

The following ordinance was offered by Mr. M. C. Rose


and seconded by Mr. Thomas D. Hamilton :

ORDINANCE

An ordinance levying within the Parish of St. Mary, State of Louisiana, a tax of one fourth of one per cent (.25%) upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and on sales of services, all as defined herein; defining the terms "tangible personal property", "dealers", "sale", "retail sales", "lease or rental", "storage", "use", "sales of services", and other terms used herein; levying and providing for the assessment, collection, payment and dedication of such tax and the purpose for which the proceeds of said tax may be expended; providing for an adequate remedy at law; defining violations of the provisions of this ordinance and prescribing penalties therefor; providing for rules and regulations for the enforcement of the provisions of this ordinance and the collection of the tax levied thereby; providing that any part of this ordinance which may be held invalid or unconstitutional shall not affect or impair any other provision thereof; and repealing all resolutions and ordinances or parts thereof as may conflict herewith.

WHEREAS, under the provisions of Section 2737.6 of Title 33 of the Louisiana Revised Statutes of 1950 (R.S. 2737.6) and other constitutional and statutory authority supplemental thereto, the Parish School Board of the Parish of St. Mary, State of Louisiana, is authorized to levy and collect within such Parish a tax of one fourth of one per cent (.25%) upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and on sales of services as defined in Sections 301 to 317, inclusive, of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:301-317); and

WHEREAS, pursuant to the requirements of Section 2737.6 of Title 33 of the Louisiana Revised Statutes of 1950 (R.S. 2737.6), and other constitutional and statutory authority supplemental thereto, a special election was held in said Parish on September 30, 1975, to authorize the levy and collection of said tax, and the following proposition was submitted at said election and duly approved by a majority of the qualified electors voting in said election, viz:



## PROPOSITION

Shall the Parish School Board of the Parish of St. Mary, State of Louisiana, pursuant to the authority granted by Article 6, Section 29 of the Louisiana Constitution of 1974, R.S. 33:2737.6 and other constitutional and statutory authority supplemental thereto, be authorized to levy and collect a tax of one fourth of one per cent upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and on sales of services in said Parish, as defined in R.S. 47:301 through 47:317, with the revenues derived from said sales and use tax to be appropriated and used for the purpose of providing additional funds for the payment of salaries of teachers and other personnel employed in the public elementary and secondary schools of St. Mary Parish, and/or for other employee benefits, or for any one or more of said purposes?

WHEREAS, in compliance with the aforesaid Statutes and said election of September 30, 1975, it is the desire of this Parish School Board to levy said tax and provide for the collection thereof and other matters in connection therewith as hereinafter provided in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Parish School Board, of the Parish of St. Mary, State of Louisiana, that:

## DEFINITIONS

SECTION 1. As used in this ordinance the following words, terms and phrases shall have the meaning ascribed to them in Section 1.01 to 1.25, inclusive, of this ordinance, except when the context clearly indicates a different meaning:

SECTION 1.01. "Agricultural Commodity" shall mean horticultural, viticultural, poultry, farm and range products and livestock and livestock products.

SECTION 1.02. "Business" shall include 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 in this ordinance to include the occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.

Section 1.03. "Cost Price" shall mean 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, transportation charges or any other expense whatsoever; or the reasonable market value of the tangible personal property at the time it becomes susceptible to the use tax; whichever is less.

Section 1.04. "Dealer" shall include every person who:

(1) 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 this Parish;

(2) imports, or causes to be imported, tangible personal property from any State, or other political subdivision of this State, or foreign country, for sale at retail, for use or consumption, or distribution, or for storage to be used or consumed in this Parish;

(3) sells at retail, or who offers to sell 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 this Parish, tangible personal property;

(4) has sold at retail, or used, or consumed, or distributed or stored for use or consumption in this Parish, tangible personal property and who cannot prove that the tax levied by this ordinance has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of said tangible personal property;

(5) leases, or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

(6) 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;

(7) sells or furnishes any of the services subject to tax under this ordinance;

(8) purchases or receives any of the services subject to tax under this ordinance; or

(9) is engaging in business in this Parish.

SECTION 1.05. "Director" shall mean the person designated by the Parish School Board of the Parish of St. Mary, State of Louisiana, who will be in charge of the administration and collection of the tax herein levied, or the duly authorized assistants of said Director.

SECTION 1.06. "Distraint" or "Distrain" shall mean the right to levy upon and seize and sell; or the levying upon or seizing and selling, any property or rights to property of the delinquent dealer by the officer charged with the collection of the tax for the purpose of satisfying any tax, interest or penalties due under the provisions of this ordinance.

SECTION 1.07. "Engaging in business in this Parish" shall mean and include 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, solicitor or employees operating within this Parish under the authority of the seller or its subsidiary, irrespective of whether such place of business, agent, salesman, solicitor or employee is located in this Parish permanently or temporarily, or whether such seller or subsidiary is qualified to do business in this Parish or by having within this Parish any choses in or causes of action, or any property, or any liens on property, or any indebtednesses due it in this Parish, protected by the laws and courts of this Parish.

SECTION 1.08. "Gross Sales" shall mean the sum total of all retail sales of tangible personal property, as hereinafter provided and defined, and sales of services without any deductions whatsoever of any kind or character, except as provided in this ordinance.

SECTION 1.09. "Hotel" shall mean and include any establishment engaged in the business of furnishing sleeping rooms primarily to transient guests where such establishments consist of ten (10) or more guest rooms under a single roof.

Section 1.10. "Lease or Rental" shall mean the leasing or renting of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property.

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.

Section 1.11. "New Article" shall mean the original stock in trade of the dealer and shall not be limited to newly manufactured articles. The original stock or article, whether it be a used article or not, shall be subject to the tax.

Section 1.12. "Person" shall include any individual, firm, co-partnership, joint venture, association, corporation, co-operative, estate, trust, business trust, receiver, syndicate, the State of Louisiana, or any department thereof, any parish, city, municipality or public board, public commission or public or semi-public corporation, district or instrumentality or group or combination acting as a unit, and the plural as well as the singular number.

Section 1.13. "Purchaser" shall mean 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 ordinance.

Section 1.14. "Retail Sale" or "Sale at Retail" shall mean a sale to a consumer or to any person for any purposes other than for resale in the form of tangible personal property and a sale of services, as hereinafter set forth, and shall mean and include all such transactions as the Director, 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 issued by the said Director. 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. (The term "Sale at Retail" does not include sales of materials for further processing into articles of tangible personal property for sale at retail, nor does it include an isolated or occasional sale of tangible personal property other than vehicles as covered in Section 4.06, by a person not engaged in such business. The sale of motor or other vehicles by a person not engaged in such business shall be considered and treated as a retail sale or sale at retail.)

Section 1.15. "Retailer" shall mean and include 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 Parish or any person rendering services taxable hereunder.

Section 1.16. "Sale" shall mean any transfer of title or possession, or both, exchange, barter, lease or rental, 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 furnishings, preparing or serving, for a consideration, 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 tangible personal property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

The term "Sale" shall also include the "Sale of Services", which means and includes the following:

- (1) the furnishing of rooms by hotels and tourist camps;
- (2) 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;
- (3) the furnishing of storage or parking privileges by auto hotels and parking lots and trailer parks;
- (4) the furnishing of printing or overprinting, lithographic, multilith, blueprinting, photostating or other similar services of reproducing written or graphic matter;
- (5) the furnishing of laundry, cleaning, pressing and dyeing services, including by way of extension and not of limitation, the cleaning and renovating of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, furs and rugs;
- (6) the furnishing of cold storage space 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;

(7) the furnishing of repairs to tangible personal property, including by way of illustration and not of limitation, 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.

