider for mobile telecommunications service.

(III) "Designated database provider" means a corporation, association, or other entity representing all of the political subdivisions of the state and that is:

(aaa) Responsible for providing an electronic database if the state has not provided the database.

(bbb) Approved by municipal and parish governing authorities of the state whose responsibility it would otherwise be to provide the electronic database.

(IV) "Electronic database" means the database provided to the home service provider. The electronic database may be provided by the state or if the state does not provide such a database to home service providers, then by the designated database provider.

(aaa) Such electronic database, whether provided by the state or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee X12, that, allowing for de minimis deviations, designates for each street address in the state, including to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction. The nationwide standard numeric codes shall contain the same number of numeric digits with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission, or their respective successors. Each address must be provided in standard postal format.

(bbb) The state or the designated database provider that provides or maintains the electronic database shall provide notice of the availability of the then current electronic database and any subsequent revisions thereof, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in the state.

(ccc) The home service provider using the data contained in the electronic database shall not be liable for any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in the database provided by the state or designated database provider, subject to the provisions of R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) and (ggg). The home service provider shall reflect changes made to the database during the calendar quarter no later than thirty days after the end of the quarter.

(ddd) If neither the state nor designated database provider provides an electronic database, a home service provider shall not be liable for any tax, charge, or fee liability in the state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) and (ggg), the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries

of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg) is deemed to be in compliance with this Section. The protection provided in this Subsubitem (IV)(ddd) given to home service providers that are in compliance with this Subsubitem (IV)(ddd) shall apply until the later of eighteen months after the nationwide standard numeric code described in R.S. 47:301(14)(i)(ii)(bb)(IV)(aaa) has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or six months after the state or a designated database provider in the state provides such electronic database.

(eee) For purposes of R.S. 47:301(14)(i)(ii)(bb)(IV)(ddd), there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions; implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and used all reasonable obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

(V) "Enhanced zip code" means a United States postal zip code of 9 or more digits.

(VI) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(VII) "Interconnected" means a direct or indirect connection through automatic or manual means, by wire, microwave, or other technologies such as store and forward, to permit the transmission or reception of messages or signals to or from points in the public switched network.

(VIII)(aaa) "Interconnected service" means a service that is interconnected with the public switched network or interconnected with the public switched network through an interconnected service provider that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network or for which a request for interconnection is pending with the Federal Communications Commission.

(bbb) A mobile service is deemed to offer interconnected service even if the service allows subscribers to access the public switched network only during specified hours of the day, or if the service provides general access to points on the public switched network but also restricts access in certain limited ways. Interconnected service does not include any interface between a licensee's facilities and the public switched network exclusively for a licensee's internal control purposes.

(IX) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide mobile telecommunications service to the customer.

(X) "Mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

(aaa) One-way and two-way radio communications services.

(bbb) A mobile service that provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether licensed on an individual, cooperative, or multiple basis, for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.

(ccc) Any service for which a license issued by the Federal Communications Commission is required in a personal communications service.

(XI) "Place of primary use" of mobile telecommunications service shall be the street address representative of where the customer's use of mobile telecommunications service primarily occurs.

(aaa) This address must be within the licensed service area of the home service provider and must be either the residential or the primary business street address of the customer.

(bbb) The home service provider shall be responsible for obtaining and maintaining the customer's place of primary use.

(ccc) The home service provider shall be entitled to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect on August 1, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted unless a taxing jurisdiction or the state has given the home service provider a notice of determination as set forth in R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg).

(ddd) If the home service provider's reliance on information provided by its customer is in good faith, it shall be entitled to rely on the applicable residential or business street address supplied by the customer as the place of primary use unless a taxing jurisdiction or the state has given the home service provider a notice of determination as set forth in R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg).

(eee) If the home service provider's reliance on information provided by its customer regarding the customer's place of primary use is in good faith, it shall not be liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge unless a taxing jurisdiction or the state has given the home service provider a notice of determination as set forth in R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg).

(fff) A taxing jurisdiction, or the state on behalf of any taxing jurisdiction or taxing jurisdictions within the state, may determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. However, if the taxing jurisdiction making such determination is not the state, such taxing jurisdiction shall obtain the consent of all affected taxing jurisdictions within the state and shall give the customer an opportunity to demonstrate in accordance with applicable state or local tax, charge, or fee administrative procedures that the address is the customer's place of primary use before giving such notice of determination.

(ggg) A taxing jurisdiction, or the state on behalf of any taxing jurisdiction or taxing jurisdictions within the state, may determine that the assignment of a taxing jurisdiction by a home service provider under R.S. 47:301(14)(i)(ii)(bb)(IV)(ddd) does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. However, if the taxing jurisdiction making the determination is not the state, it must obtain the consent of all affected taxing jurisdictions within the state and give the home service provider an opportunity to demonstrate in accordance with applicable state or local tax, charge, or fee administrative procedures that the assignment reflects the correct taxing jurisdiction before giving such notice of determination.

