

1 SB274
2 218150-1
3 By Senator Livingston
4 RFD: Agriculture, Conservation and Forestry
5 First Read: 01-MAR-22

SYNOPSIS: Under current law, exemptions from sales taxation are provided to farmers selling certain agricultural products.

This bill would extend the exemption from sales taxation to producer value added agricultural products that are sold by the producer, the producer's family, or the producer's employees.

A BILL
TO BE ENTITLED
AN ACT

Related to sales tax; to amend Sections 40-23-1 and 40-23-4, Code of Alabama 1975; to exempt producer value added products from sales tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This bill shall be known as the "Sweet Grown Alabama Act."

Section 2. Sections 40-23-1 and 40-23-4, Code of Alabama 1975, are amended to read as follows:

1 "§40-23-1.

2 "(a) For the purpose of this division, the following
3 terms shall have the respective meanings ascribed by this
4 section:

5 "(1) PERSON or COMPANY. Used interchangeably,
6 includes any individual, firm, copartnership, association,
7 corporation, receiver, trustee, or any other group or
8 combination acting as a unit and the plural as well as the
9 singular number, unless the intention to give a more limited
10 meaning is disclosed by the context.

11 "(2) DEPARTMENT. The Department of Revenue of the
12 State of Alabama.

13 "(3) COMMISSIONER. The Commissioner of Revenue of
14 the State of Alabama.

15 "(4) TAX YEAR or TAXABLE YEAR. The calendar year.

16 "(5) SALE or SALES. Installment and credit sales and
17 the exchange of properties as well as the sale thereof for
18 money, every closed transaction constituting a sale. Provided,
19 however, a transaction shall not be closed or a sale completed
20 until the time and place when and where title is transferred
21 by the seller or seller's agent to the purchaser or
22 purchaser's agent, and for the purpose of determining transfer
23 of title, a common carrier or the U.S. Postal Service shall be
24 deemed to be the agent of the seller, regardless of any F.O.B.
25 point and regardless of who selects the method of
26 transportation, and regardless of by whom or the method by
27 which freight, postage, or other transportation charge is

1 paid. Provided further that, where billed as a separate item
2 to and paid by the purchaser, the freight, postage, or other
3 transportation charge paid to a common carrier or the U.S.
4 Postal Service is not a part of the selling price.

5 "(6) GROSS PROCEEDS OF SALES. The value proceeding
6 or accruing from the sale of tangible personal property, and
7 including the proceeds from the sale of any property handled
8 on consignment by the taxpayer, including merchandise of any
9 kind and character without any deduction on account of the
10 cost of the property sold, the cost of the materials used,
11 labor or service cost, interest paid, any consumer excise
12 taxes that may be included within the sales price of the
13 property sold, or any other expenses whatsoever, and without
14 any deductions on account of losses; provided, that cash
15 discounts allowed and taken on sales shall not be included,
16 and "gross proceeds of sales" shall not include the sale price
17 of property returned by customers when the full sales price
18 thereof is refunded either in cash or by credit. The term
19 "gross proceeds of sale" shall also mean and include the
20 reasonable and fair market value of any tangible personal
21 property previously purchased at wholesale which is withdrawn
22 or used from the business or stock and used or consumed in
23 connection with a business, and shall also mean and include
24 the reasonable and fair market value of any tangible personal
25 property previously purchased at wholesale which is withdrawn
26 from the business or stock and used or consumed by any person
27 so withdrawing the same, except property which has been

1 previously withdrawn from business or stock and so used or
2 consumed with respect to which property the tax has been paid
3 because of previous withdrawal, use, or consumption, except
4 property which enters into and becomes an ingredient or
5 component part of tangible personal property or products
6 manufactured or compounded for sale and not for the personal
7 and private use or consumption of any person so withdrawing,
8 using, or consuming the same, and except refinery, residue, or
9 fuel gas, whether in a liquid or gaseous state, that has been
10 generated by, or is otherwise a by-product of, a
11 petroleum-refining process, which gas is then utilized in the
12 process to generate heat or is otherwise utilized in the
13 distillation or refining of petroleum products.

14 "In the case of the retail sale of equipment,
15 accessories, fixtures, and other similar tangible personal
16 property used in connection with the sale of commercial mobile
17 services as defined herein, or in connection with satellite
18 television services, at a price below cost, "gross proceeds of
19 sale" shall only include the stated sales price thereof and
20 shall not include any sales commission or rebate received by
21 the seller as a result of the sale. As used herein, the term
22 "commercial mobile services" shall have the same meaning as
23 that term has in 47 U.S.C. Sections 153(n) and 332(d), as in
24 effect from time to time.

25 "(7) TAXPAYER. Any person liable for taxes
26 hereunder.