Section 1.17. "Sales Price" shall mean the total amount for which tangible personal property is sold, 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 per cent (6%) 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.

Section 1.18. "School Board" shall mean the Parish School Board of the Parish of St. Mary, State of Louisiana.

Section 1.19. "Storage" shall mean and include any keeping or retention in this Parish of tangible personal property for use or consumption in this Parish or for any purpose other than for sale at retail in the regular course of business.

Section 1.20. "Tangible Personal Property" shall mean and include personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, or other obligations or securities.

Section 1.21. "Taxing Authority" shall mean the Parish School Board of the Parish of St. Mary, State of Louisiana.

Section 1.22. "Tourist Camps" shall mean and include any establishment engaged in the business of furnishing rooms, cottages or cabins to tourists or other transient guests, where the number of guest rooms, cottages or cabins at a single location is six or more.

Section 1.23 "Parish" shall mean the Parish of St. Mary, State of Louisiana.

SECTION 1.24. "Use" shall mean and include the exercise of any rights of 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.

SECTION 1.25. "Use Tax" shall include the use, the consumption, the distribution and the storage for use or consumption, as herein defined.

#### IMPOSITION OF TAX

SECTION 2.01. There is hereby levied from and after January 1, 1976, for the purposes stated in the proposition set forth in the preamble to this ordinance, a tax upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and on sales of services within this Parish as defined herein; and the levy of such tax shall be as follows:

(1) At the rate of one fourth of one per cent (.25%) of the sales price of each item or article of tangible personal property when sold at retail in this Parish; the tax to be computed on gross sales for the purpose of remitting the amount of tax due the School Board, and to include each and every retail sale.

(2) At the rate of one fourth of one per cent (.25%) of the cost price of each item or article of tangible personal property when the same is not sold, but is used, consumed, distributed, or stored for use or consumption in this Parish; provided there shall be no duplication of the tax.

(3) At the rate of one fourth of one per cent (.25%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, where the lease or rental of such property is an established business, or part of an established business or the same is incidental or germane to the said business.

(4) At the rate of one fourth of one per cent (.25%) of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid

by lessee or rentee to the owner of the tangible personal property.

(5) At the rate of one fourth of one per cent (.25%) of the gross proceeds derived from the sale of services, as defined herein.

SECTION 2.02. Sales or use taxes paid to this School Board on the purchase of new motor trucks and new motor tractors licensed and registered for 12,000 pounds or more, under the provisions of Section 462 of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:462), new trailers and new semi-trailers licensed and registered for 16,000 pounds or more under the provisions of said Section for rental may be deducted as a credit against the tax due on the rental of that item of property so that no tax is payable on rental income until the tax paid on the purchase price has been exceeded. The sales tax paid to another municipality or parish in Louisiana or municipality or county in a state other than Louisiana on the purchase price of property is not deductible from the tax subsequently due on the rental of such property in this Parish.

If the tax on rental payments fails to exceed the credits for sales or use paid, no refund is due the purchaser.

Any sales tax paid on any maintenance or operation expenses of a rental business is not deductible as a credit against the tax due on a rental income; such expenses are part of the cost of doing business and do not constitute a part of the cost of the identical property being rented.

SECTION 2.03. The tax shall be collected from the dealer, as defined herein, and paid at the time and in the manner hereinafter provided.

SECTION 2.04. The tax so levied is, and shall be in addition to all other taxes, whether levied in the form of excise, or license, privilege or property taxes levied by any other ordinance or resolution of the School Board.

SECTION 2.05. The dealer shall collect the taxes levied by this ordinance together with other sales and use taxes levied according to law in accordance with the integrated bracket schedule prepared by the Collector of Revenue of the State of Louisiana, under the authority of Section 304 of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:304). The

dealer will remit that portion representing the tax levied by this ordinance to the Director of the School Board. Copies of said integrated tax schedules shall be available to dealers upon request to the Director.

Section 2.06. The collection of the tax herein levied shall be made in the name of the School Board by the Director.

#### EXEMPTIONS AND EXCLUSIONS FROM TAX

Section 3.01. The taxes imposed by this ordinance shall not apply to transactions involving the following tangible personal property:

(1) The gross proceeds derived from the sale in this Parish of livestock, poultry and other farm products direct from the farm, provided that such sales are made directly by the producers. When sales of livestock, poultry and other farm products are made to consumers by any person other than a producer, they are not exempted from the tax imposed by this resolution, provided, however, that every agricultural commodity sold by any person, other than a producer, to any other person who purchased not for direct consumption but for the purpose of acquiring raw product for use or for sale in the process of preparing, finishing or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of this resolution, including payment of the tax applicable to the sale, storage, use, transfer, or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted.

(2) The "use tax" shall not apply to livestock and livestock products, to poultry and poultry products, to farm, range and agricultural products when produced by the farmer and used by him and members of his family.

(3) Where a part of the purchase price is represented by an article traded in, the sales tax is payable on the total purchase price less the market value of the article traded in.

(4) The sale at retail, the use, the consumption, the distribution and the storage to be used or consumed in this Parish of the follow-

ing tangible personal property is hereby specifically exempted from the tax imposed by this ordinance: gasoline, steam, water (not including mineral water or carbonated water or any water put up in bottles, jugs, or containers, all of which are not exempted), electric power or energy, newspapers, fertilizer and containers used for farm products when sold directly to the farmer, natural gas and new automobiles withdrawn from stock by factory authorized new automobile dealers, with the approval of the Collector of Revenue, State of Louisiana, and titled in the dealer's name for use as demonstrators.

(5) The sales of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty tons load displacement and over, built in Louisiana nor to the gross proceeds from the sale of such ships, vessels or barges when sold by the builder thereof.

(6) The sales, use and lease taxes imposed by this ordinance shall not apply to the amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video or audio tapes, records or any other means supplied by licensors thereof in connection with such exhibition or broadcast and the sales and use tax shall not apply to licensors or distributors thereof.

(7) The sales of materials and supplies to the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; nor to repair services performed upon ships or vessels operating exclusively in foreign or in interstate coastwise commerce; nor to the materials and supplies used in such repairs where such materials and supplies enter into and become a component part of such ships or vessels; nor to laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

(8) The provisions of Section 3.01(7) do not apply to drilling equipment used for oil exploitation or production unless such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

(9) The sale at retail of seeds for use in the planting of any kind of crops.

(10) To the sale of admissions to entertainment events furnished by recognized domestic nonprofit charitable, educational and religious organizations when the entire proceeds from such sales, except for necessary expenses connected with the entertainment events, are used for the purposes for which the organizations furnishing the events were organized.

(11) The sales and use taxes levied and the collection, reporting and remittance thereof required by this ordinance shall not apply to sales or purchases made by blind persons in the conduct of a business which is exempt from license taxes by R.S. 46:371 through 46:373.

(12) The sales and use tax imposed by this ordinance shall not apply to sales of tangible personal property at, or admission charges for, events sponsored by domestic civic, educational, charitable, fraternal or religious organizations, which are nonprofit, when the entire proceeds, except for the necessary expense connected therewith, are used for educational, charitable or religious purposes. The exemption provided herein shall not apply to any event intended to yield a profit to the promoter or to any individual contracted to provide services or equipment, or both, for the event. This section shall not be construed to exempt any organization or activity from the payment of sales or use taxes otherwise required by law to be made on purchases made by these organizations. This section shall not be construed to exempt regular commercial ventures of any type such as bookstores, restaurants, gift shops, commercial flea markets and similar activities that are sponsored by organizations qualifying hereunder which are in competition with retail merchants. This sponsorship of any event by any organization applying for an exemption hereunder must be genuine. Sponsorship will not be genuine in any case in which exemption from taxation is a major consideration leading to such sponsorship.