(hhh) If a customer believes that an amount of tax or assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, before seeking any other remedy the customer shall notify the home service provider in writing. The customer shall include in this written notification the street address for his place of primary use, the account name and number for which the customer seeks a correction of the tax assignment, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within sixty days of receiving a notice under this Section, the home service provider shall review its records and the electronic database or enhanced zip code used to determine the customer's taxing jurisdiction. If this review shows that the amount of tax, assignment of place of primary use, or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax erroneously collected from the customer for a period of up to two years. If this review shows that the amount of tax, assignment of place of primary use, or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer.

(iii) If the customer is dissatisfied with the response of the home service provider under this Section, the customer may seek a correction or refund from the taxing jurisdiction affected.

(XII) "Prepaid telephone calling service" means the right to exclusively purchase telecommunications services that must be paid for in advance, and that enable the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

(XIII) "Reseller"

(aaa) Means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

(bbb) Does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(XIV) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

(XV)(aaa) If a mobile telecommunications service is not subject to the taxes levied by the state pursuant to R.S. 47:302(C) and R.S. 47:331(C) or taxes levied by other taxing jurisdictions, and if the amount paid or charged for such mobile telecommunications service is aggregated with and not separately stated from the amount paid or charged for any service that is subject to such taxes, then the nontaxable mobile telecommunications service shall be treated as being subject to such taxes unless the home service provider can reasonably identify the amount paid or charged for the mobile telecommunications service not subject to such taxes from its books and records kept in the regular course of business.

(bbb) If a mobile telecommunications service is not subject to the taxes levied by the state pursuant to R.S. 47:302(C) and 331(C) or by other taxing jurisdictions, a customer may not rely upon the nontaxability of such mobile telecommunications service unless the customer's home service provider separately states the amount charged for such nontaxable mobile telecommunications service or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the amount charged or paid for such nontaxable mobile telecommunications service.

(cc)(I) Interstate telecommunication services; however, only the amounts paid for interstate telecommunication services which either originate or terminate in this state and which are charged to a service address in this state, regardless of where such amounts are billed or paid, shall be subject to the tax imposed by this Chapter. Notwithstanding the foregoing, all mobile telecommunications services shall be taxed as set forth in Subitem (14)(i)(ii)(bb) of this Section.

(II) Notwithstanding any provision of law to the contrary, with respect to sales of interstate telecommunication services to any person for use in the operation of one or more call centers:

(aaa) The tax imposed pursuant to this Chapter shall not apply to such sales reflected on bills submitted prior to July 1, 2003.

(bbb) The tax imposed pursuant to this Chapter shall not exceed twenty-five thousand dollars per calendar year with respect to such sales reflected on bills submitted on or after July 1, 2003.

(ccc) For purposes of applying the limitation set forth in R.S. 47:301(14)(i)(ii)(cc)(II)(bbb), all entities wholly owned by the same person or entity shall be considered a single person.

(III) For purposes of R.S. 47:301(14)(i)(ii)(cc)(II), the term "call center" means one or more locations that utilize telecommunication services in one or more of the following activities: customer services, soliciting sales, reactivating dormant accounts, conducting surveys or research, fund raising, collection of receivables, receiving reservations, receiving orders, or taking orders. The limitations set forth in R.S. 47:301(14)(i)(ii)(cc)(II) shall apply only to holders of a direct payment number issued by the department pursuant to R.S. 47:303.1. In order to obtain such direct payment number, the applicant must establish that it satisfies the criteria set forth in R.S. 47:301(14)(i)(ii)(cc)(II). The provisions of R.S. 47:303.1(B)(1) and (3) shall not apply to any application for a direct payment number under R.S. 47:301(14)(i)(ii)(cc)(II). The department shall not issue any refunds of taxes paid prior to receiving a direct payment number.

(dd) Charges for the connection of or change to any of the services described in Subitems (aa), (bb), or (cc) of this Item.

(iii) The term "telecommunication services" shall not include:

(aa) Telecommunication services paid for by inserting coins in coin-operated telephones available to the public;

(bb) Any excise, franchise, or similar tax or like fee or assessment levied by the United States, by the state of Louisiana, or by any political subdivision as defined in Article VI, Section 44(2) of the Constitution of Louisiana, upon the purchase, sale, use,

or consumption of any telecommunication services, which tax, fee, or assessment is collected by the seller from the purchaser.

(cc) Repealed by Acts 2000, No. 22, §9, eff. June 15, 2000.

(cc) Any interstate telecommunication services, or any telecommunication services for which rates are approved by or subject to approval by the Federal Communications Commission, including interstate subscriber line charges.

(dd) The furnishing of any telecommunication services for resale, including charges for the use of intercompany facilities pursuant to shared network facility arrangements, access charges paid by intrastate or interstate interexchange telecommunications carriers and interconnection charges paid by providers of any mobile telecommunications service, provided that any dealer making a sale of telecommunication services for resale shall obtain a certificate from the purchaser of such services certifying that such services are purchased for the purpose of resale, the form of the certification to be determined by rules and regulations to be promulgated by the secretary.

(ee) Services or transactions defined in this Subparagraph among entities classified as members of an affiliated group as provided by federal law (26 U.S.C. Section 1504), provided, however, that these provisions shall not apply to any services that would have been taxable under this Chapter as it existed on October 1, 1990.