1 "(8) GROSS RECEIPTS. The value proceeding or
2 accruing from the sale of tangible personal property,
3 including merchandise and commodities of any kind and
4 character, all receipts actual and accrued, by reason of any
5 business engaged in, not including, however, interest,
6 discounts, rentals of real estate or royalties, and without
7 any deduction on account of the cost of the property sold, the
8 cost of the materials used, labor or service cost, interest
9 paid, any consumer excise taxes that may be included in the
10 sales price of the property sold, or any other expenses
11 whatsoever and without any deductions on account of losses.
12 The term "gross receipts" shall also mean and include the
13 reasonable and fair market value of any tangible personal
14 property previously purchased at wholesale which is withdrawn
15 or used from the business or stock and used or consumed in
16 connection with a business, and shall also mean and include
17 the reasonable and fair market value of any tangible personal
18 property previously purchased at wholesale which is withdrawn
19 from the business or stock and used or consumed by any person
20 so withdrawing the same, except property which has been
21 previously withdrawn from business or stock and so used or
22 consumed and with respect to which property the tax has been
23 paid because of previous withdrawal, use, or consumption,
24 except property which enters into and becomes an ingredient or
25 component part of tangible personal property or products
26 manufactured or compounded for sale as provided in subdivision
27 (9) and not for the personal and private use or consumption of

1 any person so withdrawing, using, or consuming the same, and
2 except refinery, residue, or fuel gas, whether in a liquid or
3 gaseous state, that has been generated by, or is otherwise a
4 by-product of, a petroleum-refining process, which gas is then
5 utilized in the process to generate heat or is otherwise
6 utilized in the distillation or refining of petroleum
7 products.

8 "(9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
9 the following:

10 "a. A sale of tangible personal property by
11 wholesalers to licensed retail merchants, jobbers, dealers, or
12 other wholesalers for resale and does not include a sale by
13 wholesalers to users or consumers, not for resale.

14 "b. A sale of tangible personal property or
15 products, including iron ore, and including the furnished
16 container and label of such property or products, to a
17 manufacturer or compounder which enter into and become an
18 ingredient or component part of the tangible personal property
19 or products which the manufacturer or compounder manufactures
20 or compounds for sale, whether or not such tangible personal
21 property or product used in manufacturing or compounding a
22 finished product is used with the intent that it becomes a
23 component of the finished product; provided, however, that it
24 is the intent of this section that no sale of capital
25 equipment, machinery, tools, or product shall be included in
26 the term "wholesale sale." The term "capital equipment,
27 machinery, tools, or product" shall mean property that is

1 subject to depreciation allowances for Alabama income tax
2 purposes.

3 "c. A sale of containers intended for one-time use
4 only, and the labels thereof, when containers are sold without
5 contents to persons who sell or furnish containers along with
6 the contents placed therein for sale by persons.

7 "d. A sale of pallets intended for one-time use only
8 when pallets are sold without contents to persons who sell or
9 furnish pallets along with the contents placed thereon for
10 sale by persons.

11 "e. A sale to a manufacturer or compounder, of
12 crowns, caps, and tops intended for one-time use employed and
13 used upon the containers in which a manufacturer or compounder
14 markets his products.

15 "f. A sale of containers to persons engaged in
16 selling or otherwise supplying or furnishing baby chicks to
17 growers thereof where containers are used for the delivery of
18 chicks or a sale of containers for use in the delivery of eggs
19 by the producer thereof to the distributor or packer of eggs
20 even though containers used for delivery of baby chicks or
21 eggs may be recovered for reuse.

22 "g. A sale of bagging and ties used in preparing
23 cotton for market.

24 "h. A sale to meat packers, manufacturers,
25 compounders, or processors of meat products of all casings
26 used in molding or forming wieners and Vienna sausages even
27 though casings may be recovered for reuse.

1 "i. A sale of commercial fish feed including
2 concentrates, supplements, and other feed ingredients when
3 substances are used as ingredients in mixing and preparing
4 feed for fish raised to be sold on a commercial basis.

5 "j. A sale of tangible personal property to any
6 person engaging in the business of leasing or renting tangible
7 personal property to others, if tangible personal property is
8 purchased for the purpose of leasing or renting it to others
9 under a transaction subject to the privilege or license tax
10 levied in Article 4 of Chapter 12 of this title against any
11 person engaging in the business of leasing or renting tangible
12 personal property to others.

13 "k. A purchase or withdrawal of parts or materials
14 from stock by any person licensed under this division where
15 parts or materials are used in repairing or reconditioning the
16 tangible personal property of a licensed person, which
17 tangible personal property is a part of the stock of goods of
18 a licensed person, offered for sale by him, and not for use or
19 consumption of a licensed person.

