

1 HB279
2 148702-1
3 By Representatives McCutcheon, Johnson (W), Rich, Sanderford,
4 Long, Patterson, Williams (D), Burdine, Greer, Hall, Ball,
5 Hammon, Buttram, Robinson (J), Williams (P), Morrow, Greeson,
6 Henry, Black, Johnson (K), Collins and Carns
7 RFD: Transportation, Utilities and Infrastructure
8 First Read: 14-FEB-13

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8 SYNOPSIS: Under current law, certain sales of aviation
9 jet fuel are exempt from the excise tax provided
10 for in Section 40-17-325(a) that is paid at the
11 rack. Additionally, aviation jet fuel is subject
12 to the sales and use tax provisions of Chapter 23
13 of Title 40.

14 This bill provides for a refund of excise
15 tax paid on purchases of aviation jet fuel made by
16 air carriers conducting all-cargo operations
17 engaged in international flights. In addition,
18 this bill exempts purchases of aviation jet fuel
19 made by these air carriers from sales tax and
20 exempts the use, storage or consumption of this jet
21 fuel from the use tax.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to aviation jet fuel; to amend Section
2 40-17-239, Code of Alabama 1975, to provide for refunds of
3 excise tax paid on purchases of jet fuel made by air carriers
4 conducting scheduled all-cargo operations engaged in
5 international flights; to amend Section 40-23-4, Code of
6 Alabama 1975, to exempt from sales tax purchases of aviation
7 jet fuel made by air carriers conducting scheduled all-cargo
8 operations engaged in international flights; and to amend
9 Section 40-23-62, Code of Alabama 1975, to exempt from use tax
10 the use, storage or consumption of aviation jet fuel made by
11 air carriers conducting scheduled all-cargo operations engaged
12 in international flights.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 40-17-329, 49-23-4, and
15 40-23-62, Code of Alabama 1975, are amended to read as
16 follows:

17 "§40-17-329.

18 (a) Unless otherwise provided for in this
19 subsection, sales of motor fuel to the following are exempt
20 from the tax levied by subsection (a) of Section 40-17-325 and
21 shall not be paid at the rack:

22 (1) All motor fuel exported from this state for
23 which proof of export is available in the form of a terminal
24 issued destination state shipping document that is a. exported
25 by a supplier who is licensed in the destination state or b.
26 is sold by a supplier to a licensed exporter for immediate
27 export to a state for which the applicable destination state

1 motor fuel excise tax has been collected by the supplier who
2 is licensed to remit the tax to the destination state. This
3 exemption shall not apply to any motor fuel which is
4 transported and delivered outside this state in the motor fuel
5 supply tank of a highway vehicle.

6 (2) All sales of dyed diesel fuel.

7 (3) Gasoline blendstocks when sold to a. a licensed
8 supplier or b. a person who will not be using the blendstocks
9 in the manufacture of gasoline or as a motor fuel, as
10 evidenced by the exemption certificate prescribed under
11 regulations promulgated under Section 4081, Title 26 of the
12 United States Code.

13 (4) All motor fuel sold by a licensed supplier or
14 licensed permissive supplier to an exempt agency electing to
15 be licensed under Section 40-17-332.

16 (5) Motor fuel that is delivered by a licensed
17 supplier from one terminal to another terminal when ownership
18 in the motor fuel has not changed, or by a licensed supplier
19 from a terminal to a refinery operated by the licensed
20 supplier.

21 ~~(6) Aviation jet fuel sold by a licensed supplier to~~
22 ~~an air carrier that purchases jet fuel in a Foreign Trade Zone~~
23 ~~located within this state and uses the jet fuel to propel~~
24 ~~aircraft powered by jet or turbine engines operated in~~
25 ~~scheduled all-cargo operations being conducted on~~
26 ~~international flights or in international commerce. For the~~

1 ~~purposes of this subdivision, the following words or terms~~
2 ~~shall be defined and interpreted as follows:~~

3 ~~a. Air Carrier. Any person, firm, corporation, or~~
4 ~~entity undertaking by any means, directly or indirectly, to~~
5 ~~provide air transportation.~~

6 ~~b. All-Cargo Operations. Any flight conducted by an~~
7 ~~air carrier for compensation or hire other than a passenger~~
8 ~~carrying flight, except passengers as specified in Section~~
9 ~~121.583 (a) or 135.85 of the Federal Aviation Regulations, as~~
10 ~~amended.~~

11 ~~c. International Commerce. Any air carrier engaged~~
12 ~~in all-cargo operations transporting goods for compensation or~~
13 ~~hire on international flights.~~

