

1 HB25
2 171089-2
3 By Representatives Johnson (K), Mooney and Ingram
4 RFD: Ways and Means Education
5 First Read: 03-AUG-15

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ENROLLED, An Act,

To amend Section 40-23-2 of the Code of Alabama 1975, relating to the taxation of sales of automobiles, motorcycles, trucks, truck trailers, or semi-trailers that will be registered or titled outside of Alabama or are exported or removed from Alabama within 72 hours by the purchaser, or his or her agent, for first time use outside Alabama.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-23-2 Code of Alabama 1975, is amended to read as follows:

"§40-23-2.

"There is levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

"(1) Upon every person, firm, or corporation, (including the State of Alabama and its Alcoholic Beverage Control Board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University, and all other institutions of higher learning in the state, whether the institutions be denominational, state, county, or municipal

1 institutions, any association or other agency or
2 instrumentality of the institutions) engaged or continuing
3 within this state, in the business of selling at retail any
4 tangible personal property whatsoever, including merchandise
5 and commodities of every kind and character, (not including,
6 however, bonds or other evidences of debts or stocks, nor
7 sales of material and supplies to any person for use in
8 fulfilling a contract for the painting, repair, or
9 reconditioning of vessels, barges, ships, other watercraft,
10 and commercial fishing vessels of over five tons load
11 displacement as registered with the U.S. Coast Guard and
12 licensed by the State of Alabama Department of Conservation
13 and Natural Resources), an amount equal to four percent of the
14 gross proceeds of sales of the business except where a
15 different amount is expressly provided herein. Provided,
16 however, that any person engaging or continuing in business as
17 a retailer and wholesaler or jobber shall pay the tax required
18 on the gross proceeds of retail sales of the business at the
19 rates specified, when his or her books are kept so as to show
20 separately the gross proceeds of sales of each business, and
21 when his or her books are not kept he or she shall pay the tax
22 as a retailer, on the gross sales of the business.

23 "Where any used part including tires of an
24 automotive vehicle or a truck trailer, semitrailer, or house
25 trailer is taken in trade, or in a series of trades, as a

1 credit or part payment on the sale of a new or rebuilt part or
2 tire, the tax levied herein shall be paid on the net
3 difference, that is, the price of the new or used part or tire
4 sold less the credit for the used part or tire taken in trade,
5 provided, however, this provision shall not be construed to
6 include batteries.

7 "(2) Upon every person, firm, or corporation engaged
8 or continuing within this state in the business of conducting
9 or operating places of amusement or entertainment, billiard
10 and pool rooms, bowling alleys, amusement devices, musical
11 devices, theaters, opera houses, moving picture shows,
12 vaudevilles, amusement parks, athletic contests, including
13 wrestling matches, prize fights, boxing and wrestling
14 exhibitions, football and baseball games, (including athletic
15 contests, conducted by or under the auspices of any
16 educational institution within this state, or any athletic
17 association thereof, or other association whether the
18 institution or association be a denominational, a state, or
19 county, or a municipal institution, or association or a state,
20 county, or city school, or other institution, association or
21 school), skating rinks, race tracks, golf courses, or any
22 other place at which any exhibition, display, amusement, or
23 entertainment is offered to the public or place or places
24 where an admission fee is charged, including public bathing
25 places, public dance halls of every kind and description

1 within the State of Alabama, an amount equal to four percent
2 of the gross receipts of any such business. Provided, however,
3 notwithstanding any language to the contrary in the prior
4 portion of this subdivision, the tax provisions so specified
5 shall not apply to any athletic event conducted by a public or
6 nonpublic primary or secondary school or any athletic event
7 conducted by or under the auspices of the Alabama High School
8 Athletic Association. The tax amount which would have been
9 collected pursuant to this subdivision shall continue to be
10 collected by the public or nonpublic primary or secondary
11 school, but shall be retained by the school which collected it
12 and shall be used by the school for school purposes.

13 "(3) Upon every person, firm, or corporation engaged
14 or continuing within this state in the business of selling at
15 retail machines used in mining, quarrying, compounding,
16 processing, and manufacturing of tangible personal property an
17 amount equal to one and one-half percent of the gross proceeds
18 of the sale of the machines. The term "machine," as herein
19 used, shall include machinery which is used for mining,
20 quarrying, compounding, processing, or manufacturing tangible
21 personal property, and the parts of the machines, attachments,
22 and replacements therefor, which are made or manufactured for
23 use on or in the operation of the machines and which are
24 necessary to the operation of the machines and are customarily
25 so used.