20 "(10) SALE AT RETAIL or RETAIL SALE. All sales of
21 tangible personal property except those above defined as
22 wholesale sales. The quantities of goods sold or prices at
23 which sold are immaterial in determining whether or not a sale
24 is at retail. Sales of building materials to contractors,
25 builders, or landowners for resale or use in the form of real
26 estate are retail sales in whatever quantity sold. Sales of
27 building materials, fixtures, or other equipment to a

1 manufacturer or builder of modular buildings for use in
2 manufacturing, building, or equipping a modular building
3 ultimately becoming a part of real estate situated in the
4 State of Alabama are retail sales, and the use, sale, or
5 resale of building shall not be subject to the tax. Sales of
6 tangible personal property to undertakers and morticians are
7 retail sales and subject to the tax at the time of purchase,
8 but are not subject to the tax on resale to the consumer.
9 Sales of tangible personal property or products to
10 manufacturers, quarry operators, mine operators, or
11 compounders, which are used or consumed by them in
12 manufacturing, mining, quarrying, or compounding and do not
13 become an ingredient or component part of the tangible
14 personal property manufactured or compounded as provided in
15 subdivision (9) are retail sales. The term "sale at retail" or
16 "retail sale" shall also mean and include the withdrawal, use,
17 or consumption of any tangible personal property by any one
18 who purchases same at wholesale, except property which has
19 been previously withdrawn from the business or stock and so
20 used or consumed and with respect to which property tax has
21 been paid because of previous withdrawal, use, or consumption,
22 except property which enters into and becomes an ingredient or
23 component part of tangible personal property or products
24 manufactured or compounded for sale as provided in subdivision
25 (9) and not for the personal and private use or consumption of
26 any person so withdrawing, using, or consuming the same; and
27 wholesale purchaser shall report and pay the taxes thereon. In

1 the case of the sale of equipment, accessories, fixtures, and
2 other similar tangible personal property used in connection
3 with the sale of commercial mobile services as defined in
4 subdivision (6) above, or in connection with satellite
5 television services, at a price below cost, the term "sale at
6 retail" and "retail sale" shall include those sales, and those
7 sales shall not also be taxable as a withdrawal, use, or
8 consumption of such tangible personal property.

9 "(11) BUSINESS. All activities engaged in, or caused
10 to be engaged in, with the object of gain, profit, benefit, or
11 advantage, either direct or indirect, and not excepting
12 subactivities producing marketable commodities used or
13 consumed in the main business activity, each of which
14 subactivities shall be considered business engaged in, taxable
15 in the class in which it falls.

16 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
17 crawler, crawler crane, ditcher, or any similar machine which
18 is self-propelled, in addition to self-propelled machines
19 which are used primarily as instruments of conveyance.

20 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a
21 prepaid telephone calling card or a prepaid authorization
22 number, or both, shall be deemed the sale of tangible personal
23 property subject to the tax imposed on the sale of tangible
24 personal property pursuant to this chapter. For purposes of
25 this subdivision, the sale of prepaid wireless service that is
26 evidenced by a physical card constitutes the sale of a prepaid
27 telephone calling card, and the sale of prepaid wireless

1 service that is not evidenced by a physical card constitutes
2 the sale of a prepaid authorization number.

3 "(14) PREPAID WIRELESS SERVICE. The right to use
4 mobile telecommunications service, which must be paid for in
5 advance and that is sold in predetermined units or dollars of
6 which the number declines with use in a known amount, and
7 which may include rights to use non-telecommunications
8 services or to download digital products or digital content.
9 For purposes of this subdivision, mobile telecommunications
10 service has the meaning ascribed by Section 40-21-120.

11 "(15) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid
12 solution or other material containing nicotine that is
13 depleted when used as a vapor product.

14 "(16) VAPOR PRODUCTS. Any non-lighted,
15 noncombustible product that employs a mechanical heating
16 element, battery, or electronic circuit regardless of shape or
17 size and that can be used to produce vapor from nicotine in a
18 solution. The term includes any vapor cartridge or other
19 container of nicotine in a solution or other form that is
20 intended to be used with or in an electronic cigarette,
21 electronic cigar, electronic cigarillo, electronic pipe, or
22 similar product or device. The term does not include any
23 product regulated by the United States Food and Drug
24 Administration under Chapter V of the Federal Food, Drug, and
25 Cosmetic Act.

26 "(17) PRODUCER VALUE ADDED AGRICULTURAL PRODUCTS.
27 Fruits or other agricultural products that have undergone some

1 degree of further processing by the original producer of the
2 agricultural product, including, but not limited to, whole
3 cuts of meat, bound cut flowers, jams, jellies, or boiled or
4 roasted peanuts.

