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3 SENATE FINANCE AND TAXATION EDUCATION COMMITTEE SUBSTITUTE FOR  
4 SB165

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9 SYNOPSIS: Under existing law, a sales and use tax of  
10 1.5 percent is levied by the state on the sale or  
11 the use of agricultural machinery and equipment.

12 This bill would provide that the sale or the  
13 use of agricultural machinery and equipment would  
14 be exempt from state sales or use tax. The  
15 exemptions would be phased in over a three-year  
16 period.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to agriculture; to amend Sections 40-23-37  
23 and 40-23-63 of the Code of Alabama 1975, to provide that the  
24 sale or the use, storage, and consumption of agricultural  
25 machinery and equipment for use on a farm would be exempt from  
26 state sales and use tax; to provide that the exemptions would  
27 be phased in over a three-year period.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 40-23-37 and 40-23-63 of the  
3 Code of Alabama 1975, are amended to read as follows:

4 "§40-23-37.

5 "(a) There is hereby levied, in lieu of the exempt  
6 from the state sales tax levied by Section 40-23-2, a  
7 privilege or license tax against the on any person on account  
8 of the business activities engaged in and in the amount to be  
9 determined by the application of rates against gross sales, or  
10 gross receipts, as the case may be as follows:

11 "~~Upon every~~ Any person, firm, or corporation engaged  
12 or continuing within this state in the business of selling at  
13 retail any machine, machinery, or equipment which is used in  
14 planting, cultivating, and harvesting farm products or for  
15 agriculture or agricultural purposes, or used in connection  
16 with the production of agricultural produce or products,  
17 livestock, or poultry on farms, and the parts of such  
18 machines, machinery, or equipment, attachments, and  
19 replacements therefor which are made or manufactured for use  
20 on or in the operation of such machine, machinery, or  
21 equipment, and which are necessary to and customarily used in  
22 the operation of such machine, machinery, or equipment, ~~an~~  
23 ~~amount equal to one and one-half percent of the gross proceeds~~  
24 ~~of the sale thereof; provided, that the one and one-half~~  
25 ~~percent rate~~ exemption provided herein prescribed with respect  
26 to parts, attachments, and replacements shall not apply to any  
27 automotive vehicle or trailer designed primarily for public

1 highway use, except farm trailers used primarily in the  
2 production and harvesting of agricultural commodities.

3 ~~"Where any used machine, machinery or equipment  
4 which is used in planting, cultivating and harvesting farm  
5 products, or used in connection with the production of  
6 agricultural produce or products, livestock and poultry on  
7 farms is taken in trade or in a series of trades as a credit  
8 or part payment on a sale of a new or used machine, machinery  
9 or equipment, the tax levied herein shall be paid on the net  
10 difference, that is, the price of the new or used machine,  
11 machinery or equipment sold, less the credit for the used  
12 machine, machinery or equipment taken in trade.~~

13 "(b) This exemption shall not apply to a local sales  
14 tax unless previously exempted by local law or approved by  
15 resolution of the local governing body.

16 "(c) For the purposes of this section, the terms  
17 "agriculture or agricultural" shall have the same meaning as  
18 those terms are defined in subdivision (1) of Section  
19 41-14-51.

20 "(d) The exemption provided in subsection (a) shall  
21 be phased in over a three-year period as follows: For the  
22 first year after the effective date of the act adding this  
23 amendatory language, the sales shall be taxed at one percent;  
24 for the second year, the sales shall be taxed at one-half of  
25 one percent; and commencing on the first day of the third year  
26 after the effective date of the act adding this language, the  
27 sales shall be fully exempt pursuant to subsection (a).

1           "(e) The exemption provided for in subsection (a)  
2 shall expire on August 31, 2024, unless extended by an act of  
3 the Legislature.