An exemption certificate for such events must be obtained from the Director. The Director shall furnish such certificate provided that he has satisfactory evidence that the State Collector of Revenue has issued a similar certificate under the provisions of R.S. 47:305.14.

(13) The sales and use taxes levied and the collection, reporting and remittance thereof required by this ordinance shall not apply to necessary fees incurred in connection with the installation and service of cable television. Such exception shall not apply to purchases made by any cable television system, but shall only apply to funds collected from the subscriber for regular service, installation and repairs.

(14) The sales and use taxes levied and the collection, reporting and remittance thereof required by this ordinance shall not apply to or be imposed upon the income on receipts from any coin-operated washing or drying machine in a commercial laundromat. A commercial laundromat, for purposes of this ordinance, is defined to be any establishment engaged solely in the business of furnishing washing or drying laundry services by means of coin-operated machines.

(15) The sales and use taxes levied and the collection, reporting and remittance thereof required by this ordinance shall not apply to the sale of prescription drugs under the Pharmaceutical Vendor program of Title XIX of the Social Security Act as administered by the Health and Human Resources Administration of the State of Louisiana.

(16) The sale of casing, drill pipe and tubing in the Parish for use offshore beyond the territorial limits of the State of Louisiana for the production of oil, gas, sulphur and other minerals.

(17) The sale or use of any materials, supplies or products for use in connection with any phase of the construction of the Toledo Bend Dam project on the Sabine River.

(18) The sale of admission tickets by Little Theater organizations.

(19) The sale of admission tickets by domestic non-profit corporations or by any other domestic non-profit organization known as a symphony organization or a society or organization engaged in the presentation of musical performances; provided that this exemption shall not apply to performances given by out-of-state or non-resident symphony companies; nor to any performances intended to yield a profit to the promoters thereof.

(20) The use of films or photoplay from a distributing agency by the operator of a motion picture theater.

(21) The sale at retail of pesticides used for agricultural purposes, including particularly but not by way of limitation, insecticides, herbicides and fungicides.

(22) Sales of materials or services involved in lump sum or unit price construction contracts entered into and reduced to writing prior to the effective date of the ordinance levying same or to sales or services involved in such contracts entered into and reduced to writing within ninety days thereafter, if such contracts involve contractual obligations undertaken prior to such effective date and were computed and bid on the basis of sales taxes at the rates effective and existing prior to such effective date.

(23) To purchase of equipment used in fire fighting by bona fide organized public volunteer fire departments.

(24) The sale at retail of tangible personal property purchased within this Parish for use exclusively beyond the territorial limits of the Parish of St. Mary, State of Louisiana. If tangible personal property purchased tax free under the provisions of this section is later brought into this Parish for use herein the property shall be subject to the use tax as of the time it is brought into the Parish for use herein, subject to the credit provided in Section 5.03 of this ordinance.

If the first use of tangible personal property purchased in the Parish of St. Mary for use beyond the territorial limits of this Parish occurs in a Municipality or Parish of the State of Louisiana or in a Municipality or County in a state other than Louisiana which imposes a sales or use tax, exemption provided herein shall apply only if:

(a) The purchaser is properly registered for sales and use tax purposes in a Municipality or Parish in the State of Louisiana or in a Municipality or County in a state other than Louisiana, wherein such tangible personal property is used, and regularly reports and pays sales and use tax in such other Municipality or Parish in the State of Louisiana or in a Municipality or County in a state other than Louisiana; and

(b) The Municipality or Parish in the State of Louisiana or the Municipality or County in a state other than Louisiana in which the first use occurs grants on a reciprocal basis a similar exemption on purchases within that Municipality or Parish in the State of Louisiana or Municipality or County in a state other than Louisiana for use in this Parish; and

(c) The purchaser obtains from the Director a certificate authorizing him to make the non-taxable purchases authorized under this section.

Section 3.02. It is not the intention of this ordinance to levy a tax upon articles of tangible personal property imported into this Parish, or produced or manufactured in this Parish, for export; nor is it the intention of this ordinance to levy a tax on a bona fide transaction in interstate commerce. It is, however, the intention of this ordinance to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this Parish of tangible personal property after it has come to rest in this Parish and has become a part of the mass of property in this Parish.

#### COLLECTION OF TAX BY DEALER

Section 4.01. The tax levied by this ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section 4.06 of this or-

dinance. The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to non-payment of the tax by the purchaser, as if the tax were a part of the purchase price of the property, or charges for services, and payable at the time of the sale; provided, however, that this Parish shall be joined as a party plaintiff in any action or proceeding brought by the dealer to collect the tax.

Section 4.02. Every dealer located outside the Parish making sales of tangible personal property for distribution, storage, use or other consumption in this Parish shall, at the time of making sales, collect the tax imposed by this ordinance from the purchaser.

Section 4.03. The dealer shall, as far as practicable, add the exact amount of the tax imposed under this ordinance, or the average equivalent thereof, in conformity with the rules and regulations to be issued by the director, to the sale price or charge, and when added, such tax shall constitute a part of such price or charge and 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.

Section 4.04. In order to aid in the administration and enforcement of the provisions of this ordinance, and to collect all of the taxes imposed by this ordinance, on or before January 1, 1976, or in the case of dealers commencing business after January 1, 1976, or opening new places of business after such date, within three (3) days after such commencement or opening, every dealer purchasing or importing tangible personal property for resale shall file with the Director a certificate of registration in a form prescribed by him. The Director shall within five (5) days after such registration, issue without charge to each dealer who purchases or imports for resale, a certificate of authority empowering such dealer to collect the tax from the purchaser, and duplicates thereof, for each additional place of business of such dealer. Each certificate or duplicate shall state the place of business to which it is applicable. Such certificate of authority shall be prominently displayed in all places of business of the dealer. A dealer who has no regular place of doing business shall attach such certificate to his cart, stand, truck or other merchandising device. Such certificate shall be non-assignable and non-transferable and shall be surrendered immediately to the Treasurer upon the dealer ceasing to do business at the place therein named.

Section 4.05. A wholesale dealer or jobber shall refuse to accept a certificate that any property upon which a tax is imposed by this ordinance is purchased for resale, and shall collect the tax imposed by this ordinance unless the purchaser shall have filed a certificate of registration and received a certificate of authority to collect the tax imposed by this ordinance; provided, however, that the payment of the tax by such purchaser shall not relieve the purchaser of the duty herein imposed upon such purchaser to collect the tax upon any resale made by him; but such purchaser who shall thereafter file a certificate of registration and receive a certificate of authority to collect the tax may, upon application therefor, receive a refund of the taxes paid by him upon property thereafter resold by him, and upon the receipts from which he shall have collected and paid over to this taxing authority the tax herein imposed.

Section 4.06. The tax imposed by this ordinance upon the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the Louisiana Vehicle Registration License Tax of the State of Louisiana shall be collected as provided in this section.

(1) The tax levied by this ordinance on any such vehicle shall be paid to the vehicle commissioner as the agent of the Collector of Revenue of the State of Louisiana at the time of application for a certificate of title or vehicle registration license and no certificate of title or vehicle registration license shall be issued until the tax has been paid.