5 "(b) The use within this state of tangible personal
6 property by the manufacturer thereof, as building materials in
7 the performance of a construction contract, shall, for the
8 purposes of this division, be considered as a retail sale
9 thereof by manufacturer, who shall also be construed as the
10 ultimate consumer of materials or property, and who shall be
11 required to report transaction and pay the sales tax thereon,
12 based upon the reasonable and fair market price thereof at the
13 time and place where same are used or consumed by him or it.
14 Where the contractor is the manufacturer or compounder of
15 ready-mix concrete or asphalt plant mix used in the
16 performance of a contract, whether the ready-mix concrete or
17 asphalt plant mix is manufactured or compounded at the job
18 site or at a fixed or permanent plant location, the tax
19 applies only to the cost of the ingredients that become a
20 component part of the ready-mix concrete or the asphalt plant
21 mix. The provisions of this subsection shall not apply to any
22 tangible personal property which is specifically exempted from
23 the tax levied in this division.

24 "(c) The sale of lumber by a lumber manufacturer to
25 a trucker for resale is a sale at wholesale as sales are
26 defined herein where the trucker is either a licensed dealer
27 in lumber or, if a resident of Alabama, has registered with

1 the Department of Revenue, and has received therefrom a
2 certificate of registration or, if a nonresident of this state
3 purchasing lumber for resale outside the State of Alabama, has
4 furnished to the lumber manufacturer his or her name, address
5 and the vehicle license number of the truck in which the
6 lumber is to be transported, which name, address, and vehicle
7 license number shall be shown on the sales invoice rendered by
8 the lumber manufacturer. The certificate provided for herein
9 shall be valid for the calendar year of its issuance and may
10 be renewed from year to year on application to the Department
11 of Revenue on or before January 31 of each succeeding year;
12 provided, that if not renewed the certificate shall become
13 invalid for the purpose of this division on February 1.

14 "(d) The dispensing or transferring of ophthalmic
15 materials, including lenses, frames, eyeglasses, contact
16 lenses, and other therapeutic optic devices, to a patient by a
17 licensed ophthalmologist, as a part of his or her professional
18 service, shall, for purposes of this division, constitute a
19 sale, subject to the state sales tax. The licensed
20 ophthalmologist or licensed optometrist shall collect the
21 state sales tax. In no event shall the providing of
22 professional services in connection with the dispensing or
23 transferring of ophthalmic materials, including dispensing
24 fees or fitting fees, by a licensed ophthalmologist or
25 licensed optometrist be considered a sale subject to the state
26 sales tax. When the ophthalmic materials are purchased by a
27 consumer covered by a third party benefit plan, including

1 Medicare, the sales tax shall be applicable to the amount that
2 the ophthalmologist, optometrist, or optician is reimbursed by
3 the third party benefit plan plus the amount that the consumer
4 pays to the ophthalmologist, optometrist, or optician at the
5 time of the sale. All transfers of ophthalmic materials by
6 opticians or optometrists shall be considered retail sales
7 subject to the state sales tax. The term supplier shall
8 include but not be limited to optical laboratories, ophthalmic
9 material wholesalers, or anyone selling ophthalmic materials
10 to ophthalmologists.

11 "(e) Notwithstanding the above, the withdrawal, use,
12 or consumption of a manufactured product by the manufacturer
13 thereof in quality control testing performed by employees or
14 independent contractors of the taxpayer, for purposes of this
15 division, shall not be deemed or considered to constitute a
16 transaction subject to sales tax, nor shall a gift by the
17 manufacturer of a manufactured product, withdrawn from the
18 manufacturer's inventory, to an entity listed in 26 U.S.C.
19 Sections 170(b) or (c), be considered a transaction subject to
20 sales tax.

21 "(f) Notwithstanding the foregoing, a gift by a
22 retailer of a product or products where the aggregate retail
23 value of any single gift is equal to or less than ten thousand
24 dollars (\$10,000), withdrawn from the retailer's inventory, to
25 an entity listed in 26 U.S.C. Sections 170(b) or (c) shall not
26 be deemed or considered to constitute a transaction subject to
27 sales and use tax.

1 "§40-23-4.

2 "(a) There are exempted from the provisions of this
3 division and from the computation of the amount of the tax
4 levied, assessed, or payable under this division the
5 following:

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

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

17 "(3) The gross proceeds of the sale, or sales, of
18 seeds for planting purposes and baby chicks and poults.
19 Nothing herein shall be construed to exempt or exclude from
20 the computation of the tax levied, assessed, or payable, the
21 gross proceeds of the sale or sales of plants, seedlings,
22 nursery stock, or floral products.

23 "(4) The gross proceeds of sales of insecticides and
24 fungicides when used for agricultural purposes or when used by
25 persons properly permitted by the Department of Agriculture
26 and Industries or any applicable local or state governmental
27 authority for structural pest control work and feed for

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

3 "(5) The gross proceeds of sales of all livestock by
4 whomsoever sold, and also the gross proceeds of poultry and
5 other products of the farm, dairy, grove, or garden, when in
6 the original state of production or condition of preparation
7 for sale, when such sale or sales are made by the producer or
8 members of his or her immediate family or for him by those
9 employed by him to assist in the production thereof. Nothing
10 herein shall be construed to exempt or exclude from the
11 measure or computation of the tax levied, assessed, or payable
12 hereunder, the gross proceeds of sales of poultry or poultry
13 products when not products of the farm.