(ff) Information and data services, including storage of data or information for subsequent retrieval, the retrieval of data or information, or the processing, or reception and processing, of data or information intended to change its form or content.

(gg) Telecommunication services paid for in advance by the purchase of a prepaid telephone calling card or prepaid authorization number as provided for in Subparagraph (16)(d) of this Section.

(gg) Telecommunication services paid for in advance by the purchase of a prepaid telephone calling card or prepaid authorization number as provided for in Subparagraph (16)(d) of this Section.

(iv) For the purposes of this Subparagraph, the following definitions shall apply:

(aa) The term "local telephone service" means the access to a local telephone system and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system.

(bb) The term "teletypewriter or computer exchange service" means the access from a teletypewriter, telephone, computer, or other data station and the privilege of

intercommunication by such station with substantially all persons having teletypewriter, telephone, computer, or other data stations constituting a part of the same teletypewriter or computer exchange system. The term "teletypewriter or computer exchange service" does not include the storage of data or information for subsequent retrieval, the retrieval of data or information, or the processing, or reception and processing, of data or information intended to change its form or content.

(cc) The term "toll telephone service" means: a telephonic-quality communication for which there is a toll charge that varies in amount according to the distance and elapsed transmission time of each individual communication; or a service that entitles the subscriber or user, upon the payment of a periodic charge that is determined as a flat amount or upon the basis of total elapsed transmission time, or upon some combination thereof, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located. The term "toll telephone service" includes intrastate wide-area telephone service charges.

(dd) The term "private communication service" means a communication service furnished to a regular subscriber or user that entitles the subscriber or user to exclusive or priority use of a communication channel or group of channels, or to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in Subitems (aa), (bb), or (cc) of this Item (iv); switching capacity, extension lines, and stations, or other associated services which are provided in connection with, and which are necessary or unique to the use of, channels or systems described in this clause; or the channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.

(ee) The term "alternate operator service provider" means any reseller of toll telephone service, as defined in Subitem (cc) of this Item (iv), that provides live or mechanical operator assistance to the end user of such toll telephone service.

(ff) The term "interstate telecommunication services" means any telecommunication service which originates in this state but does not terminate in this state or which terminates in this state but does not originate in this state.

(v) To prevent actual multistate taxation of an interstate telecommunication service subject to taxation under this Chapter, any taxpayer, upon proof that such taxpayer has paid a tax in another state on such service, shall be allowed a credit against the tax imposed by this Chapter to the extent of the amount of such tax paid in such other state.

(vi)(aa) Local political subdivisions are prohibited from levying a sales and use tax on telecommunication services not in effect on July 1, 1990.

(bb) The provisions of this Subparagraph shall not be construed to prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax or assessment by any political subdivision of the state as defined in Article VI, Section 44(2) of the Constitution of Louisiana.

(j) Notwithstanding any provision of law to the contrary, for purposes of sales or use taxation by the state or any local political subdivision, the term "sales of services" shall not mean or include any funeral directing services as defined in Subparagraph (10)(s) of this Section. Subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the state Department of Revenue shall devise a formula for the calculation of the tax.

(15) "Storage" means and includes any keeping or retention in the taxing jurisdiction of tangible personal property for use or consumption within the taxing jurisdiction or for any purpose other than for sale at retail in the regular course of business.

(16)(a) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses.

(b) The term "tangible personal property" shall not include:

(i) Stocks, bonds, notes, or other obligations or securities.

(ii) Gold, silver, or numismatic coins, or platinum, gold, or silver bullion having a total value of one thousand dollars or more.

(iii) Proprietary geophysical survey information or geophysical data analysis furnished under a restricted use agreement even though transferred in the form of tangible personal property.

(c) The term "tangible personal property" shall not include the repair of a vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse of the applicable warranty on that vehicle and at no charge to the owner of the vehicle. For the purpose of assessing a sales and use tax on this transaction, no valuation shall be assigned to the services performed or the parts used in the repair.

(d)(i) Notwithstanding any provision of law to the contrary and solely for purposes of state sales and use tax, any sale of a prepaid telephone calling card or prepaid authorization number, or both, shall be deemed to be the sale of tangible personal property.

(ii) Unless the sale of a prepaid telephone calling card or prepaid authorization number occurs at the vendor's place of business, it shall be conclusively presumed that the retail sale has occurred at the customer's shipping address. The reauthorization of a prepaid telephone calling card or a prepaid authorization number shall be conclusively presumed to be a retail sale which occurs at the customer's billing address, except in the case of the reauthorization of a prepaid calling card or a prepaid authorization number used exclusively for mobile telecommunications service in which case it shall be conclusively presumed to be a retail sale which occurs at the mobile telecommunications service customer's place of primary use.

(e) The term "tangible personal property" shall not include work products which are written on paper, stored on magnetic or optical media, or transmitted by electronic device, when such work products are created in the normal course of business by any person licensed or regulated by the provisions of Title 37 of the Louisiana Revised Statutes of 1950, unless such work products are duplicated without modification for sale to multiple purchasers. This exclusion shall not apply to work products which consist of the creation, modification, updating, or licensing of computer software.