(a) The tax levied by this ordinance on the sale of any such vehicle shall be due at the time registration or any transfer of registration is required by the Vehicle Registration License Tax Law of the State of Louisiana (R.S. 47:451, et seq.).

(b) The tax levied by this ordinance on the use of any such vehicle in this Parish shall be due at the time first registration in this Parish is required by the Vehicle Registration License Tax Law (R.S. 47:451, et seq.).

(2) Every vendor of such a vehicle shall furnish to the purchaser at the time of sale a sworn statement showing the serial number, motor number, type, year and model of the vehicle sold, the total sales price, any allowance for and description of any vehicle taken in trade, and the total cash difference paid or to be paid by the purchaser between the vehicle purchased and traded in and the sales or use tax to be paid along with such other information as may be required. All labor, parts, accessories and other equipment which are attached to the vehicle at the time of the sale and which are included in the sale price are to be considered a part of the vehicle.

(3) It is not the intention of this section to grant an exemption from the tax levied by this ordinance to any sale, use, item or transaction which has heretofore been taxable and this section shall not be construed as so doing. It is the intention of this section to transfer the collection of the sales and use tax on vehicles from the vendor to the vehicle commissioner as the agent of the Collector of Revenue of the State of Louisiana and to provide a method of collection of the tax directly from the vendee or user by the vehicle commissioner as the agent of the Collector of Revenue in accordance with an agreement by and between the vehicle commissioner as the agent of the Collector of Revenue and this taxing authority. Said tax so collected by the said vehicle commissioner as the agent of the Collector of Revenue shall be paid to this taxing authority and sent to the Director as soon as possible, and in any event at least once each month, all in accordance with the said agreement.

(4) The provision contained in Section 1.14 of this ordinance which excludes isolated or occasional sales from the definition of a sale at retail is not to apply to the sale of vehicles which are the subject of this section. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the tax.

Section 4.07. All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in this Parish. Such auctioneers or the company which they represent shall be responsible for the collection of the tax levied by this ordinance on articles sold by them and shall report and remit to the Director as provided in this ordinance.

Section 4.08. A person engaged in any business taxable under this ordinance shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser from the payment of all or any part of the tax. The dealer shall state and collect the tax separately from the price paid by the purchaser, but his failure to do so shall not be available as a defense to the purchaser in any proceedings brought under this ordinance.

Section 4.09. Where the tax collected for any period is in excess of one fourth of one per cent, the total collected must be paid over to the Director less the commission to be allowed the dealer as hereinafter set forth.

Section 4.10. Where the purchaser has failed to pay and a dealer has failed to collect a tax upon a sale, as imposed by this ordinance, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the purchaser directly to this taxing authority and it shall be the duty of this purchaser to file a return thereof with the Director, and to pay the tax imposed thereon to this taxing authority within fifteen (15) days after such sale was made or rendered.

Section 4.11. For the purpose of compensating the dealer in accounting for and remitting the tax levied by this ordinance, each dealer shall be allowed two per cent (2%) of the amount of tax due and accounted for and remitted to the Director in the form of a deduction in submitting his report and paying the amount due by him if the amount due was not delinquent at the time of payment.

#### COLLECTION OF TAX FROM DEALER

Section 5.01. The tax imposed by this ordinance shall be collectible by the Director on behalf of this taxing authority from all persons engaged as dealers.

Section 5.02. On all tangible personal property imported or caused to be imported, from other states or other political subdivisions of this State, or foreign country, and used by him the dealer shall pay the tax imposed by this ordinance on all articles of tangible personal property so imported and used, the same as if the said article has been sold at retail for use or consumption in this Parish. For the purpose of this ordinance, the use or consumption, or distribution, or storage of tangible personal property, shall each be equivalent to a sale at retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

Section 5.03. A credit against the use tax imposed by this ordinance shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property in another Municipality or Parish in the State of Louisiana, or Municipality or County in a state other than Louisiana. The credit provided herein shall be granted only in the case where the Municipality or Parish in the State of Louisiana, or the Municipality or County in a state other than Louisiana to which a similar tax has been paid grants a similar credit as provided herein, provided that members of the armed forces who are citizens of this Parish and whose orders or enlistment contracts stipulate a period of active duty of two years or more and who purchase automobiles outside of this Parish, in a Municipality or Parish in the State of Louisiana, or a Municipality or County in a State other than Louisiana while on such tour of active duty shall be granted such credit in connection with the purchase of such automobile whether or not the Municipality or Parish in the State of Louisiana, or the Municipality or County in a state other than Louisiana to which such tax thereon has been paid grants a similar credit as herein provided. The proof of payment of a similar tax to another Municipality or Parish in the State of Louisiana, or to a Municipality or County in a state other than Louisiana shall be made according to rules and regulations promulgated by the Director. In no event shall the credit be greater than the tax imposed by this taxing authority upon the particular tangible personal property which is the subject of the use tax imposed by this ordinance.

#### RETURNS AND PAYMENT OF TAX

Section 6.01. The tax levied under this ordinance shall be due and payable by all dealers monthly on the first day of the month.

Section 6.02. For the purpose of ascertaining the amount of tax payable under this ordinance, it shall be the duty of all dealers on or before the twentieth (20th) day of the month following the month in which this tax shall become effective to transmit to the Director, upon forms prescribed, prepared and furnished by him, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross pay-

ments for services, as the case may be, arising from all taxable transactions during the preceding calendar month or during the part of the preceding calendar month, running from the effective date of this ordinance to the end of such month. Thereafter, like returns shall be prepared and transmitted to said Director by all dealers, on or before the twentieth (20th) day of each month, for the preceding calendar month. Said returns shall show such further information as the Director may require to enable him to correctly compute and collect the tax herein levied. Such returns shall be signed by the dealer filing the same, and his signature thereon shall constitute a warranty on the part of the dealer that he has read and examined the said returns and that, to the best of his knowledge and belief, the same are true, correct and complete. Every dealer at the time of making the returns required hereunder shall compute and remit to this taxing authority the required tax due for the preceding calendar month.

Section 6.03. At the time of transmitting the return required hereunder to the Director, the dealer shall remit to this taxing authority therewith, the amount of the tax due under the applicable provisions of this ordinance, and failure to so remit such tax shall cause said tax to become delinquent.

All taxes, interest and penalties imposed under this ordinance shall be paid to this taxing authority in the form of remittance required by the Director. •

Section 6.04. Gross proceeds from rentals or leases of tangible personal property where the lease or rental is part of a regularly established business, or the same is incidental or germane thereto shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the Director may prescribe.

Section 6.05. The Director, for good cause, may extend for not to exceed thirty (30) days the time for making any returns required under the provisions of this ordinance.

Section 6.06. For the purpose of collecting and remitting to this taxing authority the tax imposed by this ordinance, the dealer is hereby declared to be the agent of the Parish School Board of the Parish of St. Mary, State of Louisiana.

#### RECORDS AND INSPECTION THEREOF

Section 7.01. It shall be the duty of every dealer to make a report and pay any tax under this ordinance, to keep and preserve suitable records of

the sales or purchases or sales of services, as the case may be, taxable under this ordinance, and such other books of account as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the Director; and it shall be the duty of every such dealer moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of goods, wares and merchandise or other subjects of taxation under this ordinance; and all such books, invoices and other records shall be open to examination at all reasonable hours, by the Director or any of his duly authorized agents.