14 ~~d. International Flights. Any air carrier conducting~~
15 ~~scheduled all-cargo operations between any point within the 50~~
16 ~~states of the United States and the District of Columbia and~~
17 ~~any point outside the 50 states of the United States and the~~
18 ~~District of Columbia, including any interim stops within the~~
19 ~~United States so long as the ultimate origin or destination of~~
20 ~~the aircraft is outside the United States and the District of~~
21 ~~Columbia.~~

22 (b) Having first paid the tax owed under this
23 article, a licensed distributor shall have the right to apply
24 to the department on a monthly basis for a refund of the taxes
25 paid on the gallons sold by that licensed distributor to the
26 exempt agencies listed under subsection (e), provided the

1 exempt agency has elected to obtain a license under Section 40-17-332.

2 (c) Having first paid the tax owed under this
3 article, an exporter shall have the right to apply to the
4 department on a monthly basis for a refund of the taxes paid
5 to this state on the gallons of motor fuel that are ultimately
6 exported by the exporter. The department will require the
7 exporter to provide proof of payment of the applicable
8 destination state excise taxes before issuing a refund.

9 (d) Having first paid the tax owed under this
10 article, a licensed aviation fuel purchaser shall have the
11 right to apply to the department on a monthly basis for a
12 refund of the taxes paid to this state on the gallons of jet
13 fuel sold to ~~an~~ a certified or licensed air carrier that
14 purchases jet fuel in a ~~foreign trade zone located~~ within this
15 state and uses the jet fuel to propel aircraft powered by jet
16 or turbine engines operated in scheduled all-cargo operations
17 being conducted on international flights or in international
18 commerce. For the purposes of this subsection, the following
19 words or terms shall be defined and interpreted as follows:

20 (1) AIR CARRIER. Any person, firm, corporation, or
21 entity undertaking by any means, directly or indirectly, to
22 provide air transportation.

23 (2) ALL-CARGO OPERATIONS. Any flight conducted by an
24 air carrier for compensation or hire other than a passenger
25 carrying flight, except passengers as specified in Section
26 121.583 (a) or 135.85 of the Federal Aviation Regulations, as
27 amended.

1 (3) INTERNATIONAL COMMERCE. Any air carrier engaged
2 in all-cargo operations transporting goods for compensation or
3 hire on international flights.

4 (4) INTERNATIONAL FLIGHTS. Any air carrier
5 conducting scheduled all-cargo operations between any point
6 within the 50 states of the United States and the District of
7 Columbia and any point outside the 50 states of the United
8 States and the District of Columbia, including any interim
9 stops within the United States so long as the ultimate origin
10 or destination of the aircraft is outside the United States
11 and the District of Columbia.

12 (e) Having first paid the tax to its vendor, the
13 following entities shall have the right to apply to the
14 department for a refund on a quarterly basis for any purchases
15 of motor fuel:

16 (1) The United States government or any agency
17 thereof.

18 (2) Any county governing body of this state.

19 (3) Any incorporated municipal governing body of
20 this state.

21 (4) City and county boards of education of this
22 state.

23 (5) The Alabama Institute for Deaf and Blind, the
24 Department of Youth Services school district, and private and
25 church school systems as defined in Section 16-28-1, and which
26 offer essentially the same curriculum as offered in grades
27 K-12 in the public schools of this state.

1 (f) If the sale of taxable motor fuel to exempt
2 entities listed in subsection (e) occurs at a fixed retail
3 pump available to the general public and is charged to a
4 credit card issued to the exempt entity, the issuer of the
5 card, having billed the exempt entity without the tax, may
6 apply on a quarterly basis for a refund of the motor fuel
7 excise taxes by submitting the application and supporting
8 documentation as prescribed by the department.

9 (g) Having first paid the tax, a licensed air
10 carrier with a hub operation within this state shall have the
11 right to apply to the department for a refund on a quarterly
12 basis for any purchases of jet fuel used to propel aircraft.
13 For the purposes of this subsection, the words "hub operation
14 within this state" shall be construed to have all of the
15 following criteria:

16 (1) There originates from the location 15 or more
17 flight departures and five or more different first-stop
18 destinations five days per week for six or more months during
19 the calendar year; and

20 (2) Passengers and/or property are regularly
21 exchanged at the location between flights of the same or a
22 different certificated or licensed air carrier.

23 (h) End users who first pay the tax levied by
24 subdivision (2) of subsection (a) of Section 40-17-325 on all
25 gallons of diesel fuel used in designated off-road vehicles,
26 other off-road equipment, or for other off-road use may apply
27 to the department for a refund on a quarterly basis.