(f) The term "tangible personal property" shall not include pharmaceuticals administered to livestock used for agricultural purposes. All such pharmaceuticals shall be registered with the Louisiana Department of Agriculture and Forestry.

(g)(i) Except as otherwise provided in this Subparagraph, the term "tangible personal property" shall not include manufactured homes for which certification has been made as required by Section 5415 of Title 42 of the United States Code.

(ii) For purposes of this Subparagraph, "manufactured home" means a structure as defined in Section 5402 of Title 42 of the United States Code. For purposes of this Subparagraph, "manufactured home" shall also mean any structure which meets all the requirements of a manufactured home as defined in Section 5402 of Title 42 of the United States Code except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of the United States Department of Housing and Urban Development or required by the fire marshal of the state of Louisiana. "Manufactured home" shall not include any self-propelled recreational vehicle.

(iii) The term "tangible personal property" as applied to sales and use taxes levied by the state only shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that forty-six percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall not be considered as "tangible personal property".

(iv) The provisions of this Subparagraph shall be applicable to the sales and use taxes levied by all local taxing districts within the state, for manufactured homes used for residential purposes, in the following manner:

(aa) Effective January 1, 2003, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that eighty-six and one-half percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall be considered as "tangible personal property", but only to the extent of seventy-five percent of the resale price.

(bb) Effective January 1, 2004, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that seventy-three percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall be considered as "tangible personal property", but only to the extent of fifty percent of the resale price.

(cc) Effective January 1, 2005, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that fifty-nine and one-half percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall be considered as "tangible personal property", but only to the extent of twenty-five percent of the resale price.

(dd) Effective January 1, 2006, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that forty-six percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall not be considered as "tangible personal property".

(ee) The provisions of this Subparagraph shall only apply to a manufactured home or mobile home that the buyer certifies is intended solely for use as residential housing. The office of motor vehicles shall promulgate rules and regulations amending the process for the application for title to provide for the certification that a manufactured home or mobile home is intended for residential use and will be situated on a particular and identified lot or tract of land.

(h)(i) Solely for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the term "tangible personal property" shall not include one-quarter of the cost price of custom computer software.

(ii) Solely for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2003, and ending on June 30, 2004, the term "tangible personal property" shall not include one-half of the cost price of custom computer software.

(iii) Solely for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the term "tangible personal property" shall not include three-quarters of the cost price of custom computer software.

(iv) Solely for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for all taxable periods beginning on or after July 1, 2005, the term "tangible personal property" shall not include custom computer software.

(i) Solely for purposes of the imposition of the state sales and use tax, the term "tangible personal property" shall not include digital television conversion equipment and digital radio conversion equipment as defined in this Section.

(i) "Digital television conversion equipment" shall include the following:

(aa) DTV transmitter and RF system.

(bb) Transmission line.

(cc) DTV antenna.

(dd) Tower.

(ee) Existing tower structural upgrade.

(ff) Advanced TV receiver (STL receiver).

(gg) Decoder (digital to analog converter for NTSC).

(hh) DTV transmission system test and monitoring.

(ii) Digital video/audio master control switcher.

(jj) Analog to digital conversion.

(kk) High definition up-converters.

(ll) High definition bypass switcher.

(mm) Down converters for standard definition.

(nn) Advanced TV transmitter (STL transmitter).

- (oo) Advanced TV signal encoder.
- (pp) DTV transmission monitoring.
- (qq) High definition digital video switcher and DVE.
- (rr) High definition studio cameras.
- (ss) High definition graphics/graphic generator.
- (tt) High definition video monitoring.
- (uu) Conversion gear.
- (vv) High definition recorder/players, including tape, disk, etc.
- (ww) High definition video/audio signal router.
- (xx) High definition video/audio media server.
- (yy) MPEG or HDTV digital receivers for program content.
- (zz) High definition recorder/players, including tape, disk, etc.
- (aaa) High definition video/audio media server and workstations.
- (bbb) Digital EAS encoder/decoder.
- (ccc) High definition camcorder, including tape, disk, etc.
- (ddd) Advanced TV transmitters, including microwave.
- (ii) "Digital radio conversion equipment" shall include the following:
  - (aa) IBOC transmitter.
  - (bb) IBOC main channel and IBOC combiner.
  - (cc) IBOC compatible antenna.
  - (dd) Tower.
  - (ee) IBOC coaxial bypass switcher.
  - (ff) Digital STL.

(gg) STL heliax transmission line.

(hh) STL antenna.

(ii) Digital console.

(jj) EAS insertion.

(kk) AES EBU conversion equipment.

(ll) IBOL transmission testing and monitoring equipment.

(mm) Digital processor.

(iii) The exclusion from state sales and use tax authorized by this Subparagraph shall only apply to the first purchase of each enumerated item by an individual taxpayer who holds a Federal Communications Commission license issued pursuant to 47 CFR Part 73. Individual taxpayers operating under several broadcaster licenses shall be allowed one purchase of each enumerated item per license. Each subsequent purchase of any of the enumerated items by the same taxpayer or license holder shall be subject to sales and use tax.

(iv) Repealed by Acts 2005, No. 243, §1, eff. June 29, 2005.

