

1 HB389
2 135796-1
3 By Representative Todd
4 RFD: Ways and Means Education
5 First Read: 23-FEB-12

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8 SYNOPSIS: Under existing law, certain industries are
9 exempt from sales and use taxes.

10 This bill would repeal those exemptions.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 To amend Sections 40-23-4 and 40-23-62 of the Code
17 of Alabama 1975, to repeal the sales and use taxes exemptions
18 for certain industries.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 40-23-4 and 40-23-62 are amended
21 to read as follows:

22 "§40-23-4.

23 "(a) There are exempted from the provisions of this
24 division and from the computation of the amount of the tax
25 levied, assessed, or payable under this division the
26 following:

1 ~~"(1) The gross proceeds of the sales of lubricating~~
2 ~~oil and gasoline as defined in Sections 40-17-30 and 40-17-170~~
3 ~~and the gross proceeds from those sales of lubricating oil~~
4 ~~destined for out-of-state use which are transacted in a manner~~
5 ~~whereby an out-of-state purchaser takes delivery of such oil~~
6 ~~at a distributor's plant within this state and transports it~~
7 ~~out-of-state, which are otherwise taxed.~~

8 ~~"(2) The gross proceeds of the sale, or sales, of~~
9 ~~fertilizer when used for agricultural purposes. The word~~
10 ~~"fertilizer" shall not be construed to include cottonseed~~
11 ~~meal, when not in combination with other materials.~~

12 ~~"(3) The gross proceeds of the sale, or sales, of~~
13 ~~seeds for planting purposes and baby chicks and poults.~~
14 ~~Nothing herein shall be construed to exempt or exclude from~~
15 ~~the computation of the tax levied, assessed, or payable, the~~
16 ~~gross proceeds of the sale or sales of plants, seedlings,~~
17 ~~nursery stock, or floral products.~~

18 ~~"(4) The gross proceeds of sales of insecticides and~~
19 ~~fungicides when used for agricultural purposes or when used by~~
20 ~~persons properly permitted by the Department of Agriculture~~
21 ~~and Industries or any applicable local or state governmental~~
22 ~~authority for structural pest control work and feed for~~
23 ~~livestock and poultry, but not including prepared food for~~
24 ~~dogs and cats.~~

25 ~~"(5) The gross proceeds of sales of all livestock by~~
26 ~~whomsoever sold, and also the gross proceeds of poultry and~~
27 ~~other products of the farm, dairy, grove, or garden, when in~~

1 ~~the original state of production or condition of preparation~~
2 ~~for sale, when such sale or sales are made by the producer or~~
3 ~~members of his immediate family or for him by those employed~~
4 ~~by him to assist in the production thereof. Nothing herein~~
5 ~~shall be construed to exempt or exclude from the measure or~~
6 ~~computation of the tax levied, assessed, or payable hereunder,~~
7 ~~the gross proceeds of sales of poultry or poultry products~~
8 ~~when not products of the farm.~~

9 ~~"(6) Cottonseed meal exchanged for cottonseed at or~~
10 ~~by cotton gins.~~

11 ~~"(7) The gross receipts from the business on which,~~
12 ~~or for engaging in which, a license or privilege tax is levied~~
13 ~~by or under the provisions of Sections 40-21-50, 40-21-53, and~~
14 ~~40-21-56 through 40-21-60; provided, that nothing contained in~~
15 ~~this subdivision shall be construed to exempt or relieve the~~
16 ~~person or persons operating the business enumerated in said~~
17 ~~sections from the payments of the tax levied by this division~~
18 ~~upon or measured by the gross proceeds of sales of any~~
19 ~~tangible personal property, except gas and water, the gross~~
20 ~~receipts from the sale of which are the measure of the tax~~
21 ~~levied by said Section 40-21-50, merchandise or other tangible~~
22 ~~commodities sold at retail by said persons, unless the gross~~
23 ~~proceeds of sale thereof are otherwise specifically exempted~~
24 ~~by the provisions of this division.~~

25 ~~"(8) The gross proceeds of sales or gross receipts~~
26 ~~of or by any person, firm, or corporation, from the sale of~~
27 ~~transportation, gas, water, or electricity, of the kinds and~~

1 natures, the rates and charges for which, when sold by public
2 utilities, are customarily fixed and determined by the Public
3 Service Commission of Alabama or like regulatory bodies.

4 ~~"(9) The gross proceeds of the sale, or sales of~~
5 ~~wood residue, coal, or coke to manufacturers, electric power~~
6 ~~companies, and transportation companies for use or consumption~~
7 ~~in the production of by-products, or the generation of heat or~~
8 ~~power used in manufacturing tangible personal property for~~
9 ~~sale, for the generation of electric power or energy for use~~
10 ~~in manufacturing tangible personal property for sale or for~~
11 ~~resale, or for the generation of motive power for~~
12 ~~transportation.~~

13 ~~"(10) The gross proceeds from the sale or sales of~~
14 ~~fuel and supplies for use or consumption aboard ships,~~
15 ~~vessels, towing vessels, or barges, or drilling ships, rigs or~~
16 ~~barges, or seismic or geophysical vessels, or other watercraft~~
17 ~~(herein for purposes of this exemption being referred to as~~
18 ~~"vessels") engaged in foreign or international commerce or in~~
19 ~~interstate commerce; provided, that nothing in this division~~
20 ~~shall be construed to exempt or exclude from the measure of~~
21 ~~the tax herein levied the gross proceeds of sale or sales of~~
22 ~~material and supplies to any person for use in fulfilling a~~
23 ~~contract for the painting, repair, or reconditioning of~~
24 ~~vessels, barges, ships, other watercraft, and commercial~~
25 ~~fishing vessels of over five tons load displacement as~~
26 ~~registered with the U.S. Coast Guard and licensed by the State~~
27 ~~of Alabama Department of Conservation and Natural Resources.~~