4           "(f) Beginning September 1, 2024, there is hereby  
5 levied, in lieu of the state sales tax levied by Section  
6 40-23-2, a privilege or license tax against the person on  
7 account of the business activities engaged in and in the  
8 amount to be determined by the application of rates against  
9 gross sales, or gross receipts, as the case may be as follows:

10           "Upon every person, firm or corporation engaged or  
11 continuing within this state in the business of selling at  
12 retail any machine, machinery or equipment which is used in  
13 planting, cultivating and harvesting farm products, or used in  
14 connection with the production of agricultural produce or  
15 products, livestock or poultry on farms, and the parts of such  
16 machines, machinery or equipment, attachments and replacements  
17 therefor which are made or manufactured for use on or in the  
18 operation of such machine, machinery or equipment, and which  
19 are necessary to and customarily used in the operation of such  
20 machine, machinery or equipment, an amount equal to one and  
21 one-half percent of the gross proceeds of the sale thereof;  
22 provided, that the one and one-half percent rate herein  
23 prescribed with respect to parts, attachments, and  
24 replacements shall not apply to any automotive vehicle or  
25 trailer designed primarily for public highway use, except farm  
26 trailers used primarily in the production and harvesting of  
27 agricultural commodities.

1           "Where any used machine, machinery or equipment  
2 which is used in planting, cultivating and harvesting farm  
3 products, or used in connection with the production of  
4 agricultural produce or products, livestock and poultry on  
5 farms is taken in trade or in a series of trades as a credit  
6 or part payment on a sale of a new or used machine, machinery,  
7 or equipment, the tax levied herein shall be paid on the net  
8 difference, that is, the price of the new or used machine,  
9 machinery or equipment sold, less the credit for the used  
10 machine, machinery or equipment taken in trade."

11           "\$40-23-63.

12           "(a) There is hereby ~~levied and imposed an exempt~~  
13 from the state excise tax on the storage, use, or other  
14 consumption in this state of any machine, machinery, or  
15 equipment which is used in planting, cultivating, and  
16 harvesting farm products or for agriculture or agricultural  
17 purposes, or used in connection with the production of  
18 agricultural produce or products, livestock, or poultry, or  
19 farms, and the parts of such machines, machinery or equipment,  
20 attachments, and replacements therefor which are made or  
21 manufactured for use on or in the operation of such machine,  
22 machinery, or equipment, and which are necessary to and  
23 customarily used in the operation of such machine, machinery,  
24 or equipment, which is purchased at retail ~~after October 1,~~  
25 ~~1966,~~ for storage, use, or other consumption in this state, ~~at~~  
26 ~~the rate of one and one-half percent of the sales price of~~  
27 ~~such property or the amount of tax collected by the seller,~~

1 ~~whichever is greater, provided, however, when the seller~~  
2 ~~follows the Department of Revenue's suggested use tax brackets~~  
3 ~~and his records prove that his following said brackets~~  
4 ~~resulted in a net undercollection of tax for the month, he may~~  
5 ~~report the tax due or tax collected whichever is less,~~  
6 ~~regardless of whether the retailer is or is not engaged in~~  
7 ~~business in this state. The tax herein levied and imposed~~  
8 ~~shall be in lieu of the excise tax levied and imposed by~~  
9 ~~Section 40-23-61; provided, that the one and one-half percent~~  
10 ~~rate exemption herein prescribed with respect to parts,~~  
11 ~~attachments, and replacements shall not apply to any~~  
12 ~~automotive vehicle or trailer designed primarily for public~~  
13 ~~highway use except farm trailers used primarily in the~~  
14 ~~production and harvesting of agricultural commodities.~~