14 "(6) Cottonseed meal exchanged for cottonseed at or
15 by cotton gins.

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

1 proceeds of sale thereof are otherwise specifically exempted
2 by the provisions of this division.

3 "(8) The gross proceeds of sales or gross receipts
4 of or by any person, firm, or corporation, from the sale of
5 transportation, gas, water, or electricity, of the kinds and
6 natures, the rates and charges for which, when sold by public
7 utilities, are customarily fixed and determined by the Public
8 Service Commission of Alabama or like regulatory bodies.

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

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

1 contract for the painting, repair, or reconditioning of
2 vessels, barges, ships, other watercraft, and commercial
3 fishing vessels of over five tons load displacement as
4 registered with the U.S. Coast Guard and licensed by the State
5 of Alabama Department of Conservation and Natural Resources.

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

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

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

9 "(11) The gross proceeds of sales of tangible
10 personal property to the State of Alabama, to the counties
11 within the state and to incorporated municipalities of the
12 State of Alabama.

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

19 "(13) The gross proceeds of the sale or sales of
20 materials, equipment, and machinery that, at any time, enter
21 into and become a component part of ships, vessels, towing
22 vessels or barges, or drilling ships, rigs or barges, or
23 seismic or geophysical vessels, other watercraft and
24 commercial fishing vessels of over five tons load displacement
25 as registered with the U.S. Coast Guard and licensed by the
26 State of Alabama Department of Conservation and Natural
27 Resources. Additionally, the gross proceeds from the sale or

1 sales of lifeboats, personal flotation devices, ring life
2 buoys, survival craft equipment, distress signals, EPIRB's,
3 fire extinguishers, injury placards, waste management plans
4 and logs, marine sanitation devices, navigation rulebooks,
5 navigation lights, sound signals, navigation day shapes, oil
6 placard cards, garbage placards, FCC SSL, stability
7 instructions, first aid equipment, compasses, anchor and radar
8 reflectors, general alarm systems, bilge pumps, piping, and
9 discharge and electronic position fixing devices which are
10 used on the aforementioned watercraft.

11 "(14) The gross proceeds of the sale or sales of
12 fuel oil purchased as fuel for kiln use in manufacturing
13 establishments.

14 "(15) The gross proceeds of the sale or sales of
15 tangible personal property to county and city school boards
16 within the State of Alabama, independent school boards within
17 the State of Alabama, all educational institutions and
18 agencies of the State of Alabama, the counties within the
19 state, or any incorporated municipalities of the State of
20 Alabama, and private educational institutions operating within
21 the State of Alabama offering conventional and traditional
22 courses of study, such as those offered by public schools,
23 colleges, or universities within the State of Alabama; but not
24 including nurseries, day care centers, and home schools.

25 "(16) The gross proceeds from the sale of all
26 devices or facilities, and all identifiable components
27 thereof, or materials for use therein, acquired primarily for

1 the control, reduction, or elimination of air or water
2 pollution and the gross proceeds from the sale of all
3 identifiable components of, or materials used or intended for
4 use in, structures built primarily for the control, reduction,
5 or elimination of air and water pollution.

6 "(17) The gross proceeds of sales of tangible
7 personal property or the gross receipts of any business which
8 the state is prohibited from taxing under the Constitution or
9 laws of the United States or under the Constitution of this
10 state.

11 "(18) When dealers or distributors use parts taken
12 from stocks owned by them in making repairs without charge for
13 such parts to the owner of the property repaired pursuant to
14 warranty agreements entered into by manufacturers, such use
15 shall not constitute taxable sales to the manufacturers,
16 distributors, or to the dealers, under this division or under
17 any county sales tax law.

18 "(19) The gross proceeds received from the sale or
19 furnishing of food, including potato chips, candy, fruit and
20 similar items, soft drinks, tobacco products, and stationery
21 and other similar or related articles by hospital canteens
22 operated by Alabama state hospitals at Bryce Hospital and
23 Partlow State School for Mental Deficients at Tuscaloosa,
24 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
25 benefit of the patients therein.

26 "(20) The gross proceeds of the sale, or sales, of
27 wrapping paper and other wrapping materials when used in

1 preparing poultry or poultry products for delivery, shipment,
2 or sale by the producer, processor, packer, or seller of such
3 poultry or poultry products, including pallets used in
4 shipping poultry and egg products, paper or other materials
5 used for lining boxes or other containers in which poultry or
6 poultry products are packed together with any other materials
7 placed in such containers for the delivery, shipment, or sale
8 of poultry or poultry products.