1 ~~"For purposes of this subdivision, it shall be~~
2 ~~presumed that vessels engaged in the transportation of cargo~~
3 ~~between ports in the State of Alabama and ports in foreign~~
4 ~~countries or possessions or territories of the United States~~
5 ~~or between ports in the State of Alabama and ports in other~~
6 ~~states are engaged in foreign or international commerce or~~
7 ~~interstate commerce, as the case may be. For the purposes of~~
8 ~~this subdivision, the engaging in foreign or international~~
9 ~~commerce or interstate commerce shall not require that the~~
10 ~~vessel involved deliver cargo to or receive cargo from a port~~
11 ~~in the State of Alabama. For purposes of this subdivision,~~
12 ~~vessels carrying passengers for hire, and no cargo, between~~
13 ~~ports in the State of Alabama and ports in foreign countries~~
14 ~~or possessions or territories of the United States or between~~
15 ~~ports in the State of Alabama and ports in other states shall~~
16 ~~be engaged in foreign or international commerce or interstate~~
17 ~~commerce, as the case may be, if, and only if, both of the~~
18 ~~following conditions are met: (i) The vessel in question is a~~
19 ~~vessel of at least 100 gross tons; and (ii) the vessel in~~
20 ~~question has an unexpired certificate of inspection issued by~~
21 ~~the United States Coast Guard or by the proper authority of a~~
22 ~~foreign country for a foreign vessel, which certificate is~~
23 ~~recognized as acceptable under the laws of the United States.~~
24 ~~Vessels which are engaged in foreign or international commerce~~
25 ~~or interstate commerce shall be deemed for the purposes of~~
26 ~~this subdivision to remain in such commerce while awaiting or~~
27 ~~under repair in a port of the State of Alabama if such vessel~~

1 ~~returns after such repairs are completed to engaging in~~
2 ~~foreign or international commerce or interstate commerce. For~~
3 ~~purposes of this subdivision, seismic or geophysical vessels~~
4 ~~which are engaged either in seismic or geophysical tests or~~
5 ~~evaluations exclusively in offshore federal waters or in~~
6 ~~traveling to or from conducting such tests or evaluations~~
7 ~~shall be deemed to be engaged in international or foreign~~
8 ~~commerce. For purposes of this subdivision, proof that fuel~~
9 ~~and supplies purchased are for use or consumption aboard~~
10 ~~vessels engaged in foreign or international commerce or in~~
11 ~~interstate commerce may be accomplished by the merchant or~~
12 ~~seller securing the duly signed certificate of the vessel~~
13 ~~owner, operator, or captain or their respective agent on a~~
14 ~~form prescribed by the department that the fuel and supplies~~
15 ~~purchased are for use or consumption aboard vessels engaged in~~
16 ~~foreign or international commerce or in interstate commerce.~~
17 ~~Any person filing a false certificate shall be guilty of a~~
18 ~~misdemeanor and upon conviction shall be fined not less than~~
19 ~~\$25 nor more than \$500 for each offense. Each false~~
20 ~~certificate filed shall constitute a separate offense. Any~~
21 ~~person filing a false certificate shall be liable to the~~
22 ~~department for all taxes imposed by this division upon the~~
23 ~~merchant or seller, together with any interest or penalties~~
24 ~~thereon, by reason of the sale or sales of fuel and supplies~~
25 ~~applicable to such false certificate. If a merchant or seller~~
26 ~~of fuel and supplies secures the certificate herein mentioned,~~
27 ~~properly completed, such merchant or seller shall not be~~

1 ~~liable for the taxes imposed by this division, if such~~
2 ~~merchant or seller had no knowledge that such certificate was~~
3 ~~false when it was filed with such merchant or seller.~~

4 "(1) ~~(11)~~ The gross proceeds of sales of tangible
5 personal property to the State of Alabama, to the counties
6 within the state, and to incorporated municipalities of the
7 State of Alabama.

8 "~~(12)~~ The gross proceeds of the sale or sales of
9 railroad cars, vessels, barges, and commercial fishing vessels
10 of over five tons load displacement as registered with the
11 U.S. Coast Guard and licensed by the State of Alabama
12 Department of Conservation and Natural Resources, when sold by
13 the manufacturers or builders thereof.

14 "~~(13)~~ The gross proceeds of the sale or sales of
15 materials, equipment, and machinery which, at any time, enter
16 into and become a component part of ships, vessels, towing
17 vessels or barges, or drilling ships, rigs or barges, or
18 seismic or geophysical vessels, other watercraft and
19 commercial fishing vessels of over five tons load displacement
20 as registered with the U.S. Coast Guard and licensed by the
21 State of Alabama Department of Conservation and Natural
22 Resources. Additionally, the gross proceeds from the sale or
23 sales of lifeboats, personal flotation devices, ring life
24 buoys, survival craft equipment, distress signals, EPIRB's,
25 fire extinguishers, injury placards, waste management plans
26 and logs, marine sanitation devices, navigation rulebooks,
27 navigation lights, sound signals, navigation day shapes, oil

1 ~~placard cards, garbage placards, FCC SSL, stability~~
2 ~~instructions, first aid equipment, compasses, anchor and radar~~
3 ~~reflectors, general alarm systems, bilge pumps, piping, and~~
4 ~~discharge and electronic position fixing devices which are~~
5 ~~used on the aforementioned watercraft.~~

6 ~~"(14) The gross proceeds of the sale or sales of~~
7 ~~fuel oil purchased as fuel for kiln use in manufacturing~~
8 ~~establishments.~~

9 ~~"(2) (15) The gross proceeds of the sale or sales of~~
10 ~~tangible personal property to county and city school boards,~~
11 ~~independent school boards, and all educational institutions~~
12 ~~and agencies of the State of Alabama, the counties within the~~
13 ~~state, or any incorporated municipalities of the State of~~
14 ~~Alabama.~~

15 ~~"(16) The gross proceeds from the sale of all~~
16 ~~devices or facilities, and all identifiable components~~
17 ~~thereof, or materials for use therein, acquired primarily for~~
18 ~~the control, reduction, or elimination of air or water~~
19 ~~pollution and the gross proceeds from the sale of all~~
20 ~~identifiable components of or materials used or intended for~~
21 ~~use in structures built primarily for the control, reduction,~~
22 ~~or elimination of air and water pollution.~~