1 (i) End users who first pay the tax levied by
2 subdivision (1) of subsection (a) of Section 40-17-325 on
3 gallons of gasoline blendstocks not used in the manufacture of
4 gasoline or as a motor fuel may apply to the department for a
5 refund on a quarterly basis.

6 (j) Tax paid on motor fuel that (1) is lost or
7 destroyed as a direct result of a sudden and unexpected
8 casualty, or (2) becomes unsalable or unusable as highway fuel
9 due to such things as the contamination by dye or mixture of
10 gasoline and diesel shall be refundable.

11 (k) Tax paid on transmix not used as a motor fuel or
12 that is delivered to a refinery for further processing shall
13 be refundable, with the person so using the transmix being
14 eligible to file for the refund on a quarterly basis.

15 (l) Tax paid on motor fuel within the bulk transfer
16 system may be refunded upon sufficient proof that (1) a second
17 tax had been paid pursuant to Section 40-17-325 or (2) the
18 fuel was exported to another state or country. The party
19 paying the second tax or exporting the fuel may file for a
20 refund on a monthly basis.

21 "§40-23-4.

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

26 (1) The gross proceeds of the sales of lubricating
27 oil and gasoline as defined in Sections 40-17-30 and 40-17-170

1 and the gross proceeds from those sales of lubricating oil
2 destined for out-of-state use which are transacted in a manner
3 whereby an out-of-state purchaser takes delivery of such oil
4 at a distributor's plant within this state and transports it
5 out-of-state, which are otherwise taxed.

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

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

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

23 (5) The gross proceeds of sales of all livestock by
24 whomsoever sold, and also the gross proceeds of poultry and
25 other products of the farm, dairy, grove, or garden, when in
26 the original state of production or condition of preparation
27 for sale, when such sale or sales are made by the producer or

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

7 (6) Cottonseed meal exchanged for cottonseed at or
8 by cotton gins.

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

23 (8) The gross proceeds of sales or gross receipts of
24 or by any person, firm, or corporation, from the sale of
25 transportation, gas, water, or electricity, of the kinds and
26 natures, the rates and charges for which, when sold by public

1 utilities, are customarily fixed and determined by the Public
2 Service Commission of Alabama or like regulatory bodies.

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

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

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

23 (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 (19) The gross proceeds received from the sale or
9 furnishing of food, including potato chips, candy, fruit and
10 similar items, soft drinks, tobacco products, and stationery
11 and other similar or related articles by hospital canteens
12 operated by Alabama state hospitals at Bryce Hospital and
13 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 (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 (30) The gross proceeds of the sale or sales of all
2 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 having
15 knowledge of the fact that the person for whom the medicine
16 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
23 \$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 seed
20 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.

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 more
19 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 (41) The gross receipts from the sale of hot or cold
16 food and beverage products sold to or by a certificated or
17 licensed air carrier with a hub operation within this state,
18 for use in conducting intrastate, interstate, or foreign
19 commerce for transporting people or property by air. For the
20 purpose of this subdivision, the words "hub operation within
21 this state" shall be construed to have all of the following
22 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 receipts from the sale of any
5 aviation jet fuel to a certificated or licensed air carrier
6 purchased for use in scheduled all-cargo operations being
7 conducted on international flights or in international
8 commerce. For purposes of this subdivision, the following
9 words or terms shall be defined and interpreted as follows:

10 a. Air Carrier. Any person, firm, corporation, or
11 entity undertaking by any means, directly or indirectly, to
12 provide air transportation.

13 b. All-Cargo Operations. Any flight conducted by an
14 air carrier for compensation or hire other than a passenger
15 carrying flight, except passengers as specified in 14 C.F.R.
16 §121.583(a) or 14 C.F.R. §135.85, as amended.

17 c. International Commerce. Any air carrier engaged
18 in all-cargo operations transporting goods for compensation or
19 hire on international flights.

20 d. International Flights. Any air carrier conducting
21 scheduled all-cargo operations between any point within the 50
22 states of the United States and the District of Columbia and
23 any point outside the 50 states of the United States and the
24 District of Columbia, including any interim stops within the
25 United States so long as the ultimate origin or destination of
26 the aircraft is outside the United States and the District of
27 Columbia.

1 ~~(42)~~ (43) The gross proceeds of the sale or sales of
2 the following:

3 a. Drill pipe, casing, tubing, and other pipe used
4 for the exploration for or production of oil, gas, sulphur, or
5 other minerals in offshore federal waters.

6 b. Tangible personal property exclusively used for
7 the exploration for or production of oil, gas, sulphur, or
8 other minerals in offshore federal waters.