Section 7.02. Each dealer shall secure, maintain and keep, for a period of three (3) years a complete record of sales of services and tangible personal property received, used, sold at retail, distributed or stored, leased or rented within this Parish by said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the Director for the reasonable administration of this ordinance and all such records shall be open for inspection to the Director at all reasonable hours.

Section 7.03. In order to aid in the administration and enforcement of the provisions of this ordinance, and to collect all of the tax imposed by this ordinance, all wholesale dealers and jobbers in this Parish are hereby required to keep a record of all sales of tangible personal property made in this Parish, whether such sales be for cash or on terms of credit. The record required to be kept by all wholesale dealers and jobbers shall contain and include the name and address of the purchaser, the date of purchase, the article or articles purchased and the price at which the article is sold to the purchaser. These records shall be open to inspection to the Director or his duly authorized assistants at all reasonable hours.

Section 7.04. For the purpose of administering this ordinance, the Director whenever he deems it expedient, may make or cause to be made by an employee of the department engaged in the administration of this ordinance, an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts and documents of any dealer. It shall be the duty of every dealer and every director, official, agent or employee of every dealer, to exhibit to the Director or to any such employee of his department charged with the collection of the tax imposed by this ordinance, hereafter referred to as a "deputy", the tangible personal property and all of the books, records, papers, vouchers, accounts and documents of the dealer and to facilitate any such examination or investigation as far as it may be in his or their power so to do.

Section 7.05. For the purpose of enforcing the collection of the tax levied by this ordinance, the Director is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records and other documents of all transportation companies, agencies or firms operating in this Parish, whether said companies, agencies or firms conduct their

business by truck, rail, water, airplane or otherwise, in order to determine what dealers, as provided in this ordinance, are importing or are otherwise shipping articles of tangible personal property which are liable for said tax.

Section 7.06. The Director shall keep a record of all of his official acts and shall preserve copies of all rules, decisions and orders made by him or by any deputy of his department in charge of the collection of the tax imposed by this ordinance. Copies of such rules, decisions or orders and of any paper or papers filed in any office maintained by him in the administration of this ordinance may be authenticated under his official signature, and when so authenticated, shall be evidence in all courts of the state of the same weight and force as the original thereof.

Section 7.07. The records and files of the Director respecting the administration of this ordinance shall be considered confidential and privileged and neither the Director nor any employee engaged in the administration thereof or charged with the custody of any such records or files shall divulge or disclose any information obtained from such records or files from any examination or inspection of the premises or property of any dealer. Neither the Director nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except: (a) in an action or proceeding under the provisions of this ordinance; and, (b) when the records or files or the fact shown thereby are directly involved in such action or proceeding.

Section 7.08. Nothing contained in this ordinance shall be construed to prevent:

(1) the delivery to a dealer or his duly authorized representative of a copy of any return, report or other paper filed by him pursuant to the provisions of this ordinance;

(2) the publication of statistics so classified as to prevent the identification of any return or report and the items thereof;

(3) the inspection by the legal representative of this taxing authority of the returns, reports or files relating to the claim of any dealer who shall have brought an action to review or set aside any tax imposed under this ordinance or against whom an action or proceeding has been instituted in accordance with the provisions hereof.

(4) the examination of the records and files by the Director or his duly authorized agents; or

(5) the furnishing, in the discretion of the Director of any information disclosed by the records or files to any official person or body of any other state or of the United States who shall be concerned with the administration of any similar tax by that state or the United States.

## IMPORTED GOODS-PERMITS

Section 8.01. In order to prevent the illegal importation into the Parish of tangible personal property which is subject to the tax, and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by this ordinance, the Director is hereby authorized and empowered to put into operation a system of permits whereby any person, or dealer, may import tangible personal property by truck, automobile, or other means of transportation other than a common carrier, without having said truck, automobile or other means of transportation seized and subjected to legal proceedings for its forfeiture. Such system of permits shall require the person, or dealer who desires to import tangible personal property into the Parish of St. Mary, which property is subject to the tax imposed by this ordinance, to apply to the Director or his assistant for a permit stating the kind of vehicle to be used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the consignee, and such other information as the Director may deem proper or necessary. Such permits shall be free of cost to the applicant and may be obtained at the office of the Director.

## REMEDIES FOR COLLECTION, INCLUDING INTEREST, PENALTIES, ETC.

Section 9.01. For the purpose of the enforcement of this ordinance, and the collection of the tax levied hereunder, it is presumed that all tangible personal property, subject to the provisions of this ordinance imported into the Parish or held in the Parish by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in the Parish, or leased or rented within the Parish, and is subject to the tax herein levied; provided, that such presumption shall be prima facie only, and subject to proof furnished to the Director.

Section 9.02. Failure to pay any tax due as provided in this ordinance, shall ipso facto, without demand or putting in default, cause said tax, interest, penalties, and costs to become immediately delinquent, and this taxing authority is hereby vested with authority, on motion in a court of competent jurisdiction, to take a rule on the said dealer, to show cause in not less than two (2) or more than ten (10) days, exclusive of holidays, after the service thereof, which may be tried out of term and in chambers, and shall always be tried by preference, why said dealer should not be ordered to cease from further pursuit of business as a dealer, and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of this taxing authority, prohibiting such dealer from further pursuit of said business until such time as he has paid the said delinquent tax, interest, penalties and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law.

Section 9.03. If the amount of tax due by the dealer is not paid on or before the twentieth (20th) day of the month next following the month for which the tax is due, there shall be collected, with said tax, interest upon said unpaid amount, at the rate of six per cent (6%) per annum, or fractional part thereof, to be computed from the first day of the month next following the month for which the tax is due until it is paid; and in addition to the interest that may be so due there shall also be collected a penalty equivalent to five per cent (5%) for each thirty (30) days, or fraction thereof, of delinquency, not to exceed twenty-five per cent (25%) in aggregate, of the tax due, when such tax is not paid, within thirty (30) days of the date the tax first becomes due and payable, and in the event of suit, attorney's fees at the rate of ten per cent (10%) of the aggregate of tax, interest and penalty.

Section 9.04. In the event any dealer fails to make a report and pay the tax as provided by this ordinance, or in case the dealer makes a grossly incorrect report, or a report that is false or fraudulent, it shall be the duty of the Director to make an estimate for the taxable period of the retail sales, or sales of service, of such dealer, or of the gross proceeds from rentals or leases of tangible personal property by the dealer, and an estimate of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the Parish, and assess and collect the tax and interest, plus penalty, if such have accrued, on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the dealer. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the Director shall add to the assessment the cost of such examination, together with any penalties accruing thereon. Such costs and penalties when collected shall be placed to the account of the "Sales Tax Fund" in the same manner as are the taxes collected under this ordinance.

If any dealer fails to make any return required by this ordinance or makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition to any other penalties provided herein, a special penalty of five per cent (5%) of the tax or deficiency found to be due, or Ten Dollars (\$10.00), which ever is the greater. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due and can be enforced either in a separate action or in the same action for the collection of the tax.

Section 9.05. If any dealer liable for any tax, interest or penalty hereunder shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting business. His successor, successors or assigns, if any shall withhold sufficient of the purchase

money to cover the amount of such taxes, interest and penalties due and unpaid until such time as the former owner shall produce a receipt from the Director showing that they have been paid, or a certificate stating that no taxes, interest, or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners or assignors.

Section 9.06. In the event that any dealer is delinquent in the payment of the tax herein provided for, the Director may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to such dealer, or owing any debts to such dealer at the time of receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the Director shall have consented to a transfer or disposition, or until thirty (30) days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five (5) days after receipt of such notice, advise the Director of any and all such credits, other personal property, or debts, in their possession, under their control or owing by them, as the case may be.