9 "(21) The gross proceeds of the sales of all
10 antibiotics, hormones and hormone preparations, drugs,
11 medicines or medications, vitamins, minerals or other
12 nutrients, and all other feed ingredients including
13 concentrates, supplements, and other feed ingredients when
14 such substances are used as ingredients in mixing and
15 preparing feed for fish raised to be sold on a commercial
16 basis, livestock, and poultry. Such exemption herein granted
17 shall be in addition to exemptions now provided by law for
18 feed for fish raised to be sold on a commercial basis,
19 livestock, and poultry, but not including prepared foods for
20 dogs or cats.

21 "(22) The gross proceeds of the sale, or sales, of
22 seedlings, plants, shoots, and slips which are to be used for
23 planting vegetable gardens or truck farms and other
24 agricultural purposes. Nothing herein shall be construed to
25 exempt, or exclude from the computation of the tax levied,
26 assessed, or payable, the gross proceeds of the sale, or the

1 use of plants, seedlings, shoots, slips, nursery stock, and
2 floral products, except as hereinabove exempted.

3 "(23) The gross proceeds of the sale, or sales, of
4 fabricated steel tube sections, when produced and fabricated
5 in this state by any person, firm, or corporation for any
6 vehicular tunnel for highway vehicular traffic, when sold by
7 the manufacturer or fabricator thereof, and also the gross
8 proceeds of the sale, or sales, of steel which enters into and
9 becomes a component part of such fabricated steel tube
10 sections of said tunnel.

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

25 "(25) The gross proceeds of sales of herbicides for
26 agricultural uses by whomsoever sold. The term herbicides, as
27 used in this subdivision, means any substance or mixture of

1 substances intended to prevent, destroy, repel, or retard the
2 growth of weeds or plants. It shall include preemergence
3 herbicides, postemergence herbicides, lay-by herbicides,
4 pasture herbicides, defoliant herbicides, and desiccant
5 herbicides.

6 "(26) The Alabama Chapter of the Cystic Fibrosis
7 Research Foundation and the Jefferson Tuberculosis Sanatorium
8 and any of their departments or agencies, heretofore or
9 hereafter organized and existing in good faith in the State of
10 Alabama for purposes other than for pecuniary gain and not for
11 individual profit, shall be exempted from the computation of
12 the tax on the gross proceeds of all sales levied, assessed,
13 or payable.

14 "(27) The gross proceeds from the sale or sales of
15 fuel for use or consumption aboard commercial fishing vessels
16 are hereby exempt from the computation of all sales taxes
17 levied, assessed, or payable under the provisions of this
18 division or levied under any county or municipal sales tax
19 law.

20 The words commercial fishing vessels shall mean
21 vessels whose masters and owners are regularly and exclusively
22 engaged in fishing as their means of livelihood.

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

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

1 medicines, and other medications including serums and
2 vaccines, vitamins, minerals, or other nutrients for use in
3 the production and growing of fish, livestock, and poultry by
4 whomsoever sold. Such exemption as herein granted shall be in
5 addition to the exemption provided by law for feed for fish,
6 livestock, and poultry, and in addition to the exemptions
7 provided by law for the above-enumerated substances and
8 products when mixed and used as ingredients in fish,
9 livestock, and poultry feed.

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

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

20 "a. The name and claim number as shown on a Medicare
21 card issued by the United States Social Security
22 Administration.

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

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

4 "For the purposes of this subdivision, any person
5 filing a false proof of age shall be guilty of a misdemeanor
6 and upon conviction thereof shall be punished by a fine of
7 \$100.

8 "(31) There shall be exempted from the tax levied by
9 this division the gross receipts of sales of grass sod of all
10 kinds and character when in the original state of production
11 or condition of preparation for sale, when such sales are made
12 by the producer or members of his or her family or for him by
13 those employed by him to assist in the production thereof;
14 provided, that nothing herein shall be construed to exempt
15 sales of sod by a person engaged in the business of selling
16 plants, seedlings, nursery stock, or floral products.

17 "(32) The gross receipts of sales of the following
18 items or materials which are necessary in the farm-to-market
19 production of tomatoes when such items or materials are used
20 by the producer or members of his or her family or for him by
21 those employed by him to assist in the production thereof:
22 Twine for tying tomatoes, tomato stakes, field boxes (wooden
23 boxes used to take tomatoes from the fields to shed), and
24 tomato boxes used in shipments to customers.

25 "(33) The gross proceeds from the sale of liquefied
26 petroleum gas or natural gas sold to be used for agricultural
27 purposes.

1 "(34) The gross receipts of sales from state
2 nurseries of forest tree seedlings.

3 "(35) The gross receipts of sales of forest tree
4 seed by the state.

5 "(36) The gross receipts of sales of Lespedeza
6 bicolor and other species of perennial plant seed and
7 seedlings sold for wildlife and game food production purposes
8 by the state.