23 ~~"(3) (17) The gross proceeds of sales of tangible~~
24 ~~personal property or the gross receipts of any business which~~
25 ~~the state is prohibited from taxing under the Constitution or~~
26 ~~laws of the United States or under the Constitution of this~~
27 ~~state.~~

1 ~~"(18) When dealers or distributors use parts taken~~
2 ~~from stocks owned by them in making repairs without charge for~~
3 ~~such parts to the owner of the property repaired pursuant to~~
4 ~~warranty agreements entered into by manufacturers, such use~~
5 ~~shall not constitute taxable sales to the manufacturers,~~
6 ~~distributors, or to the dealers, under this division or under~~
7 ~~any county sales tax law.~~

8 ~~"(4) (19) The gross proceeds received from the sale~~
9 ~~or furnishing of food, including potato chips, candy, fruit~~
10 ~~and similar items, soft drinks, tobacco products, and~~
11 ~~stationery and other similar or related articles by hospital~~
12 ~~canteens operated by Alabama state hospitals at Bryce Hospital~~
13 ~~and Partlow State School for Mental Deficients at Tuscaloosa,~~
14 ~~Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the~~
15 ~~benefit of the patients therein.~~

16 ~~"(20) The gross proceeds of the sale, or sales, of~~
17 ~~wrapping paper and other wrapping materials when used in~~
18 ~~preparing poultry or poultry products for delivery, shipment,~~
19 ~~or sale by the producer, processor, packer, or seller of such~~
20 ~~poultry or poultry products, including pallets used in~~
21 ~~shipping poultry and egg products, paper or other materials~~
22 ~~used for lining boxes or other containers in which poultry or~~
23 ~~poultry products are packed together with any other materials~~
24 ~~placed in such containers for the delivery, shipment, or sale~~
25 ~~of poultry or poultry products.~~

26 ~~"(21) The gross proceeds of the sales of all~~
27 ~~antibiotics, hormones and hormone preparations, drugs,~~

1 medicines or medications, vitamins, minerals or other
2 nutrients, and all other feed ingredients including
3 concentrates, supplements, and other feed ingredients when
4 such substances are used as ingredients in mixing and
5 preparing feed for fish raised to be sold on a commercial
6 basis, livestock, and poultry. Such exemption herein granted
7 shall be in addition to exemptions now provided by law for
8 feed for fish raised to be sold on a commercial basis,
9 livestock, and poultry, but not including prepared foods for
10 dogs or cats.

11 "~~(22) The gross proceeds of the sale, or sales, of~~
12 ~~seedlings, plants, shoots, and slips which are to be used for~~
13 ~~planting vegetable gardens or truck farms and other~~
14 ~~agricultural purposes. Nothing herein shall be construed to~~
15 ~~exempt, or exclude from the computation of the tax levied,~~
16 ~~assessed, or payable, the gross proceeds of the sale, or the~~
17 ~~use of plants, seedlings, shoots, slips, nursery stock, and~~
18 ~~floral products, except as hereinabove exempted.~~

19 "~~(23) The gross proceeds of the sale, or sales, of~~
20 ~~fabricated steel tube sections, when produced and fabricated~~
21 ~~in this state by any person, firm, or corporation for any~~
22 ~~vehicular tunnel for highway vehicular traffic, when sold by~~
23 ~~the manufacturer or fabricator thereof, and also the gross~~
24 ~~proceeds of the sale, or sales, of steel which enters into and~~
25 ~~becomes a component part of such fabricated steel tube~~
26 ~~sections of said tunnel.~~

1 ~~"(24) The gross proceeds from sales of admissions to~~
2 ~~any theatrical production, symphonic or other orchestral~~
3 ~~concert, ballet, or opera production when such concert or~~
4 ~~production is presented by any society, association, guild, or~~
5 ~~workshop group, organized within this state, whose members or~~
6 ~~some of whose members regularly and actively participate in~~
7 ~~such concerts or productions for the purposes of providing a~~
8 ~~creative outlet for the cultural and educational interests of~~
9 ~~such members, and of promoting such interests for the~~
10 ~~betterment of the community by presenting such productions to~~
11 ~~the general public for an admission charge. The employment of~~
12 ~~a paid director or conductor to assist in any such~~
13 ~~presentation described in this subdivision shall not be~~
14 ~~construed to prohibit the exemptions herein provided.~~

15 ~~"(25) The gross proceeds of sales of herbicides for~~
16 ~~agricultural uses by whomsoever sold. The term herbicides, as~~
17 ~~used in this subdivision, means any substance or mixture of~~
18 ~~substances intended to prevent, destroy, repel, or retard the~~
19 ~~growth of weeds or plants. It shall include preemergence~~
20 ~~herbicides, postemergence herbicides, lay-by herbicides,~~
21 ~~pasture herbicides, defoliant herbicides, and desiccant~~
22 ~~herbicides.~~

23 ~~"(5) (26) The Alabama Chapter of the Cystic Fibrosis~~
24 ~~Research Foundation and the Jefferson Tuberculosis Sanatorium~~
25 ~~and any of their departments or agencies, heretofore or~~
26 ~~hereafter organized and existing in good faith in the State of~~
27 ~~Alabama for purposes other than for pecuniary gain and not for~~

1 individual profit, shall be exempted from the computation of
2 the tax on the gross proceeds of all sales levied, assessed,
3 or payable.