(v) Any eligible taxpayer who has purchased any item enumerated in Item (i) or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the effective date of this Act, shall be entitled to a credit against the state sales and use tax due in any year for an amount equal to state sales and use tax paid on the purchase of the item.

(vi) Local taxing authorities are hereby authorized to provide an exemption from any local sales and use tax liability to any taxpayers holding a Federal Communications Commission license issued pursuant to 47 CFR Part 73 which has purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local taxing authorities are further authorized to provide a credit against any tax liability for the amount of local sales tax paid by taxpayers holding Federal Communications Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in Item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but prior to June 25, 2002.

(vii) No exclusion from state sales and use tax as authorized in this Subsection shall be allowed after the Federal Communications Commission has issued an order mandating license holders, issued pursuant to 47 CFR Part 73, to discontinue broadcasting their analog signal.

(viii) The Department of Revenue shall adopt rules and regulations necessary for the implementation of this Act no later than August 1, 2002.

(j) The term "tangible personal property", for purposes of the payment of sales and use taxes levied by all tax authorities in the state, shall not include materials used directly in the collection, separation, treatment, testing, and storage of blood by nonprofit blood banks and nonprofit blood collection centers.

(k) The term "tangible personal property" for purposes of the sales and use taxes imposed by all tax authorities in this state shall not include apheresis kits and leuko reduction filters used by nonprofit blood banks and nonprofit blood collection centers.

(l) For purposes of the sales and use tax imposed by the state of Louisiana, by a political subdivision whose boundaries are coterminous with those of the state, or by all political subdivisions of the state and without regard to the nature of the ownership of the ground, tangible personal property shall not include other constructions permanently attached to the ground which shall be treated as immovable property.

(17) "Off-road vehicle" is any vehicle manufactured for off road use which is issued a manufacturer's statement of origin that cannot be issued a registration certificate and license to operate on the public roads of this state because at the time of manufacture the vehicle does not meet the safety requirements prescribed by R.S. 32:1301 through R.S. 32:1310. This includes vehicles that are issued a title only by the Vehicle Registration Bureau, Department of Public Safety and Corrections, such as all terrain vehicles and recreational and sport vehicles, but it does not include off road vehicles used for farm purposes, farm equipment, or heavy construction equipment.

(18)(a)(i) Solely for purposes of the imposition of the state sales and use tax, "use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular course of a business. The term "use" shall not include the purchase, the importation, the consumption, the distribution, or the storage of automobiles to be leased in an arm's length transaction, nor shall the term "use" include the donation of food items to a food bank as defined in R.S. 9:2799(B).

(ii) For purposes of the imposition of the sales and use tax levied by a political subdivision or school board, "use" shall mean and include the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular course of a business. The term "use" shall not include the donation of food items to a food bank as defined in R.S. 9:2799(B).

(iii) The term "use", for purposes of sales and use taxes imposed by the state on the use for rental of automobiles which take place on or after January 1, 1991, and by

political subdivisions on such use on or after July 1, 1996, and state sales and use taxes imposed on the use for lease or rental of tangible personal property other than automobiles which take place on or after July 1, 1991, shall not include the purchase, the importation, the consumption, the distribution, or the storage of tangible personal property to be leased or rented in an arm's length transaction as tangible personal property. For purposes of the imposition of the tax levied by any political subdivision of the state, for the period beginning July 1, 1999, and ending on June 30, 2000, the term "use" shall not include one-fourth of the cost price of any tangible personal property which is purchased, imported, consumed, distributed, or stored and which is to be leased or rented in an arm's length transaction in the form of tangible personal property. For purposes of the imposition of the tax levied by any political subdivision of the state, for the period beginning July 1, 2000, and ending on June 30, 2001, the term "use" shall not include one-half of the cost price of any tangible personal property which is purchased, imported, consumed, distributed, or stored and which is to be leased or rented in an arm's length transaction in the form of tangible personal property. For purposes of the imposition of the tax levied by any political subdivision of the state, for the period beginning July 1, 2001, and ending on June 30, 2002, the term "use" shall not include three-fourths of the cost price of any tangible personal property which is purchased, imported, consumed, distributed, or stored and which is to be leased or rented in an arm's length transaction in the form of tangible personal property. Beginning July 1, 2002, for purposes of the imposition of the tax levied by any political subdivision of the state, the term "use" shall not include the purchase, the importation, the consumption, the distribution, or the storage of any tangible personal property which is to be leased or rented in an arm's length transaction in the form of tangible personal property.

(iv) The term "use", for purposes of sales and use taxes imposed by the state on the use for rental automobiles which take place prior to January 1, 1991, and by political subdivisions on such use prior to July 1, 1996, and imposed on the use for lease or rental of tangible personal property other than automobiles which take place prior to July 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall include the purchase, the importation, the consumption, the distribution, or the storage of tangible personal property to be leased or rented in an arm's length transaction as tangible personal property.

(b) Notwithstanding any other law to the contrary, for purposes of the imposition of the sales and use tax of any political subdivision, the use of a vehicle subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be deemed to be a "use":

(i) In the political subdivision of the principal residence of the purchaser if the vehicle is purchased for private use, or

(ii) In the political subdivision of the principal location of the business if the vehicle is purchased for commercial use, unless the vehicle purchased for commercial use is assigned, garaged, and used outside of such political subdivision, in which case the use

shall be deemed a use in the political subdivision where the vehicle is assigned, garaged, and used.