9 "(37) The gross receipts of any aircraft
10 manufactured, sold, and delivered in this state if said
11 aircraft are not permanently domiciled in Alabama and are
12 removed to another state.

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

15 "(39) The gross proceeds from sales of admissions to
16 any sporting event which:

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

19 "b. Is hosted by a not-for-profit corporation
20 organized and existing under the laws of the State of Alabama;
21 and

22 "c. Determines a national championship of a national
23 organization, including but not limited to the Professional
24 Golfers Association of America, the Tournament Players
25 Association, the United States Golf Association, the United
26 States Tennis Association, and the National Collegiate
27 Athletic Association; and

1 "d. Has not been held in the State of Alabama on
2 more than one prior occasion, provided, however, that for such
3 purpose the Professional Golfers Association Championship, the
4 United States Open Golf Championship, the United States
5 Amateur Golf Championship of the United States Golf
6 Association, and the United States Open Tennis Championship
7 shall each be treated as a separate event.

8 "(40) The gross receipts from the sale of any
9 aircraft and replacement parts, components, systems, supplies,
10 and sundries affixed or used on said aircraft and ground
11 support equipment and vehicles used by or for the aircraft to
12 or by a certificated or licensed air carrier with a hub
13 operation within this state, for use in conducting intrastate,
14 interstate, or foreign commerce for transporting people or
15 property by air. For the purpose of this subdivision, the
16 words "hub operation within this state" shall be construed to
17 have all of the following criteria:

18 "a. There originates from the location 15 or more
19 flight departures and five or more different first-stop
20 destinations five days per week for six or more months during
21 the calendar year; and

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

25 "(41) The gross receipts from the sale of hot or
26 cold food and beverage products sold to or by a certificated
27 or licensed air carrier with a hub operation within this

1 state, for use in conducting intrastate, interstate, or
2 foreign commerce for transporting people or property by air.
3 For the purpose of this subdivision, the words "hub operation
4 within this state" shall be construed to have all of the
5 following criteria:

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

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

13 "(42) The gross receipts from the sale of any
14 aviation jet fuel to a certificated or licensed air carrier
15 purchased for use in scheduled all-cargo operations being
16 conducted on international flights or in international
17 commerce. For purposes of this subdivision, the following
18 words or terms shall be defined and interpreted as follows:

19 "a. Air Carrier. Any person, firm, corporation, or
20 entity undertaking by any means, directly or indirectly, to
21 provide air transportation.

22 "b. All-Cargo Operations. Any flight conducted by an
23 air carrier for compensation or hire other than a passenger
24 carrying flight, except passengers as specified in 14 C.F.R.
25 §121.583(a) or 14 C.F.R. §135.85, as amended.

1 "c. International Commerce. Any air carrier engaged
2 in all-cargo operations transporting goods for compensation or
3 hire on international flights.

4 "d. 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 "(43) The gross proceeds of the sale or sales of the
13 following:

14 "a. Drill pipe, casing, tubing, and other pipe used
15 for the exploration for or production of oil, gas, sulphur, or
16 other minerals in offshore federal waters.

17 "b. Tangible personal property exclusively used for
18 the exploration for or production of oil, gas, sulphur, or
19 other minerals in offshore federal waters.

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

26 "d. Drilling equipment that is used for the
27 exploration for or production of oil, gas, sulphur, or other

1 minerals, that is built for exclusive use outside this state
2 and that is, on completion, removed forthwith from this state.

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

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

17 "(44) The gross receipts derived from all bingo
18 games and operations which are conducted in compliance with
19 validly enacted legislation authorizing the conduct of such
20 games and operations, and which comply with the distribution
21 requirements of the applicable local laws; provided that the
22 exemption from sales taxation granted by this subdivision
23 shall apply only to gross receipts taxable under subdivision
24 (2) of Section 40-23-2. It is further provided that this
25 exemption shall not apply to any gross receipts from the sale
26 of tangible personal property, such as concessions, novelties,
27 food, beverages, etc. The exemption provided for in this

1 section shall be limited to those games and operations by
2 organizations which have qualified for exemption under the
3 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
4 (19), or which are defined in 26 U.S.C. § 501(d).

5 "(45) The gross receipts derived from the sale or
6 sales of fruit or other agricultural products by the person or
7 company, as defined in Section 40-23-1, that planted or
8 cultivated and harvested the fruit or agricultural product,
9 when the land is owned or leased by the seller.

10 "(46) The gross receipts derived from the sale or
11 sales of all domestically mined or produced coal, coke, and
12 coke by-products used in cogeneration plants.