4 ~~"(27) The gross proceeds from the sale or sales of
5 fuel for use or consumption aboard commercial fishing vessels
6 are hereby exempt from the computation of all sales taxes
7 levied, assessed, or payable under the provisions of this
8 division or levied under any county or municipal sales tax
9 law.~~

10 ~~"The words commercial fishing vessels shall mean
11 vessels whose masters and owners are regularly and exclusively
12 engaged in fishing as their means of livelihood.~~

13 ~~"(28) The gross proceeds of sales of sawdust, wood
14 shavings, wood chips, and other like materials sold for use as
15 chicken litter by poultry producers and poultry processors.~~

16 ~~"(29) The gross proceeds of the sales of all
17 antibiotics, hormones and hormone preparations, drugs,
18 medicines, and other medications including serums and
19 vaccines, vitamins, minerals, or other nutrients for use in
20 the production and growing of fish, livestock, and poultry by
21 whomsoever sold. Such exemption as herein granted shall be in
22 addition to the exemption provided by law for feed for fish,
23 livestock, and poultry, and in addition to the exemptions
24 provided by law for the above-enumerated substances and
25 products when mixed and used as ingredients in fish,
26 livestock, and poultry feed.~~

1 "(6) ~~(30)~~ The gross proceeds of the sale or sales of
2 all medicines prescribed by physicians for persons who are 65
3 years of age or older, and when said prescriptions are filled
4 by licensed pharmacists, shall be exempted under this division
5 or under any county or municipal sales tax law. The exemption
6 provided in this section shall not apply to any medicine
7 purchased in any manner other than as is herein provided.

8 "For the purposes of this subdivision, proof of age
9 may be accomplished by filing with the dispensing pharmacist
10 any one or more of the following documents:

11 "a. The name and claim number as shown on a
12 "Medicare" card issued by the United States Social Security
13 Administration.

14 "b. A certificate executed by any adult person
15 having knowledge of the fact that the person for whom the
16 medicine was prescribed is not less than 65 years of age.

17 "c. An affidavit executed by any adult person having
18 knowledge of the fact that the person for whom the medicine
19 was prescribed is not less than 65 years of age.

20 "For the purposes of this subdivision, any person
21 filing a false proof of age shall be guilty of a misdemeanor
22 and upon conviction thereof shall be punished by a fine of one
23 hundred dollars (\$100).

24 "~~(31)~~ There shall be exempted from the tax levied by
25 this division the gross receipts of sales of grass sod of all
26 kinds and character when in the original state of production
27 or condition of preparation for sale, when such sales are made

1 by the producer or members of his family or for him by those
2 employed by him to assist in the production thereof; provided,
3 that nothing herein shall be construed to exempt sales of sod
4 by a person engaged in the business of selling plants,
5 seedlings, nursery stock, or floral products.

6 "~~(32) The gross receipts of sales of the following~~
7 ~~items or materials which are necessary in the farm-to-market~~
8 ~~production of tomatoes when such items or materials are used~~
9 ~~by the producer or members of his family or for him by those~~
10 ~~employed by him to assist in the production thereof: Twine for~~
11 ~~tying tomatoes, tomato stakes, field boxes (wooden boxes used~~
12 ~~to take tomatoes from the fields to shed), and tomato boxes~~
13 ~~used in shipments to customers.~~

14 "~~(33) The gross proceeds from the sale of liquefied~~
15 ~~petroleum gas or natural gas sold to be used for agricultural~~
16 ~~purposes.~~

17 "~~(34) The gross receipts of sales from state~~
18 ~~nurseries of forest tree seedlings.~~

19 "~~(35) The gross receipts of sales of forest tree~~
20 ~~seed by the state.~~

21 "~~(36) The gross receipts of sales of Lespedeza~~
22 ~~bicolor and other species of perennial plant seed and~~
23 ~~seedlings sold for wildlife and game food production purposes~~
24 ~~by the state.~~

25 "~~(37) The gross receipts of any aircraft~~
26 ~~manufactured, sold, and delivered in this state if said~~

1 ~~aircraft are not permanently domiciled in Alabama and are~~
2 ~~removed to another state within three days of delivery.~~

3 ~~"(38) The gross proceeds from the sale or sales of~~
4 ~~all diesel fuel used for off-highway agricultural purposes.~~

5 ~~"(39) The gross proceeds from sales of admissions to~~
6 ~~any sporting event which:~~

7 ~~"a. Takes place in the State of Alabama on or after~~
8 ~~January 1, 1984, regardless of when such sales occur; and~~

9 ~~"b. Is hosted by a not-for-profit corporation~~
10 ~~organized and existing under the laws of the State of Alabama;~~
11 ~~and~~

12 ~~"c. Determines a national championship of a national~~
13 ~~organization, including but not limited to the Professional~~
14 ~~Golfers Association of America, the Tournament Players~~
15 ~~Association, the United States Golf Association, the United~~
16 ~~States Tennis Association, and the National Collegiate~~
17 ~~Athletic Association; and~~

18 ~~"d. Has not been held in the State of Alabama on~~
19 ~~more than one prior occasion, provided, however, that for such~~
20 ~~purpose the Professional Golfers Association Championship, the~~
21 ~~United States Open Golf Championship, the United States~~
22 ~~Amateur Golf Championship of the United States Golf~~
23 ~~Association, and the United States Open Tennis Championship~~
24 ~~shall each be treated as a separate event.~~

25 ~~"(40) The gross receipts from the sale of any~~
26 ~~aircraft and replacement parts, components, systems, supplies,~~
27 ~~and sundries affixed or used on said aircraft and ground~~

1 ~~support equipment and vehicles used by or for the aircraft to~~
2 ~~or by a certificated or licensed air carrier with a hub~~
3 ~~operation within this state, for use in conducting intrastate,~~
4 ~~interstate, or foreign commerce for transporting people or~~
5 ~~property by air. For the purpose of this subdivision, the~~
6 ~~words "hub operation within this state" shall be construed to~~
7 ~~have all of the following criteria:~~

8 ~~"a. There originates from the location 15 or more~~
9 ~~flight departures and five or more different first-stop~~
10 ~~destinations five days per week for six or more months during~~
11 ~~the calendar year; and~~

12 ~~"b. Passengers and/or property are regularly~~
13 ~~exchanged at the location between flights of the same or a~~
14 ~~different certificated or licensed air carrier.~~

15 ~~"(7) (41) The gross receipts from the sale of hot or~~
16 ~~cold food and beverage products sold to or by a certificated~~
17 ~~or licensed air carrier with a hub operation within this~~
18 ~~state, for use in conducting intrastate, interstate, or~~
19 ~~foreign commerce for transporting people or property by air.~~
20 ~~For the purpose of this subdivision, the words "hub operation~~
21 ~~within this state" shall be construed to have all of the~~
22 ~~following criteria:~~

23 ~~"a. There originates from the location 15 or more~~
24 ~~flight departures and five or more different first-stop~~
25 ~~destinations five days per week for six or more months during~~
26 ~~the calendar year; and~~

1 "b. Passengers and/or property are regularly
2 exchanged at the location between flights of the same or a
3 different certificated or licensed air carrier.