15 ~~"Every person storing, using or otherwise consuming~~  
16 ~~in this state such tangible personal property purchased at~~  
17 ~~retail shall be liable for the tax imposed by this article,~~  
18 ~~and the liability shall not be extinguished until the tax has~~  
19 ~~been paid to this state; provided, that a receipt from a~~  
20 ~~retailer maintaining a place of business in this state or a~~  
21 ~~retailer authorized by the Department of Revenue under such~~  
22 ~~rules and regulations as the Commissioner of Revenue may~~  
23 ~~prescribe, to collect the tax imposed hereby and who shall for~~  
24 ~~the purpose of this article be regarded as a retailer~~  
25 ~~maintaining a place of business in this state, given to the~~  
26 ~~purchaser in accordance with the provisions of Section~~

1 ~~40-23-67, shall be sufficient to relieve the purchaser from~~  
2 ~~further liability for a tax to which such receipt may refer.~~

3 "(b) This exemption shall not apply to a local use  
4 tax unless previously exempted by local law or approved by  
5 resolution of the local governing body.

6 "(c) For the purposes of this section, the terms  
7 "agriculture or agricultural" shall have the same meaning as  
8 those terms are defined in subdivision (1) of Section  
9 41-14-51.

10 "(d) The exemption provided in subsection (a) shall  
11 be phased in over a three-year period as follows: For the  
12 first year after the effective date of the act adding this  
13 amendatory language, the storage, consumption, or use shall be  
14 taxed at one percent; for the second year, the storage,  
15 consumption, or use shall be taxed at one-half of one percent;  
16 and commencing on the first day of the third year after the  
17 effective date of the act adding this language, the storage,  
18 consumption, or use shall be fully exempt pursuant to  
19 subsection (a)."

20 "(e) The exemption provided for in subsection (a)  
21 shall expire on August 31, 2024, unless extended by an act of  
22 the Legislature.

23 "(f) Beginning September 1, 2024, there is hereby  
24 levied and imposed an excise tax on the storage, use or other  
25 consumption in this state of any machine, machinery, or  
26 equipment which is used in planting, cultivating and  
27 harvesting farm products, or used in connection with the

1 production of agricultural produce or products, livestock or  
2 poultry, or farms, and the parts of such machines, machinery  
3 or equipment, attachments and replacements therefor which are  
4 made or manufactured for use on or in the operation of such  
5 machine, machinery or equipment, which is purchased at retail  
6 after October 1, 1966, for storage, use or other consumption  
7 in this state, at the rate of one and one-half percent of the  
8 sales price of such property or the amount of tax collected by  
9 the seller, whichever is greater, provided, however, when the  
10 seller follows the Department of Revenue's suggested use tax  
11 brackets and his records prove that his following said  
12 brackets resulted in a net undercollection of tax for the  
13 monthly, he may report the tax due or tax collected whichever  
14 is less, regardless of whether the retailer is or is not  
15 engaged in business in this state. The tax herein levied and  
16 imposed shall be in lieu of the excise tax levied and imposed  
17 by Section 40-23-61; provided, that the one and one-half  
18 percent rate herein prescribed with respect to parts,  
19 attachments and replacements shall not apply to any automotive  
20 vehicle or trailer designed primarily for public highway use  
21 except farm trailers used primarily in the production and  
22 harvesting of agricultural commodities.

23 "Every person storing using or otherwise consuming  
24 in this state such tangible personal property purchased at  
25 retail shall be liable for the tax imposed by this article,  
26 and the liability shall not be extinguished until the tax has  
27 been paid to this state; provided, that a receipt from a



1 retailer maintaining a place of business in this state or a  
2 retailer authorized by the Department of Revenue under such  
3 rules and regulations as the Commissioner of Revenue may  
4 prescribe, to collect the tax imposed hereby and who shall for  
5 the purpose of this article be regarded as a retailer  
6 maintaining a place of business in this stat, given to the  
7 purchaser in accordance with the provisions of Section  
8 40-23-67, shall be sufficient to relieve the purchaser from  
9 further liability for a tax to which such receipt may refer."

10           Section 2. This act shall become effective on  
11 October 1, 2017, following its passage and approval by the  
12 Governor, or its otherwise becoming a law.