13 "(47) The gross receipts from the sale or sales of
14 metal, other than gold or silver, when such metal is purchased
15 for the purpose of transferring such metal to an investment
16 trust in exchange for shares or other units, each of which are
17 both publicly traded and represent fractional undivided
18 beneficial interests in the trust's net assets, including
19 metal stored in warehouses located in this state, as well as
20 the gross proceeds from the sale or other transfer of such
21 metal to or from such investment trust in exchange for shares
22 or other units that are publicly traded and represent
23 fractional undivided beneficial interests in the trust's net
24 assets but not to the extent that metal is transferred to or
25 from the investment trust in exchange for consideration other
26 than such publicly traded shares or other units. For purposes
27 of this subdivision, the term metals includes, but is not

1 limited to, copper, aluminum, nickel, zinc, tin, lead, and
2 other similar metals typically used in commercial and
3 industrial applications.

4 "(48) For the period commencing on October 1, 2012,
5 and ending May 30, 2022, unless extended by joint resolution,
6 the gross receipts from the sale of parts, components, and
7 systems that become a part of a fixed or rotary wing military
8 aircraft or certified transport category aircraft that
9 undergoes conversion, reconfiguration, or general maintenance
10 so long as the address of the aircraft for FAA registration is
11 not in the state; provided, however, that this exemption shall
12 not apply to a local sales tax unless previously exempted by
13 local law or approved by resolution of the local governing
14 body.

15 "(49) The gross proceeds from the sale or sales
16 within school buildings of lunches to pupils of kindergarten,
17 grammar, and high schools, either public or private, that are
18 not sold for profit.

19 "(50) The gross proceeds of services provided by
20 photographers, including but not limited to sitting fees and
21 consultation fees, even when provided as part of a transaction
22 ultimately involving the sale of one or more photographs, so
23 long as the exempt services are separately stated to the
24 customer on a bill of sale, invoice, or like memorialization
25 of the transaction. For transactions occurring before October
26 1, 2017, neither the Department of Revenue nor local tax
27 officials may seek payment for sales tax not collected. With

1 regard to such transactions in which sales tax was collected
2 and remitted on services provided by photographers, neither
3 the taxpayer nor the entity remitting sales tax shall have the
4 right to seek refund of such tax.

5 "(51) a. For the period commencing on June 1, 2018,
6 and ending five years thereafter, unless extended by an act of
7 the Legislature, the gross proceeds of sales of bullion or
8 money, as defined in Section 40-1-1(7).

9 "b. For purposes of this subdivision, the following
10 words or terms shall be defined and interpreted as follows:

11 "1. Bullion. Gold, silver, platinum, palladium, or a
12 combination of each precious metal, that has gone through a
13 refining process and for which the item's value depends on its
14 mass and purity, and not on its form, numismatic value, or
15 other value. The term includes bullion in the form of bars,
16 ingots, or coins that meet the requirements set forth above.
17 Qualifying bullion may contain other metals or substances,
18 provided that the other substances are minimal in value
19 compared with the value of the gold, silver, platinum, or
20 palladium and the other substances do not add value to the
21 item. For purposes of this subparagraph, "gold, silver,
22 platinum, or palladium" does not include jewelry or works of
23 art.

24 "2. Mass Purity. An item's mass is its weight in
25 precious metal, and its purity is the amount of precious metal
26 contained within the item.

1 "3. Numismatic Value. An external value above and
2 beyond the base value of the underlying precious metal, due to
3 the item's rarity, condition, age, or other external factor.

4 "c. In order for bullion to qualify for the sales
5 tax exemption, gold, silver, platinum, and palladium items
6 must meet all of the following requirements:

7 "1. Must be refined.

8 "2. Must contain at least ninety percent gold,
9 silver, platinum, or palladium or some combination of these
10 metals.

11 "3. The sales price of the item must fluctuate with
12 and depend on the market price of the underlying precious
13 metal, and not on the item's rarity, condition, age, or other
14 external factor.

15 "(52) a. The gross proceeds of the initial retail
16 sales of adaptive equipment that is permanently affixed to a
17 motor vehicle.

18 "b. For the purposes of this subdivision, the
19 following words or terms shall be defined and interpreted as
20 follows:

21 "1. Adaptive Equipment. Equipment not generally used
22 by persons with normal mobility that is appropriate for use in
23 a motor vehicle and that is not normally provided by a motor
24 vehicle manufacturer.

25 "2. Motor Vehicle. A vehicle as defined in Section
26 40-12-240.

1 "3. Motor Vehicle Manufacturer. Every person engaged
2 in the business of constructing or assembling vehicles or
3 manufactured homes.

4 "c. In order to qualify for the exemption provided
5 for herein, the adaptive equipment must be separately stated
6 to the customer on a bill of sale, invoice, or like
7 memorialization of the transaction.

8 "(53) The gross receipts derived from the sale of
9 producer value added agricultural products when the sale is
10 made by the producer or by his or her immediate family, or for
11 the producer by his or her employees.

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

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