4 ~~"(42) The gross proceeds of the sale or sales of the~~
5 ~~following:~~

6 ~~"a. Drill pipe, casing, tubing, and other pipe used~~
7 ~~for the exploration for or production of oil, gas, sulphur, or~~
8 ~~other minerals in offshore federal waters.~~

9 ~~"b. Tangible personal property exclusively used for~~
10 ~~the exploration for or production of oil, gas, sulphur, or~~
11 ~~other minerals in offshore federal waters.~~

12 ~~"c. Fuel and supplies for use or consumption aboard~~
13 ~~boats, ships, aircraft, and towing vessels when used~~
14 ~~exclusively in transporting persons or property between a~~
15 ~~point in Alabama and a point or points in offshore federal~~
16 ~~waters for the exploration for or production of oil, gas,~~
17 ~~sulphur, or other minerals in offshore federal waters.~~

18 ~~"d. Drilling equipment that is used for the~~
19 ~~exploration for or production of oil, gas, sulphur, or other~~
20 ~~minerals, that is built for exclusive use outside this state~~
21 ~~and that is, on completion, removed forthwith from this state.~~

22 ~~"The delivery of items exempted by this subdivision~~
23 ~~to the purchaser or lessee in this state does not disqualify~~
24 ~~the purchaser or lessee from the exemption if the property is~~
25 ~~removed from the state by any means, including by the use of~~
26 ~~the purchaser's or lessee's own facilities.~~

1 ~~"The shipment to a place in this state of equipment~~
2 ~~exempted by this subdivision for further assembly or~~
3 ~~fabrication does not disqualify the purchaser or lessee from~~
4 ~~the exemption if on completion of the further assembly or~~
5 ~~fabrication the equipment is removed forthwith from this~~
6 ~~state. This subdivision applies to a sale that may occur when~~
7 ~~the equipment exempted is further assembled or fabricated if~~
8 ~~on completion the equipment is removed forthwith from this~~
9 ~~state.~~

10 ~~"(8) (43)~~ The gross receipts derived from all bingo
11 games and operations which are conducted in compliance with
12 validly enacted legislation authorizing the conduct of such
13 games and operations, and which comply with the distribution
14 requirements of the applicable local laws; provided that the
15 exemption from sales taxation granted by this subdivision
16 shall apply only to gross receipts taxable under subdivision
17 (2) of Section 40-23-2. It is further provided that this
18 exemption shall not apply to any gross receipts from the sale
19 of tangible personal property, such as concessions, novelties,
20 food, beverages, etc. The exemption provided for in this
21 section shall be limited to those games and operations by
22 organizations which have qualified for exemption under the
23 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
24 (19), or which are defined in 26 U.S.C. § 501(d).

25 ~~"(44) The gross receipts derived from the sale or~~
26 ~~sales of fruit or other agricultural products by the person or~~

1 ~~corporation that planted, cultivated, and harvested such fruit~~
2 ~~or agricultural product.~~

3 ~~"(45) The gross receipts derived from the sale or~~
4 ~~sales of all domestically mined or produced coal, coke, and~~
5 ~~coke by-products used in cogeneration plants.~~

6 "(b) Any violation of any provision of this section
7 shall be punishable in a court of competent jurisdiction by a
8 fine of not less than five hundred dollars (\$500) and no more
9 than two thousand dollars (\$2,000) and imprisonment of not
10 less than six months nor more than one year in the county
11 jail.

12 "§40-23-62.

13 "The storage, use or other consumption in this state
14 of the following tangible personal property is hereby
15 specifically exempted from the tax imposed by this article:

16 "(1) Property, on which the sales tax imposed by the
17 provisions of Article 1 of this chapter is paid by the
18 consumer to a person licensed under the provisions of Article
19 1 of this chapter.

20 "(2) Property, the storage, use or other consumption
21 of which this state is prohibited from taxing under the
22 Constitution or laws of the United States of America or under
23 the constitution of this state.

24 "(3) Tangible personal property, not to be used in
25 the performance of a contract, brought into this state by a
26 nonresident thereof for his own storage, use or consumption
27 while temporarily within this state.

1 ~~"(4) Lubricating oil and gasoline as defined in~~
2 ~~Sections 40-17-30 and 40-17-170, the storage, use or other~~
3 ~~consumption of which is otherwise taxed.~~

4 ~~"(5) All fertilizer; provided, that the word~~
5 ~~"fertilizer" as used in this article shall not be construed to~~
6 ~~include cottonseed meal when not in combination with other~~
7 ~~material.~~

8 ~~"(6) All seeds for planting purposes and baby chicks~~
9 ~~and poults; provided, that nothing herein shall be construed~~
10 ~~to exempt plants, seedlings, nursery stock or floral products.~~

11 ~~"(7) Insecticides and fungicides and feed for~~
12 ~~livestock and poultry, but not including prepared foods for~~
13 ~~dogs and cats.~~

14 ~~"(8) The use, storage or consumption of all~~
15 ~~livestock by whomsoever sold; and also the gross proceeds of~~
16 ~~poultry and other products of the farm, dairy, grove or~~
17 ~~garden, when in the original state of production or condition~~
18 ~~of preparation for sale, when such sale or sales are made by~~
19 ~~the producer or members of his immediate family or for him by~~
20 ~~those employed by him to assist in the production thereof.~~
21 ~~Nothing herein shall be construed to exempt or exclude from~~
22 ~~the measure or computation of the tax levied, assessed, or~~
23 ~~payable hereunder, the gross proceeds of sales of poultry or~~
24 ~~poultry products when not products of the farm.~~