(c) For purposes of state and political subdivision sales and use tax, "use" shall not include the exercise of any right or power by a free hospital over items, including but not limited to supplies and equipment, which are reasonably necessary for the operation of the free hospital.

(d)(i) Notwithstanding any other provision of law to the contrary, and except as provided in Item (iii) of this Subparagraph, for purposes of state and political subdivision sales and use tax, "use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the further processing of tangible personal property into articles of tangible personal property for sale.

(ii) Except as provided in Item (iii) of this Subparagraph for refinery gas, for purposes of state and political subdivision use tax, "use" shall not include the storage, consumption, or the exercise of any other right of ownership over tangible personal property which is created or derived as a residue or byproduct of such processing. Such residue or byproduct shall include but shall not be limited to catalyst cracker coke derived from crude oil, wood chips, bark, and liquor derived from the processing of sawlogs or pulpwood timber, or bagasse derived from sugarcane.

(iii) Notwithstanding any other provision of law to the contrary, and notwithstanding the provisions of this Subparagraph, "use" shall include the exercise of any right of ownership over the consumption, the distribution, and the storage for use or consumption in this state of refinery gas, except the sale to another person, whether at retail or wholesale, only if the refinery gas is ultimately consumed as an energy source by the person who owns the facility in which it is created and is not sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be taxed at the cost price value provided in Subparagraph (3)(f) of this Section. If refinery gas, except for feedstock, is sold to another person, whether at retail, or wholesale, such sale shall be taxable and the sales price value shall be as provided for in Subparagraph (13)(d) of this Section. The provisions of this Item shall not apply to feedstocks.

(e) Repealed by Acts 1996, No. 15, eff. July 1, 2003, as amended by Acts 1998, No. 47, and Acts 2000, No. 33.

(f) For purposes of state and political subdivision sales and use tax, "use" shall not include the purchase of or the exercise of any right or power over tangible personal property used by Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. for their educational and public service programs for youth.

(g) Notwithstanding any provision of law to the contrary, for purposes of sales or use taxation by the state or any local political subdivision, the term "use" shall not mean

or include any funeral directing services as defined in Subparagraph (10)(s) of this Section.

(h) For purposes of sales and use taxes levied by the state or any political subdivision of the state, the term "use" shall not include the exercise of any right of ownership in or the distribution of telephone directories acquired by an advertising company that is not affiliated with a provider of telephone services if the telephone directories will be distributed free of charge to the recipients of the telephone directories.

(i) For purposes of the imposition of sales and use taxes imposed or levied by all taxing authorities in the state, in the case of the sale or any other disposition by a dealer of any cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communications devices used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the term "use" shall not include the withdrawal, use, distribution, consumption, storage, donation, or any other disposition of any such cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communications devices by the dealer.

(j) For purposes of the imposition of sales and use taxes imposed or levied by any political subdivision of the state, in the case of the sale or any other disposition by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other wireless personal communication device that is used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(w), or any electronic accessory that is physically connected with any such telephone or personal communications device, the term "use" shall not include the withdrawal, use, distribution, consumption, storage, donation, or any other disposition of any such telephone or electronic accessory by the dealer.

(k) Solely for purposes of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, the term "use" shall not include the purchase, the use, the consumption, the distribution, the storage for use or consumption, or the exercise of any right or power over manufacturing machinery and equipment used or consumed in this state to manufacture, produce or extract unblended biodiesel.

(l) Solely for the purposes of sales and use taxes levied by the state or any political subdivision whose boundaries are coterminous with those of the state, the term "use" shall not include the use, the consumption, the distribution, the storage for use or consumption in this state, or the exercise of any right or power over an alternative substance as that term is defined in Subparagraph (10)(z) of this Section when such alternative substance is used as a fuel by a manufacturer. "Manufacturer" means a person whose principal activity is manufacturing and who is assigned by the Louisiana Department of Labor a North American Industrial Classification System code with the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in 2002.

(m)(i) For the purposes of sales and use taxes imposed or levied by the state or any political subdivision of the state, the term "use" shall not include the purchase of or the exercise of any right or power over toys by a non-profit organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code if the sole purpose of the purchasing organization is to donate toys to minors and the toys are, in fact, donated.

(ii) The exclusion provided for in this Subparagraph shall be subject to the same conditions as are provided for in Items (10)(aa)(ii) and (iii) of this Section.

(n) For purposes of sales and use tax imposed by the state or any political subdivision of the state, the term "use" shall not mean or include the purchase, importation, storage, distribution, or exportation of, or exercise of any right or power over, textbooks and course-related software by a private postsecondary academic degree-granting institution, accredited by a national or regional commission that is recognized by the United States Department of Education and is licensed by the Board of Regents, which institution has its main location within this state and offers only online instruction, when all of the following apply:

(i) The textbooks and course-related software are physically outside of this state when purchased from a vendor outside of this state and then imported into this state.

(ii) The first student use of the textbooks and course-related software occurs outside of this state.

(iii) The textbooks and course-related software are provided to the student free of charge.