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

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

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

24 The shipment to a place in this state of equipment
25 exempted by this subdivision for further assembly or
26 fabrication does not disqualify the purchaser or lessee from
27 the exemption if on completion of the further assembly or

1 fabrication the equipment is removed forthwith from this
2 state. This subdivision applies to a sale that may occur when
3 the equipment exempted is further assembled or fabricated if
4 on completion the equipment is removed forthwith from this
5 state.

6 ~~(43)~~ (44) The gross receipts derived from all bingo
7 games and operations which are conducted in compliance with
8 validly enacted legislation authorizing the conduct of such
9 games and operations, and which comply with the distribution
10 requirements of the applicable local laws; provided that the
11 exemption from sales taxation granted by this subdivision
12 shall apply only to gross receipts taxable under subdivision
13 (2) of Section 40-23-2. It is further provided that this
14 exemption shall not apply to any gross receipts from the sale
15 of tangible personal property, such as concessions, novelties,
16 food, beverages, etc. The exemption provided for in this
17 section shall be limited to those games and operations by
18 organizations which have qualified for exemption under the
19 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
20 (19), or which are defined in 26 U.S.C. § 501(d).

21 ~~(44)~~ (45) The gross receipts derived from the sale
22 or sales of fruit or other agricultural products by the person
23 or corporation that planted, cultivated, and harvested such
24 fruit or agricultural product.

25 ~~(45)~~ (46) The gross receipts derived from the sale
26 or sales of all domestically mined or produced coal, coke, and
27 coke by-products used in cogeneration plants.

1 ~~(46)~~ (47) The gross receipts from the sale or sales
2 of metal, other than gold or silver, when such metal is
3 purchased for the purpose of transferring such metal to an
4 investment trust in exchange for shares or other units, each
5 of which are both publicly traded and represent fractional
6 undivided beneficial interests in the trust's net assets,
7 including metal stored in warehouses located in this state, as
8 well as the gross proceeds from the sale or other transfer of
9 such metal to or from such investment trust in exchange for
10 shares or other units that are publicly traded and represent
11 fractional undivided beneficial interests in the trust's net
12 assets but not to the extent that metal is transferred to or
13 from the investment trust in exchange for consideration other
14 than such publicly traded shares or other units. For purposes
15 of this subdivision, the term metals includes, but is not
16 limited to, copper, aluminum, nickel, zinc, tin, lead, and
17 other similar metals typically used in commercial and
18 industrial applications.

19 ~~(47)~~ (48) For the period commencing on October 1,
20 2012, and ending May 30, 2022, unless extended by joint
21 resolution, the gross receipts from the sale of parts,
22 components, and systems that become a part of a fixed or
23 rotary wing military aircraft or certified transport category
24 aircraft that undergoes conversion, reconfiguration, or
25 general maintenance so long as the address of the aircraft for
26 FAA registration is not in the state; provided, however, that
27 this exemption shall not apply to a local sales tax unless

1 previously exempted by local law or approved by resolution of
2 the local governing body.

3 (b) Any violation of any provision of this section
4 shall be punishable in a court of competent jurisdiction by a
5 fine of not less than \$500 and no more than \$2,000 and
6 imprisonment of not less than six months nor more than one
7 year in the county jail.

8 "§40-23-62.

9 The storage, use or other consumption in this state
10 of the following tangible personal property is hereby
11 specifically exempted from the tax imposed by this article:

12 (1) Property, on which the sales tax imposed by the
13 provisions of Article 1 of this chapter is paid by the
14 consumer to a person licensed under the provisions of Article
15 1 of this chapter.

16 (2) Property, the storage, use or other consumption
17 of which this state is prohibited from taxing under the
18 Constitution or laws of the United States of America or under
19 the constitution of this state.

20 (3) Tangible personal property, not to be used in
21 the performance of a contract, brought into this state by a
22 nonresident thereof for his own storage, use or consumption
23 while temporarily within this state.

24 (4) Lubricating oil and gasoline as defined in
25 Sections 40-17-30 and 40-17-170, the storage, use or other
26 consumption of which is otherwise taxed.

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

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

8 (7) Insecticides and fungicides and feed for
9 livestock and poultry, but not including prepared foods for
10 dogs and cats.

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

22 (9) Cottonseed meal exchanged for cottonseed at or
23 by cotton gins.

24 (10) Transportation, gas, water, or electricity, of
25 the kinds and natures, the rates and charges for which when
26 sold by public utilities, are customarily fixed and determined

1 by the Public Service Commission of Alabama or like regulatory
2 bodies.