25 ~~"(9) Cottonseed meal exchanged for cottonseed at or~~
26 ~~by cotton gins.~~

1 ~~"(10) Transportation, gas, water, or electricity, of~~
2 ~~the kinds and natures, the rates and charges for which when~~
3 ~~sold by public utilities, are customarily fixed and determined~~
4 ~~by the Public Service Commission of Alabama or like regulatory~~
5 ~~bodies.~~

6 ~~"(11) Coal or coke to be stored, used or consumed by~~
7 ~~manufacturers, electric power companies and transportation~~
8 ~~companies for use or consumption in the production of~~
9 ~~by-products or the generation of heat or power used:~~

10 ~~"a. In manufacturing tangible personal property for~~
11 ~~sale;~~

12 ~~"b. For the generation of electric power or energy~~
13 ~~for use in manufacturing tangible personal property for sale~~
14 ~~or for resale; or~~

15 ~~"c. For the generation of motive power for~~
16 ~~transportation.~~

17 ~~"(12) Fuel and supplies for use or consumption~~
18 ~~aboard ships, vessels, towing vessels, or barges, or drilling~~
19 ~~ships, rigs or barges, or seismic or geophysical vessels, or~~
20 ~~other watercraft (herein for purposes of this exemption being~~
21 ~~referred to as vessels) engaged in foreign or international~~
22 ~~commerce or in interstate commerce; provided, that nothing in~~
23 ~~this article shall be construed to exempt or exclude from the~~
24 ~~measure of the tax herein levied the gross proceeds of sale or~~
25 ~~sales of material and supplies to any person for use in~~
26 ~~fulfilling a contract for the painting, repair or~~
27 ~~reconditioning of vessels, barges, ships, other watercraft and~~

1 commercial fishing vessels of over five tons load displacement
2 as registered with the U.S. Coast Guard and licensed by the
3 State of Alabama Department of Conservation and Natural
4 Resources. For purposes of this subdivision, it shall be
5 presumed that vessels engaged in the transportation of cargo
6 between ports in the State of Alabama and ports in foreign
7 countries or possessions or territories of the United States
8 or between ports in the State of Alabama and ports in other
9 states are engaged in foreign or international commerce or
10 interstate commerce, as the case may be. For the purposes of
11 this subdivision, the engaging in foreign or international
12 commerce or interstate commerce shall not require that the
13 vessel involved deliver cargo to or receive cargo from a port
14 in the State of Alabama. For purposes of this subdivision,
15 vessels carrying passengers for hire, and no cargo, between
16 ports in the State of Alabama and ports in foreign countries
17 or possessions or territories of the United States or between
18 ports in the State of Alabama and ports in other states shall
19 be engaged in foreign or international commerce or interstate
20 commerce, as the case may be, if, and only if, both of the
21 following conditions are met: (i) The vessel in question is a
22 vessel of at least 100 gross tons; and (ii) the vessel in
23 question has an unexpired certificate of inspection issued by
24 the United States Coast Guard or by the proper authority of a
25 foreign country for a foreign vessel, which certificate is
26 recognized as acceptable under the laws of the United States.
27 Vessels which are engaged in foreign or international commerce

1 or interstate commerce shall be deemed for the purposes of
2 this subdivision to remain in such commerce while awaiting or
3 under repair in a port of the State of Alabama if such vessel
4 returns after such repairs are completed to engaging in
5 foreign or international commerce or interstate commerce. For
6 purposes of this subdivision, seismic or geophysical vessels
7 which are engaged either in seismic or geophysical tests or
8 evaluations exclusively in offshore federal waters or in
9 traveling to or from conducting such tests or evaluations
10 shall be deemed to be engaged in international or foreign
11 commerce. For purposes of this subdivision, proof that fuel
12 and supplies purchased are for use or consumption aboard
13 vessels engaged in foreign or international commerce or in
14 interstate commerce may be accomplished by the merchant or
15 seller securing the duly signed certificate of the vessel
16 owner, operator or captain or their respective agent on a form
17 prescribed by the department that the fuel and supplies
18 purchased are for use or consumption aboard vessels engaged in
19 foreign or international commerce or in interstate commerce.
20 Any person filing a false certificate shall be guilty of a
21 misdemeanor and upon conviction shall be fined not less than
22 \$25 nor more than \$500 for each offense. Each false
23 certificate filed shall constitute a separate offense. Any
24 person filing a false certificate shall be liable to the
25 department for all taxes imposed by this division upon the
26 merchant or seller, together with any interest or penalties
27 thereon, by reason of the sale or sales of fuel and supplies

1 applicable to such false certificate. If a merchant or seller
2 of fuel and supplies secures the certificate herein mentioned,
3 properly completed, such merchant or seller shall not be
4 liable for the taxes imposed by this division, if such
5 merchant or seller had no knowledge that such certificate was
6 false when it was filed with such merchant or seller.

7 "(4) ~~(13)~~ Property stored, used, l or consumed by the
8 State of Alabama, by the counties within the state, l or by
9 incorporated municipalities of the State of Alabama.

10 "~~(14)~~ The use, storage or consumption of materials,
11 equipment and machinery which, at any time, enter into and
12 become a component part of ships, vessels, towing vessels or
13 barges, or drilling ships, rigs or barges, or seismic or
14 geophysical vessels, other watercraft and commercial fishing
15 vessels of over five tons load displacement as registered with
16 the U.S. Coast Guard and licensed by the Department of
17 Conservation and Natural Resources. Additionally, the use,
18 storage, or consumption of lifeboats, personal flotation
19 devices, ring life buoys, survival craft equipment, distress
20 signals, EPIRB's, fire extinguishers, injury placards, waste
21 management plans and logs, marine sanitation devices,
22 navigation rulebooks, navigation lights, sound signals,
23 navigation day shapes, oil placard cards, garbage placards,
24 FCC SSL, stability instructions, first aid equipment,
25 compasses, anchor and radar reflectors, general alarm systems,
26 bilge pumps, piping, and discharge and electronic position
27 fixing devices on the aforementioned watercraft.