Section 9.07. In the event the dealer has imported tangible personal property and he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost price, then the Director shall ascertain, in any manner feasible, the true cost price and assess and collect the tax with interest, plus penalties, if such have accrued, on the true cost price as assessed by him. The assessment so made shall be considered prima facie correct, and the burden shall be on the dealer to show the contrary.

Section 9.08. In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not, in the judgment of the Director, represent the true and actual consideration, then the Director is authorized to fix the same and collect the tax thereon for this taxing authority in the same manner as above provided (Section 9.07), with interest plus penalties, if such have accrued.

Section 9.09. In the event any transportation company, agency, or firm shall refuse to permit examination of its books, records and other documents by the Director, the Director may proceed by rule, in term or in vacation, in any court of competent jurisdiction and require said transportation company, agency or firm to show cause why the Director should not be permitted to examine its books, records or other documents, and in case said rule be made absolute, the same shall be considered a judgment of the court and every violation of said judgment as a contempt thereof and punished according to law.

Section 9.10. If any dealer, subject to make and file a return required by any of the provisions of this ordinance, fails to render such return within the time required, or renders a return which is false or fraudulent, in that it contains statements which differ from the true gross sales, purchases, leases, or rentals, or other transactions, taxable under this ordinance, or otherwise fails to comply with the provisions of this ordinance for the taxable period for which said return is made, the Director shall give such dealer fifteen (15) days' notice, in writing, requiring such dealer to appear before him, or his assistant, with such books, records and papers as he may require, relating to the business of such dealer, for such taxable period; and said Director may require such dealer, or the agents or employees of such dealers, to give testimony or to answer interrogatories, under oath administered by the Director or his assistants, respecting the sale at retail, the use, or consumption or distribution, in this Parish, or lease or rental of tangible personal property or other transactions, subject to tax, or the failure to make report thereof, as provided in this ordinance.

Section 9.11. If any dealer fails to make a return, or refuses to permit an examination of his, the dealer's books, records, or paper, or to appear and answer questions within the scope of such investigation relating to the sale, use, consumption, distribution, storage, lease or rental of tangible personal property, or sale of services, the Director may apply to any court of competent jurisdiction, for an order requiring such dealer to make such return, or requiring the dealer, or his agents or employees, to appear and answer any such questions or permit such examinations, and the court or any judge thereof, shall thereupon issue an order, upon such reasonable notice as shall be prescribed therein, to be served upon said dealer or the agents or employees of such dealer, directing him or them to so appear and testify, and to produce such books, records and paper as may be required. Any person, or any member of any firm, co-partnership, joint venture, association or corporation, or any agent or employee thereof, failing to comply with any such order shall be guilty of contempt, and shall be punished as provided by law in cases of contempt.

Section 9.12. The importation into this Parish of tangible personal property which is subject to tax, by truck, automobile, or other means of transportation other than a common carrier, without having first obtained a permit as described in Section 8.01 (if the tax imposed by this ordinance on said tangible personal property has not been paid), shall be construed as an attempt to evade payment of the said tax and the same is hereby prohibited, and the said truck, automobile, or means of transportation other than a common carrier, and said taxable property may be seized by this taxing authority in order to secure the same as evidence in a trial and the same shall be subject to forfeiture and sale in the manner provided for in this ordinance.

Section 9.13. The failure of any dealer who imports tangible personal property from outside the Parish into the Parish for use or consumption or distribution or storage to be used or consumed in this Parish, or who imports for lease or rental any tangible personal property subject to the provisions

of this ordinance, to pay any tax, interest, penalties, or costs under this ordinance, shall ipso facto make the said tax, interest, penalties and costs delinquent and shall be construed as an attempt to avoid the payment of same which shall be sufficient grounds for attachment of such tangible personal property wherever the same may be located or found whether said delinquent dealer be a resident or non-resident of this Parish, and whether said tangible personal property is in the possession of said delinquent dealer or in the possession of other persons, firms, corporations or association of persons; provided, that it is the intention of this ordinance to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by this ordinance, together with interest, penalties and costs, and authority to attach is hereby specifically authorized and granted to this taxing authority.

In addition to the penalties prescribed in this and the preceding section (Section 9.12), any person, or dealer, who shall violate the provisions thereof, upon conviction shall be fined in a sum of not more than One Hundred Dollars (\$100.00) or imprisonment in jail for a period of not more than ninety (90) days or by both such fine and imprisonment, in the discretion of the court. And, each importation or shipment by truck, automobile, or other means of transportation, other than a common carrier, found to be in violation of the provisions of these sections shall constitute a separate offense.

Section 9.14. The liability of any person, or dealer arising from any tax, interest and penalty, or any of them, imposed by this ordinance, from the time they are due, shall be a personal debt of such person, or dealer to this taxing authority recoverable in any court of competent jurisdiction in an action at law by this taxing authority. Such debts, whether sued upon or not, shall be a lien on all the property of such delinquent person, or dealer, except as against an innocent purchaser for value without notice in the actual course of business, and shall have preference in any distribution of the assets of the person, or dealer, whether in bankruptcy, insolvency, or otherwise. The proceeds of any judgment or order obtained hereunder shall be paid to this taxing authority.

Section 9.15. This taxing authority may require a bond or other security satisfactory to the Director for the payment of any taxes, fees, interests and penalties, or any of them imposed pursuant to this ordinance when he shall find that the collection thereof may be prejudiced without such security.

Section 9.16. If any person, or dealer, shall fail to make a return or report as required by this ordinance, the Director, within three (3) years after the last day on which the omitted report could have been filed without penalty, may make an estimate of the amount of taxes such person, or dealer, is liable to pay under the terms of this ordinance, from any information he is able to conveniently obtain, and according to such estimate so made by him

assess the taxes, fees, penalties and interest due this taxing authority from such person, or dealer, give notice of such assessment to such person, or dealer, and must make demand upon him for payment, or otherwise the said claim shall prescribe.

Section 9.17. After a return or report is filed under the provisions of this ordinance, the Director shall cause to be examined and made such further audit or investigation as he may deem necessary, and if therefrom, he shall determine that there is a deficiency with respect to the payment of any tax due under this ordinance, he shall assess the additional amount of tax, and any penalties and interest, or either of them due this taxing authority from such person, or dealer, and make demand upon him for payment.

Section 9.18. If the Director finds that any person, or dealer liable for the payment of any tax under this ordinance designs quickly to depart from this Parish or to remove therefrom his or its property, subject to any lien under the provisions of this ordinance, or to discontinue business, or to do any other act tending to prejudice or render wholly, or partly ineffectual any proceedings that might be instituted to collect such tax, whereby it shall have become important that such proceedings be instituted without delay, the Director may make an arbitrary assessment as herein provided, whether or not any return or report is then due by law, and may proceed under such arbitrary assessment to collect the tax or demand security for it, and thereafter shall cause notice of such findings to be given to such a dealer, together with a demand for an immediate return or report, and immediate payment of such tax.

All taxes, penalties and interest assessed pursuant to the provisions of the last three preceding sections, shall be paid within fifteen (15) days after notice and demand shall have been mailed to the dealer liable therefor by this taxing authority. If such taxes, penalties and interest so assessed shall not be paid within such fifteen (15) days, there shall be added to the amount assessed, in addition to interest as hereinbefore provided, and any other penalties provided by this ordinance, a sum equivalent to five per cent (5%) of the tax.