(19) "Use tax" includes the use, the consumption, the distribution, and the storage as herein defined. No use tax shall be due to or collected by:

(a) The state on tangible personal property used, consumed, distributed, or stored for use or consumption in the state if the sale of such property would have been exempted or excluded from sales tax at the time such property became subject to the taxing jurisdiction of the state.

(b) Any political subdivision on tangible personal property used, consumed, distributed, or stored for use or consumption in such political subdivision if the sale of such property would have been exempted or excluded from sales tax at the time such property became subject to the taxing jurisdiction of the political subdivision.

(20) "Drugs" includes all pharmaceuticals and medical devices which are prescribed for use in the treatment of any medical disease.

(21) "Free hospital" means a hospital that does not charge any patients for health care provided by the hospital.

(22) The term "computer software" means a set of statements, data, or instructions to be used directly or indirectly in a computer in order to bring about a certain result in any form in which those statements, data, or instructions may be embodied, transmitted, or fixed, by any method now known or hereafter developed, regardless of whether the statements, data, or instructions are capable of being perceived by or communicated to humans. Computer software includes all types of software including operational, applicational, utilities, compilers, and all other forms.

(23)(a) The term "custom computer software" means computer software prepared, created, adapted, or modified to the special order of a particular purchaser, licensee, or user; or to meet the specific needs or requirements of a particular purchaser, licensee, or user, regardless of the means by or through which such computer software is furnished, delivered, or transmitted, and regardless of whether such software incorporates or consists of preexisting routines, utilities, or other computer software components.

(b) In order to be considered "custom computer software", the computer software must require preparation, creation, adaptation, or modification by the vendor in order to be used in a specific work environment or to perform a specific function for the user.

(c) Updates, upgrades, and new versions of custom computer software shall be considered custom computer software, provided such upgrades, updates, and new versions meet the definition of custom computer software contained in this Chapter.

(24) The term "news publication" shall mean any printed periodical that:

(a) Appears at regular intervals.

(b) Contains reports of a varied character, such as political, social, cultural, sports, moral, religious, or other subjects of general public interest.

(c) Contains not more than seventy-five percent advertising.

(d) Is not owned or published as an auxiliary to another nonpublishing business, organization, or entity.

(25) "Taxing authority" shall mean and include both the state and a statewide political subdivision and any political subdivision of the state authorized under the Constitution or laws of the state of Louisiana to levy and collect a sales and use tax, unless the context indicates otherwise. For purposes of the Uniform Local Sales Tax Code provided for in Chapter 2D of this Subtitle, "taxing authority" shall mean any political subdivision of the state authorized under the Constitution or laws of the state of Louisiana to levy and collect a sales and use tax, except a statewide political subdivision.

(26) "Taxing jurisdiction" shall mean the area within the physical boundaries of the taxing authority.

(27) "Tax", "sales and use tax", and "sales tax" shall mean the sales and use tax imposed by the state pursuant to the provisions of this Chapter and Chapter 2-A and 2-B of this Subtitle and the tax imposed by political subdivisions under the constitution or laws of this state authorizing the imposition of a sales and use tax.

(28)(a) For purposes of the imposition of the lease or rental tax levied by the state and any political subdivision whose boundaries are coterminous with those of the state, the "gross proceeds", "monthly lease or rental price paid", and "monthly lease or rental price contracted or agreed to be paid" for machinery and equipment used by a manufacturer in a plant facility predominately and directly in the actual manufacturing for agricultural purposes or the actual manufacturing process of an item of tangible personal property, which is for ultimate sale to another and not for internal use, at one or more fixed locations within Louisiana shall be reduced as follows:

(i) For the period ending on June 30, 2005, by five percent.

(ii) For the period beginning July 1, 2005, and ending on June 30, 2006, by nineteen percent.

(iii) For the period beginning July 1, 2006, and ending on June 30, 2007, by thirty-five percent.

(iv) For the period beginning July 1, 2007, and ending on June 30, 2008, by fifty-four percent.

(v) For the period beginning July 1, 2008, and ending on June 30, 2009, by sixty-eight percent.

(vi) For the period beginning July 1, 2009, and ending on June 30, 2010, by eighty-two percent.

(vii) For all periods beginning on or after July 1, 2010, by one hundred percent.

(b) For purposes of this Paragraph, "machinery and equipment", "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant facility", and "used directly" shall have the same meaning as defined in R.S. 47:301(3)(i)(ii).

(c) No person shall be entitled to purchase, use, lease, or rent machinery or equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321, and 331 before receiving a certificate of exclusion from the secretary of the Department of Revenue certifying that he is a manufacturer as defined herein.

(d) The secretary of the Department of Revenue is hereby authorized to adopt rules and regulations in order to administer the exclusion provided for in this Subparagraph.

### **RS 47:303**

#### §303. Collection

E. Collection of tax on off-road vehicles. (1) The vehicle commissioner shall not issue a title or a certificate of registration on any off-road vehicle purchased in this state or brought into this state from another state until satisfactory proof has been presented to him that all sales taxes required by law have been paid. The purchaser of an off-road vehicle from a seller who is not registered with the Department of Public Safety and Corrections shall pay the sales tax at the time the vehicle is titled the same as is required for the registration and licensing of other vehicles under the provisions of Subsection B of this Section.