1 ~~"(15) The use, storage, or consumption of fuel oil~~
2 ~~purchased as fuel for kilns used in manufacturing~~
3 ~~establishments.~~

4 ~~"(5) (16) Tangible personal property stored, used or~~
5 ~~consumed by county and city school boards, independent school~~
6 ~~boards, and all educational institutions and agencies of the~~
7 ~~State of Alabama, the counties within the state or any~~
8 ~~incorporated municipality of the State of Alabama.~~

9 ~~"(17) The storage, use, or consumption of railroad~~
10 ~~cars, vessels, and barges and commercial fishing vessels of~~
11 ~~over five tons load displacement as registered with the U.S.~~
12 ~~Coast Guard and licensed by the State of Alabama Department of~~
13 ~~Conservation and Natural Resources when purchased from the~~
14 ~~manufacturers or builders thereof.~~

15 ~~"(18) The storage, use, or consumption of all~~
16 ~~devices or facilities, and all identifiable components thereof~~
17 ~~or materials for use therein, used or placed in operation~~
18 ~~primarily for the control, reduction or elimination of air or~~
19 ~~water pollution, and the storage, use, or consumption of all~~
20 ~~identifiable components of or materials used or intended for~~
21 ~~use in structures built primarily for the control, reduction~~
22 ~~or elimination of air or water pollution.~~

23 ~~"(19) When dealers or distributors use parts taken~~
24 ~~from stocks owned by them in making repairs without charge for~~
25 ~~such parts to the owner of the property required pursuant to~~
26 ~~warranty agreements entered into by manufacturers, such use~~
27 ~~shall not constitute taxable sales to the manufacturers,~~

1 ~~distributors or to the dealers, under this article, or under~~
2 ~~any county use tax law.~~

3 ~~"(6)(20) The storage, use, or other consumption in~~
4 ~~this state of religious magazines and publications. For the~~
5 ~~purpose of this subdivision the words "religious magazines and~~
6 ~~publications" shall be construed to mean printed or~~
7 ~~illustrated lessons, notes, and explanations distributed by~~
8 ~~churches or other religious organizations free of charge to~~
9 ~~pupils or students in Sunday schools, Bible classes, or other~~
10 ~~educational facilities established and maintained by churches~~
11 ~~or similar religious organizations in this state.~~

12 ~~"(21) The storage, use, or other consumption of~~
13 ~~wrapping paper and other wrapping materials when used in~~
14 ~~preparing poultry or poultry products for delivery, shipment~~
15 ~~or sale by the producer, processor, packer, or seller of such~~
16 ~~poultry or poultry products including pallets used in shipping~~
17 ~~poultry and egg products, paper or other materials used for~~
18 ~~lining boxes or other containers in which poultry or poultry~~
19 ~~products are packed together with any other materials placed~~
20 ~~in such containers for the delivery, shipment or sale of~~
21 ~~poultry or poultry products.~~

22 ~~"(22) The storage, use, or other consumption of all~~
23 ~~antibiotics, hormones and hormone preparations, drugs,~~
24 ~~medicines or medications, vitamins, minerals, or other~~
25 ~~nutrients and all other feed ingredients including~~
26 ~~concentrates, supplements and other feed ingredients when such~~
27 ~~substances are used as ingredients in mixing and preparing~~

1 ~~feed for livestock and poultry. Such exemption herein granted~~
2 ~~shall be in addition to exemptions now provided by law for~~
3 ~~feed for livestock and poultry, but not including prepared~~
4 ~~foods for dogs and cats.~~

5 ~~"(23) The use of seedlings, plants, shoots, and~~
6 ~~slips which are to be used for planting vegetable gardens or~~
7 ~~truck farms. Nothing herein shall be construed to exempt, or~~
8 ~~exclude from the computation of the tax levied, assessed, or~~
9 ~~payable, the use of plants, seedlings, shoots, slips, nursery~~
10 ~~stock and floral products except as hereinabove exempted.~~

11 ~~"(24) Fabricated steel tube sections, when produced~~
12 ~~and fabricated in this state by any person, firm, or~~
13 ~~corporation, for any vehicular tunnel for highway vehicular~~
14 ~~traffic, when sold by the manufacturer or fabricator thereof,~~
15 ~~and also steel which enters into and becomes a component part~~
16 ~~of such fabricated steel tube sections of said tunnel, shall~~
17 ~~be exempted from the provisions of this article and from the~~
18 ~~computation of the amount of the tax levied, assessed or~~
19 ~~payable under this article.~~

20 ~~"(25) The storage, use or other consumption of~~
21 ~~herbicides for agricultural uses by whomsoever sold. The term~~
22 ~~"herbicides" as used in this subdivision means any substance~~
23 ~~or mixture of substances intended to prevent, destroy, repel,~~
24 ~~or retard the growth of weeds or plants. It shall include~~
25 ~~preemergence herbicides, postemergence herbicides, lay-by~~
26 ~~herbicides, pasture herbicides, defoliant herbicides, and~~
27 ~~desiccant herbicides.~~

1 "(7) ~~(26)~~ The Alabama Chapter of the Cystic Fibrosis
2 Research Foundation, and the Jefferson Tuberculosis Sanatorium
3 and any of their departments or agencies, heretofore or
4 hereafter organized and existing in good faith in the State of
5 Alabama for purposes other than for pecuniary gain and not for
6 individual profit, shall be exempted from the payment of the
7 state use tax levied under this article.

8 "~~(27)~~ Fuel for use or consumption aboard commercial
9 fishing vessels are hereby exempt from the payment of the
10 state use tax levied under this article, or levied under any
11 county or municipal use tax law.

12 "~~The words commercial fishing vessels shall mean~~
13 vessels whose masters and owners are regularly and exclusively
14 engaged in fishing as their means of livelihood.