Section 9.19. If any dealer against whom taxes have been assessed under the provisions of this ordinance, shall refuse or neglect to pay such taxes within the time prescribed in this ordinance, it shall be lawful for the Director, or his duly authorized representative who is charged with the enforcement of collection of such taxes, to enforce collection of such taxes, together with such interest and other additional amounts as are added by law, by distraint and sale of property or rights to property belonging to the delinquent dealer.

Section 9.20. Any dealer who shall neglect, fail or refuse to collect the tax as provided in Section 4.01 through 4.11 of this ordinance upon any, every and all retail sales made by him, or his agent, or employee, which is subject to tax, shall be liable for and pay the tax himself.

Section 9.21. For any one of the following violations, in addition to being liable for the other penalties provided herein, the party named shall be guilty of a misdemeanor and upon conviction be punished by a fine of not more than One Hundred Dollars (\$100.00), or imprisonment in jail for not more than three (3) months, or both, in the discretion of the court:

(1) any person who as a purchaser is obligated to report and pay the tax imposed upon any purchase made by him under Section 4.01 through 4.11 of this ordinance, and who fails, neglects, and refuses to file a return thereof with the Director and pay the tax imposed thereon, within the time stated after such sale is made;

(2) any dealer who shall fail, neglect or refuse to collect the tax as provided in Sections 4.01 through 4.11 of this ordinance, whether by himself or through his agents or employees;

(3) any dealer violating the provisions of Section 9.05 and 9.06 of this ordinance;

(4) any dealer who fails to permit an inspection of records by the Director as provided in Section 7.01 of this ordinance;

(5) any wholesale dealer or jobber in this Parish who fails to keep records, or fails to permit an inspection thereof by the Director as provided in Section 7.03 of this ordinance;

(6) any dealer, wholesale dealer or jobber who violates the provisions of Sections 4.04 and 4.05 of this ordinance;

(7) any dealer who violates the provisions of Section 7.02 of this ordinance;

(8) any dealer failing or refusing to furnish any return as provided in Sections 6.01 through 6.06 of this ordinance, or failing or refusing to furnish a supplement return or other data required by the Director;

(9) any dealer required to make, render, sign or verify any return, as provided in Sections 6.01 through 6.06 of this ordinance, who makes a false or fraudulent return, with intent to evade a tax hereby levied;

(10) the president, executive officers, managers and directors of any corporation, who shall violate the provisions of Section 9.22 of this ordinance; provided that such fine and imprisonment shall not prevent other action against the corporation as otherwise provided in this ordinance for the recovery of the tax, interest and penalties that may be due; and

(11) any person who shall violate any other provisions of this ordinance, punishment for which is not otherwise herein provided.

Section 9.22. No corporation organized under the laws of this State shall hereafter be dissolved, or effect a merger, reorganization, or consolidation under any law of this State by the action of the stockholders or by the decree of any Court until all taxes, fees, penalties and interest imposed on the corporation in accordance with the provisions of this ordinance shall have been paid in full. No foreign corporation which has obtained authority from the State to transact business in this Parish may surrender such authority and withdraw from this State until all taxes, fees, penalties, interest and other charges imposed upon said corporation in accordance with the provisions of this ordinance shall have been fully paid.

Section 9.23. Any person or dealer who shall fail to pay any tax levied by this ordinance on or before the day when such tax shall be required by this ordinance to be paid, shall pay in addition to the tax, interest on the tax at the rate specified in Section 9.03 of this ordinance, for each month or fraction thereof that the tax remains unpaid, to be calculated from the date the tax was originally due to the date of actual payment.

In addition, such person or dealer, shall pay the special penalty or penalties provided by this ordinance.

Section 9.24. All penalties and interest imposed by this ordinance shall be payable to and recoverable by this taxing authority in the same manner as if they were part of the tax imposed. If the failure to pay any such tax when due is explained to the satisfaction of the Director, he may remit or waive payment of the whole or any part of any penalty, and may remit and waive payment of any interest charge in excess of the rate of one-half of one per centum (1/2 of 1%) per month.

#### REFUNDS AND REIMBURSEMENTS

Section 10.01. In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this ordinance has been collected or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him in the manner prescribed by the Director and in case the tax has not been remitted by the dealer to this taxing authority, the dealer may deduct the same in submitting his return. Upon receipt of a sworn statement of the dealer as to the gross amount of such refunds during the period covered by such sworn statement, which period shall not be longer than ninety (90) days, this taxing authority through the Director, shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected, such memorandum shall be accepted by this taxing authority at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this ordinance.

Section 10.02. If any dealer shall have given to the Director notice within the time provided in Section 10.01 of this ordinance, such dealer thereafter, at any time within two (2) years after the payment of any original or additional tax assessed against him, may file with the Director a claim under oath for refund, in such form as the Director may prescribe, stating the grounds thereof. However, no claim for refund shall be required or permitted to be filed with respect to a tax paid, after protest has been filed with the Director as hereinafter provided, or after proceeding, on appeal has been finally determined.

Section 10.03. If, upon examination of such claim for refund, it shall be determined by the Director that there has been an over-payment of tax, the amount of such overpayment shall be credited against any liability of any dealer under this ordinance, and if there be no such liability, the said dealer shall be entitled to a refund of the tax so overpaid. If the Director shall reject the claim for refund in whole or in part he shall make an order accordingly and serve notice upon such dealer.

Section 10.04. Where no question of fact or law is involved, and it appears from the records of this taxing authority that any moneys have been erroneously or illegally collected from any dealer, or have been paid by any dealer under a mistake of fact or law, the Director may, at any time within two (2) years of payment, upon making a record in writing of his reason therefor, certify that any dealer is entitled to such refund and thereupon the Director shall authorize the payment thereof from any appropriation available for such purposes.

Section 10.05. When, to secure compliance with any of the provisions of this ordinance any moneys shall have been deposited with this taxing authority by any dealer, and shall have been paid over to this taxing authority and the Director shall be satisfied that such dealer has fully complied with all such provisions, the Director shall so certify and authorize re-payment from any appropriations available for such purpose to such dealer of such money, or such part thereof as the Director shall certify has not been applied by him to the satisfaction of any indebtedness arising under this ordinance.

## REMEDIES OF THE DEALER

Section 11.01. A right of action is hereby created to afford a remedy at law for any dealer aggrieved by the provisions of this ordinance; and in case of any such dealer resisting the payment of any amount found due or the enforcement of any provisions of such laws in relation thereto, such dealer shall pay the amount found due by the Director and shall give the Director notice, at the time, of his intention to file suit for the recovery of the same; and upon receipt of such notice the amount so paid shall be segregated and held by the Director for a period of thirty (30) days; and if suit be filed within such time for recovery of such amount, such funds so segregated shall be further held, pending the outcome of such suit. If the dealer prevails, the Director shall refund the amount to the claimant, with interest at the rate of two per cent (2%) per annum covering the period from the date the said funds were received by the Director to the date of refund.

Section 11.02. This section shall afford a legal remedy and right of action in any State, City or Federal court having jurisdiction of the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of this ordinance, as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such actions service shall be upon the Director.