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

7 a. In manufacturing tangible personal property for
8 sale;

9 b. For the generation of electric power or energy
10 for use in manufacturing tangible personal property for sale
11 or for resale; or

12 c. For the generation of motive power for
13 transportation.

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

1 Resources. 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 form
14 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 (13) Property stored, used or consumed by the State
5 of Alabama, by the counties within the state or by
6 incorporated municipalities of the State of Alabama.

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

25 (15) The use, storage, or consumption of fuel oil
26 purchased as fuel for kilns used in manufacturing
27 establishments.

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

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

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

20 (19) When dealers or distributors use parts taken
21 from stocks owned by them in making repairs without charge for
22 such parts to the owner of the property required pursuant to
23 warranty agreements entered into by manufacturers, such use
24 shall not constitute taxable sales to the manufacturers,
25 distributors or to the dealers, under this article, or under
26 any county use tax law.

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

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

20 (22) The storage, use, or other consumption of all
21 antibiotics, hormones and hormone preparations, drugs,
22 medicines or medications, vitamins, minerals, or other
23 nutrients and all other feed ingredients including
24 concentrates, supplements and other feed ingredients when such
25 substances are used as ingredients in mixing and preparing
26 feed for livestock and poultry. Such exemption herein granted
27 shall be in addition to exemptions now provided by law for

1 feed for livestock and poultry, but not including prepared
2 foods for dogs and cats.

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

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

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

26 (26) The Alabama Chapter of the Cystic Fibrosis
27 Research Foundation, and the Jefferson Tuberculosis Sanatorium

1 and any of their departments or agencies, heretofore or
2 hereafter organized and existing in good faith in the State of
3 Alabama for purposes other than for pecuniary gain and not for
4 individual profit, shall be exempted from the payment of the
5 state use tax levied under this article.

6 (27) Fuel for use or consumption aboard commercial
7 fishing vessels are hereby exempt from the payment of the
8 state use tax levied under this article, or levied under any
9 county or municipal use tax 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 storage, use, or withdrawal of sawdust,
14 wood shavings, wood chips, and other like materials purchased
15 for use as chicken litter by poultry producers and poultry
16 processors shall be exempt under this article.

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

1 substances and products when mixed and used as ingredients in
2 fish, livestock and poultry feeds.

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

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

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

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

23 For the purposes of this subdivision any person
24 filing a false proof of age shall be guilty of a misdemeanor
25 and upon conviction thereof shall be punished by a fine of
26 \$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 (33) The storage, use or other consumption of any
21 aviation jet fuel used by an aircraft operated by a
22 certificated or licensed air carrier that purchases jet fuel
23 for use in scheduled all-cargo operations being conducted on
24 international flights or in international commerce. For
25 purposes of this subdivision, the following words or terms
26 shall be defined and interpreted as follows:

1 a. Air Carrier. Any person, firm, corporation, or
2 entity undertaking by any means, directly or indirectly, to
3 provide air transportation.

4 b. All-Cargo Operations. Any flight conducted by an
5 air carrier for compensation or hire other than a passenger
6 carrying flight, except passengers as specified in 14 C.F.R.
7 §121.583(a) or 14 C.F.R. §135.85, as amended.

8 c. International Commerce. Any air carrier engaged
9 in all-cargo operations transporting goods for compensation or
10 hire on international flights.

11 d. International Flights. Any air carrier conducting
12 scheduled all-cargo operations between any point within the 50
13 states of the United States and the District of Columbia and
14 any point outside the 50 states of the United States and the
15 District of Columbia, including any interim stops within the
16 United States so long as the ultimate origin or destination of
17 the aircraft is outside the United States and the District of
18 Columbia.

19 ~~(33)~~ (34) The storage, use, or other consumption of
20 hot or cold food and beverage products by a certificated or
21 licensed air carrier with a hub operation within this state,
22 for use in conducting intrastate, interstate, or foreign
23 commerce for transporting people or property by air. For the
24 purpose of this subdivision, the words "hub operation within
25 this state" shall be construed to have all of the following
26 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)~~ (35) The storage, use, or other consumption of
9 the 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 ~~(35)~~ (36) The storage or use of metal, other than
16 gold or silver, when such metal is held by an investment trust
17 the shares or other units in the trust's net assets of which
18 have been issued in exchange for such metal and are publicly
19 traded, including metal stored in warehouses located in this
20 state. For purposes of this subdivision, the term metals
21 includes, but is not limited to, copper, aluminum, nickel,
22 zinc, tin, lead, and other similar metals typically used in
23 commercial and industrial applications.

24 Section 2. The provisions of this act are
25 retroactive to October 1, 2012.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.