15 "~~(28)~~ The storage, use, or withdrawal of sawdust,
16 wood shavings, wood chips, and other like materials purchased
17 for use as chicken litter by poultry producers and poultry
18 processors shall be exempt under this article.

19 "~~(29)~~ The storage, use or other consumption of all
20 antibiotics, hormones and hormone preparations, drugs,
21 medicines and other medications including serums and vaccines,
22 vitamins, minerals or other nutrients for use in the
23 production and growing of fish, livestock, and poultry are
24 hereby specifically exempted from the payment of the state use
25 tax levied by this article. Such exemption as herein granted
26 shall be in addition to the exemptions now provided by law for
27 feed for fish, livestock, and poultry, and in addition to the

1 ~~exemptions now provided by law for the above-enumerated~~
2 ~~substances and products when mixed and used as ingredients in~~
3 ~~fish, livestock and poultry feeds.~~

4 "(8) ~~(30)~~ All medicines prescribed by physicians for
5 persons who are 65 years of age or older, and when said
6 prescriptions are filled by licensed pharmacists, shall be
7 exempted from the operation of the state use tax law levied by
8 this article, or by any county or municipal use tax law. The
9 exemptions provided in this subdivision shall not apply to any
10 medicine purchased in any manner other than as is herein
11 provided.

12 "For the purposes of this subdivision, proof of age
13 may be accomplished by filing with the dispensing pharmacist
14 any one or more of the following documents:

15 "a. The name and claim number as shown on a
16 "Medicare" card issued by the United States Social Security
17 Administration.

18 "b. A certificate executed by any adult person
19 having knowledge of the fact that the person for whom the
20 medicine was prescribed is not less than 65 years of age.

21 "c. An affidavit executed by any adult person having
22 knowledge of the fact that the person for whom the medicine
23 was prescribed is not less than 65 years of age.

24 "For the purposes of this subdivision any person
25 filing a false proof of age shall be guilty of a misdemeanor
26 and upon conviction thereof shall be punished by a fine of one
27 hundred dollars (\$100).

1 ~~"(31) All diesel fuel used for off-highway~~
2 ~~agricultural purposes.~~

3 ~~"(32) The storage, use or other consumption of any~~
4 ~~aircraft and replacement parts, components, systems, supplies~~
5 ~~and sundries affixed or used on said aircraft and ground~~
6 ~~support equipment and vehicles used by or for the aircraft by~~
7 ~~a certificated or licensed air carrier with a hub operation~~
8 ~~within this state, for use in conducting intrastate,~~
9 ~~interstate or foreign commerce for transporting people or~~
10 ~~property by air. For the purpose of this subdivision, the~~
11 ~~words "hub operation within this state" shall be construed to~~
12 ~~have all of the following criteria:~~

13 ~~"a. There originates from the location 15 or more~~
14 ~~flight departures and five or more different first-stop~~
15 ~~destinations five days per week for six or more months during~~
16 ~~the calendar year; and~~

17 ~~"b. Passengers and/or property are regularly~~
18 ~~exchanged at the location between flights of the same or a~~
19 ~~different certificated or licensed air carrier.~~

20 ~~"(9) (33) The storage, use, or other consumption of~~
21 ~~hot or cold food and beverage products by a certificated or~~
22 ~~licensed air carrier with a hub operation within this state,~~
23 ~~for use in conducting intrastate, interstate, or foreign~~
24 ~~commerce for transporting people or property by air. For the~~
25 ~~purpose of this subdivision, the words "hub operation within~~
26 ~~this state" shall be construed to have all of the following~~
27 ~~criteria:~~

1 "a. There originates from the location 15 or more
2 flight departures and five or more different first-stop
3 destinations five days per week for six or more months during
4 the calendar year; and

5 "b. Passengers and/or property are regularly
6 exchanged at the location between flights of the same or a
7 different certificated or licensed air carrier.

8 ~~"(34) The storage, use, or other consumption of the~~
9 ~~following:~~

10 ~~"a. Drill pipe, casing, tubing, and other pipe used~~
11 ~~for the exploration for or production of oil, gas, sulphur, or~~
12 ~~other minerals in offshore federal waters.~~

13 ~~"b. Tangible personal property exclusively used for~~
14 ~~the exploration for or production of oil, gas, sulphur, or~~
15 ~~other minerals in offshore federal waters.~~

16 ~~"c. Fuel and supplies for use or consumption aboard~~
17 ~~boats, ships, aircraft, and towing vessels when used~~
18 ~~exclusively in transporting persons or property between a~~
19 ~~point in Alabama and a point or points in offshore federal~~
20 ~~waters for the exploration for or production of oil, gas,~~
21 ~~sulphur, or other minerals in offshore federal waters.~~

22 ~~"d. Drilling equipment that is used for the~~
23 ~~exploration for or production of oil, gas, sulphur, or other~~
24 ~~minerals, that is built for exclusive use outside this state~~
25 ~~and that is, on completion, removed forthwith from this state.~~

26 ~~"e. All domestically mined or produced coal, coke,~~
27 ~~and coke by-products used in cogeneration plants in Alabama.~~

1 ~~"The delivery of items exempted by this subdivision~~
2 ~~to the purchaser or lessee in this state does not disqualify~~
3 ~~the purchaser or lessee from the exemption if the property is~~
4 ~~removed from the state by any means, including by the use of~~
5 ~~the purchaser's or lessee's own facilities.~~

6 ~~"The shipment to a place in this state of equipment~~
7 ~~exempted by this subdivision for further assembly or~~
8 ~~fabrication does not disqualify the purchaser or lessee from~~
9 ~~the exemption if on completion of the further assembly or~~
10 ~~fabrication the equipment is removed forthwith from this~~
11 ~~state. This subdivision applies to a sale that may occur when~~
12 ~~the equipment exempted is further assembled or fabricated if~~
13 ~~on completion the equipment is removed forthwith from this~~
14 ~~state."~~

15 Section 2. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.