Section 11.03. This section shall be construed to provide a legal remedy in the State, City or Federal courts, by action of law, in case such taxes are claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any Act of Congress or the United States Constitution, or the Constitution of the State of Louisiana, or in any case where jurisdiction is vested in any of the courts of the United States; provided that upon request of the dealer and upon proper showing by such dealer that the principle of law involved at an additional assessment is already pending before the courts for judicial determination, the said dealer, upon agreement to abide by the decision of the courts may pay the additional assessment under protest, but need not file an additional suit. In such cases the tax so paid under protest shall be segregated and held by the Director until the question of law involved has been determined by the Courts and shall then be disposed of as therein provided.

Section 11.04. If any dealer shall be aggrieved by any finding or assessment of the Director, he may, within thirty (30) days of the receipt of notice of the assessment or finding, file a protest in writing signed by him or his duly authorized agent, which shall be under oath and shall set forth the reasons therefor, and he may request a hearing. Thereafter, the Director shall grant a hearing to such dealer, if a hearing has been requested, and may make an order confirming, modifying or vacating any such finding or assessment. The filing of any such protest shall not abate any penalty for non-payment nor shall it stay the right of the Director to collect the tax in any manner herein provided, unless the dealer shall furnish security of a kind and in an amount satisfactory to the Director. Appeals from the decision of the Director shall be direct to any State, City or Federal court of competent jurisdiction as provided for in Section 11.02.

## OTHER ADMINISTRATIVE PROVISIONS

Section 12.01. The Director is hereby authorized and empowered to carry into effect the provisions of this ordinance and in pursuance thereof to make and enforce such rules as he may deem necessary in administering the provisions of this ordinance and other policies or procedures which may be hereafter established by this taxing authority.

Section 12.02. The Director shall have the power to make and publish reasonable rules and regulations, not inconsistent with this ordinance or the laws and the Constitution of this State or of the United States, for the enforcement of the provisions of this ordinance and the collection of the revenues and penalties imposed by this ordinance.

Section 12.03. The Director shall design, prepare, print and furnish to all dealers or make available to said dealers all necessary forms for filing returns, and instructions to insure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms shall not relieve such dealer from the payment of said taxes at the time and in the manner herein provided.

Section 12.04. The cost of preparing and distributing the report forms and paraphernalia for the collection of said tax, and of the inspection and enforcement duties required herein, shall be borne out of appropriations by this taxing authority as provided in Section 13.02 of this ordinance.

Section 12.05. In any case where tangible personal property is sold at retail under a contract providing for such retail sale, made and entered into prior to the effective date of this ordinance and containing the sale price, and delivery is made after the effective date of this ordinance, and such sale is taxable under this ordinance, the seller shall add the tax imposed by said ordinance to said sale price, and collect it from the buyer.

The provisions of this section shall also apply where such tangible personal property is not sold, but is used, consumed, distributed, stored, leased or rented, and where services taxable hereunder are contracted for before the effective date of this ordinance, but are actually furnished after the effective date hereof.

The provision of this section shall not apply to tangible personal property actually imported or caused to be imported into or stored within, the territorial limits of the Parish prior to the effective date of this ordinance, if the said tangible personal property is actually used or consumed by the person who imported and stored said tangible personal property.

Section 12.06. It shall be lawful for the Director, or any deputy by him duly designated, to receive the written oath of any person signing any application, deposition, statement, or report required by the Director in the administration of this ordinance.

Section 12.07. The Director, or any deputy by him duly designated, may conduct hearings, and have administered and examined under oath any dealer and the directors, officers, agents and employees of any dealer, and any other witnesses, relative to the business of such dealer in respect to any matter incidental to the administration of this ordinance. Such examination or hearings shall be at a time convenient to the dealer within fourteen (14) days after requested by the Director in writing.

Section 12.08. Any notice required to be given by the Director pursuant to this ordinance, may be given by personal service on the dealer for whom it is intended, or be mailed to the dealer for whom it is intended, addressed to such dealer at the address given in the last report filed by him pursuant to the provisions of this ordinance, or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of its receipt by the dealer to whom it is addressed.

Section 12.09. The Director shall keep a record of all of the official acts, and shall preserve copies of all rules, decisions and orders made by him and by any deputy of his department in charge of the collection of the tax imposed by this ordinance. Copies of such rules, decisions, or orders and of any paper or papers filed in any office maintained by him in the administration of this ordinance, may be authenticated under his official signature, and when so authenticated, shall be evidence in all courts of the State of the same weight and force as the original thereof. For authenticating any such copy, he shall be paid a fee of One Dollar (\$1.00) which shall be deposited in the "Sales Tax Fund."

Section 12.10. Nothing in this ordinance shall be construed to deprive the dealer of any remedy in the review of any tax, or in any proceedings to collect the tax given such dealer by any other law, or to deprive this taxing authority of any remedy for the enforcement of this ordinance through any procedure or remedies expressly provided in this ordinance imposing the tax herein levied or any other law, nor shall this ordinance be construed as repealing or altering any such laws or ordinance.

Section 12.11. If any section, sub-section, sentence, clause, or phrase of this ordinance be held invalid such decision shall not affect the validity of the remaining portions of this ordinance. This taxing authority hereby declares that it would have passed this ordinance, and each section, sub-section, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases may be so declared invalid.

Section 12.12. The tax levied herein is declared to be supplemental and in addition to all other taxes levied by and under the authority of this taxing authority of any kind or nature.

Section 12.13. This ordinance may be cited or otherwise referred to as the St. Mary Parish School Board Sales and Use Tax Ordinance."

#### DISPOSITION OF TAX PROCEEDS AND REVENUES

Section 13.01. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the Director of this taxing authority, under any provision or provisions of this ordinance shall be promptly deposited by the Director for the account of the School Board in a special fund designated "Sales Tax Fund", which funds shall be a separate bank account established and maintained with the regularly designated fiscal agent of the School Board: provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to a separate account established by the Director with said fiscal agent pending the final determination of the protest or litigation.

Section 13.02. Out of the funds on deposit in said "Sales Tax Fund", the Director shall first pay all reasonable and necessary costs and expenses of administering and collecting the tax levied hereby and administering the provisions of this ordinance as well as the various administrative and enforcement procedures established herein. Such costs and expenses shall be reported by the Director, monthly to the School Board.

Section 13.03. In compliance with the said special election of September 30, 1975, authorizing said tax, after all reasonable and necessary costs and expenses of collection and administration of the tax have been paid as provided for in Section 13.02, the remaining balance in the "Sales Tax Fund" shall be available for appropriation and expenditure by the School Board solely for the purposes designated in the propositions authorizing the levy of the tax and having been approved by a majority of the qualified electors of the Parish voting at a special election held therein on September 30, 1975.

#### MISCELLANEOUS

Section 14.01. This ordinance shall be published in one (1) issue of the official journal of this Taxing Authority as soon as possible and shall be in full force and effect immediately upon its adoption.

Section 14.02. A certified copy of this ordinance shall be recorded as soon as possible in the Mortgage Records of the Parish.


This ordinance having been submitted in writing, having been read in full at a public meeting of the Parish School Board of the Parish of St. Mary, State of Louisiana, was then submitted to an official vote as a whole, the vote thereon being as follows:

YEAS: Ogden E. Stansbury, Herman A. Plessala, Patrick Bertrand,  
M. C. Rose, Thomas D. Hamilton, Vera D. Judycki, Gerald  
A. Hebert, Carroll J. Thorguson, Merval J. Landry, Paul  
P. Naquin, Jr.

NAYS: None

ABSENT: Prescott Foster, Ralph Longman, Alden Curry, C. Leonard  
Wise, H. V. Fondren, Jr.

And the ordinance was declared adopted on this, the 22nd day of  
October, 1975.

  
SECRETARY

  
PRESIDENT