(2) After payment of the taxes due, the commissioner shall issue a decal, in a form prescribed, said decal to be affixed to the vehicle, as directed, by the commissioner, which shall be conclusive proof of registration and payment of the required taxes. All 1987 and later model off-road vehicles sold as new and subsequently sold as used shall be required to display this decal, commencing September 1, 1986. The decal shall be a two-year renewal type and the fees for issuance of new, renewal, transfer, lost, or illegible decals shall be the same amount as those fees charged for the registration stickers of other motor vehicles. Failure to have this decal affixed to the off-road vehicle within thirty days of purchase will result in a fine, not to exceed fifty dollars, or the impounding of the vehicle, or both, and the payment of all taxes due, if any. All peace officers, including the Department of Wildlife and Fisheries, may require proof of registration and shall have concurrent jurisdiction to enforce the provisions of this Section.

### **RS 47:304**

#### §304. Treatment of tax by dealer

A. The tax levied in this Chapter shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of tax on motor vehicles in R.S. 47:303 and the collection of tax on property leased or rented for use offshore in R.S. 47:301(4)(d)(ii). The dealer shall collect the sales tax on off-road vehicles and remit them directly to the Department of Public Safety and Corrections upon application for certificate of title and registration as required for the registration and licensing of other vehicles under the provisions of Subsection B of this Section. The dealer shall collect the sales taxes on off-road vehicles from

out-of-state residents who purchase off-road vehicles in this state and remit the sales taxes due directly to the Department of Revenue.

B. Every dealer located outside the state making sales of tangible personal property for distribution, storage, use, or other consumption, in this state, shall at the time of making sales collect the tax imposed by this Chapter from the purchaser.

C. Dealers shall, as far as practicable, add the amount of the tax imposed under this chapter in conformity with the schedule or schedules to be prescribed by the collector pursuant to authority conferred herein, to the sale price or charge, which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer who neglects, fails or refuses to collect the tax herein provided, shall be liable for and pay the tax himself.

D. Where the tax collected for any period is in excess of the tax rate provided by this Title, the total tax collected must be paid over to the secretary, less the compensation to be allowed the dealer as hereinafter set forth. This provision shall be construed with other provisions of this Chapter and given effect so as to result in the payment to the secretary of the total tax collected if in excess of the tax rate provided.

E. Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be fined not more than one hundred dollars, or imprisoned for not more than three months, or both.

F.(1) No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax unless:

(a) The dealer includes in the advertisement that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer.

(b) The dealer furnishes the purchaser with written evidence that the dealer will be liable for and pay any tax the purchaser was relieved from paying under this Paragraph himself.

(2) If a dealer advertises that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer, the purchaser shall not be liable for the payment of that portion of the tax.

(3) Whoever violates this provision with respect to advertising shall be fined not less than twenty-five dollars nor more than two hundred fifty dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double.

G. The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.

H. The use of tokens is forbidden. The collector shall by regulations prescribe the method and the schedule of the amounts to be collected from the purchasers, lessees or consumers in respect to any receipt upon which a tax is

imposed by this chapter or by any political subdivision of the state of Louisiana.

The amount of tax to be collected by the dealer and paid by the purchaser shall in each transaction comply with the schedule so provided.

I. The sums of money collected by the dealer for payment of sales and use taxes imposed by the state of Louisiana, or any such taxes imposed by any parish, municipality, or political subdivision within the state, shall be and remain the property of the taxing authority and deemed held in trust for the taxing authority.

## **RS 56:109.1**

### §109.1. Use of all-terrain vehicle trails on wildlife management areas

The department shall keep at least one all-terrain vehicle trail on each department-owned wildlife management area that has such a trail open throughout the year. The department may temporarily close the year-round trail if weather or other conditions render the use of the trail a public safety or an environmental hazard. Access to the year-round trail shall be granted for use by all-terrain vehicles, motorcycles, horses, and bicycles, under rules and regulations promulgated under the Administrative Procedure Act. Persons using the year-round all-terrain vehicle trails shall possess a WMA permit. A violation of the provisions of the Section, or rules and regulations promulgated pursuant thereto, shall constitute a class one violation.

## **RS 56:699.7**

### §699.7. Four wheeler and all-terrain vehicle instruction

The department may offer in its firearm and hunter education program an educational block of instruction on the proper way and method of safely riding "four wheelers" or all-terrain vehicles.

## LOUISIANA ADMINISTRATIVE CODE, TITLE 25:305

### **§305. Vehicle Use**

- A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on state park property.
- B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular park traffic unless otherwise authorized by the site manager.

- C. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.
- D. No person shall operate a vehicle in excess of 15 miles per hour on park property unless otherwise posted.
- E. Only vehicles that have been properly licensed by the appropriate regulatory agencies may be operated on the public roads of state parks. Exceptions to this provision may be granted in advance on a case by case basis by the site manager.
- F. No person shall clean, service and/or repair any vehicle on state park property except in emergency situations and in designated areas.
- G. Vehicles will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.
- H. No person shall remove any barrier to gain access to a restricted area.