1 "(4) Upon every person, firm, or corporation engaged
2 or continuing within this state in the business of selling at
3 retail any automotive vehicle or truck trailer, semitrailer,
4 or house trailer, or mobile home set-up materials and supplies
5 including but not limited to steps, blocks, anchoring, cable
6 pipes, and any other materials pertaining thereto an amount
7 equal to two percent of the gross proceeds of sale of the
8 automotive vehicle or truck trailer, semitrailer, or house
9 trailer, or mobile home set-up materials and supplies
10 provided, however, where a person subject to the tax provided
11 for in this subdivision withdraws from his or her stock in
12 trade any automotive vehicle or truck trailer, semitrailer, or
13 house trailer for use by him or her or by his or her employee
14 or agent in the operation of the business, there shall be
15 paid, in lieu of the tax levied herein, a fee of five dollars
16 (\$5) per year or part thereof during which the automotive
17 vehicle, truck trailer, semitrailer, or house trailer shall
18 remain the property of the person. Each year or part thereof
19 shall begin with the day or anniversary date, as the case may
20 be, of such withdrawal and shall run for the 12 succeeding
21 months or part thereof during which the automotive vehicle,
22 truck trailer, semitrailer, or house trailer shall remain the
23 property of the person.

24 "Where any used automotive vehicle or truck trailer,
25 semitrailer, or house trailer is taken in trade or in a series

1 of trades, as a credit or part payment on the sale of a new or
2 used vehicle, the tax levied herein shall be paid on the net
3 difference, that is, the price of the new or used vehicle sold
4 less the credit for the used vehicle taken in trade.

5 "Sales of automobiles, motorcycles, trucks, truck
6 trailers, or semitrailers, excluding vehicle campers or
7 housecars as defined in Section 40-12-240, that will be
8 registered or titled outside Alabama, that are exported or
9 removed from Alabama within 72 hours by the purchaser or his
10 or her agent for first use outside Alabama are ~~not~~ subject to
11 the Alabama sales tax in an amount equal to only the state
12 automotive sales tax rate, unless the sales tax laws of the
13 state in which the purchaser will title or register the
14 vehicle, allows an Alabama resident to purchase a motor
15 vehicle for first titling and registering in Alabama without
16 the payment of tax to that state. The tax collected under this
17 export provision shall be Alabama sales tax and shall exclude
18 county and municipal sales tax. On January 1, 2016, and each
19 January 1 thereafter, the Alabama Department of Revenue shall
20 publish to the state's website a list of states that do not
21 allow drive out provisions to Alabama residents. Should the
22 list, required by this subsection and relied upon by the
23 taxpayer, be incorrect, the taxpayer shall be relieved from
24 the liability concerning the miscollection of the state
25 automotive sales tax. Sales of other vehicles such as mobile

1 homes, motor bikes, all terrain vehicles, and boats do not
2 qualify for the export exemption provision and are taxable
3 unless the dealer can provide factual evidence that the
4 vehicle was delivered outside of Alabama or to a common
5 carrier for transportation outside Alabama. In order for the
6 sale to be exempt from Alabama tax, the information relative
7 to the exempt sale shall be documented on forms approved by
8 the Revenue Department.

9 "Of the total \$.02 tax on each dollar of sale
10 provided hereunder, 58 percent of the total tax generated by
11 this subdivision (4) shall be deposited to the credit of the
12 Education Trust Fund; and 42 percent of the total tax
13 generated by this subdivision (4) shall be deposited to the
14 credit of the State General Fund.

15 "(5) Upon every person, firm, or corporation engaged
16 or continuing within this state in the business of selling
17 through coin-operated dispensing machines, food and food
18 products for human consumption, not including beverages other
19 than coffee, milk, milk products, and substitutes therefor,
20 there is levied a tax equal to three percent of the cost of
21 the food, food products, and beverages sold through the
22 machines, which cost for the purpose of this subdivision shall
23 be the gross proceeds of sales of the business."

24 Section 2. All laws or parts of laws which conflict
25 with this act are repealed.

1 Section 3. This act shall become effective on
2 January 1, 2016, following its passage and approval by the
3 Governor, or its otherwise becoming law.

