

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

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8 SYNOPSIS: Existing law requires that sales of
9 automobiles, motorcycles, trucks, truck trailers,
10 or semi-trailers that will be registered or titled
11 outside of Alabama, that are exported or removed
12 from Alabama within 72 hours by the purchaser or
13 his or her agent for first time use outside Alabama
14 are not subject to the Alabama sales tax.

15 This bill would amend this section thereby
16 providing that such sales are subject to the
17 Alabama automotive sales tax unless the state in
18 which the purchaser will title or register the
19 vehicle allows an Alabama resident to purchase a
20 motor vehicle for first titling and registration in
21 Alabama without the payment of tax to that state.
22 This bill also provides for exclusions to the drive
23 out provision and for the publication of a list of
24 states that do not allow this provision.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Section 40-23-2 of the Code of Alabama
4 1975, relating to the taxation of sales of automobiles,
5 motorcycles, trucks, truck trailers, or semi-trailers that
6 will be registered or titled outside of Alabama or are
7 exported or removed from Alabama within 72 hours by the
8 purchaser, or his or her agent, for first time use outside
9 Alabama.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§40-23-2.

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

20 "(1) Upon every person, firm, or corporation,
21 (including the State of Alabama and its Alcoholic Beverage
22 Control Board in the sale of alcoholic beverages of all kinds,
23 the University of Alabama, Auburn University, and all other
24 institutions of higher learning in the state, whether the
25 institutions be denominational, state, county, or municipal
26 institutions, any association or other agency or
27 instrumentality of the institutions) engaged or continuing

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

21 "Where any used part including tires of an
22 automotive vehicle or a truck trailer, semitrailer, or house
23 trailer is taken in trade, or in a series of trades, as a
24 credit or part payment on the sale of a new or rebuilt part or
25 tire, the tax levied herein shall be paid on the net
26 difference, that is, the price of the new or used part or tire
27 sold less the credit for the used part or tire taken in trade,

1 provided, however, this provision shall not be construed to
2 include batteries.

3 "(2) Upon every person, firm, or corporation engaged
4 or continuing within this state in the business of conducting
5 or operating places of amusement or entertainment, billiard
6 and pool rooms, bowling alleys, amusement devices, musical
7 devices, theaters, opera houses, moving picture shows,
8 vaudevilles, amusement parks, athletic contests, including
9 wrestling matches, prize fights, boxing and wrestling
10 exhibitions, football and baseball games, (including athletic
11 contests, conducted by or under the auspices of any
12 educational institution within this state, or any athletic
13 association thereof, or other association whether the
14 institution or association be a denominational, a state, or
15 county, or a municipal institution, or association or a state,
16 county, or city school, or other institution, association or
17 school), skating rinks, race tracks, golf courses, or any
18 other place at which any exhibition, display, amusement, or
19 entertainment is offered to the public or place or places
20 where an admission fee is charged, including public bathing
21 places, public dance halls of every kind and description
22 within the State of Alabama, an amount equal to four percent
23 of the gross receipts of any such business. Provided, however,
24 notwithstanding any language to the contrary in the prior
25 portion of this subdivision, the tax provisions so specified
26 shall not apply to any athletic event conducted by a public or
27 nonpublic primary or secondary school or any athletic event

1 conducted by or under the auspices of the Alabama High School
2 Athletic Association. The tax amount which would have been
3 collected pursuant to this subdivision shall continue to be
4 collected by the public or nonpublic primary or secondary
5 school, but shall be retained by the school which collected it
6 and shall be used by the school for school purposes.

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

20 "(4) Upon every person, firm, or corporation engaged
21 or continuing within this state in the business of selling at
22 retail any automotive vehicle or truck trailer, semitrailer,
23 or house trailer, or mobile home set-up materials and supplies
24 including but not limited to steps, blocks, anchoring, cable
25 pipes, and any other materials pertaining thereto an amount
26 equal to two percent of the gross proceeds of sale of the
27 automotive vehicle or truck trailer, semitrailer, or house

1 trailer, or mobile home set-up materials and supplies
2 provided, however, where a person subject to the tax provided
3 for in this subdivision withdraws from his or her stock in
4 trade any automotive vehicle or truck trailer, semitrailer, or
5 house trailer for use by him or her or by his or her employee
6 or agent in the operation of the business, there shall be
7 paid, in lieu of the tax levied herein, a fee of five dollars
8 (\$5) per year or part thereof during which the automotive
9 vehicle, truck trailer, semitrailer, or house trailer shall
10 remain the property of the person. Each year or part thereof
11 shall begin with the day or anniversary date, as the case may
12 be, of such withdrawal and shall run for the 12 succeeding
13 months or part thereof during which the automotive vehicle,
14 truck trailer, semitrailer, or house trailer shall remain the
15 property of the person.

16 "Where any used automotive vehicle or truck trailer,
17 semitrailer, or house trailer is taken in trade or in a series
18 of trades, as a credit or part payment on the sale of a new or
19 used vehicle, the tax levied herein shall be paid on the net
20 difference, that is, the price of the new or used vehicle sold
21 less the credit for the used vehicle taken in trade.

22 "Sales of automobiles, motorcycles, trucks, truck
23 trailers, or semitrailers, excluding vehicle campers or
24 housecars as defined in Section 40-12-240, that will be
25 registered or titled outside Alabama, that are exported or
26 removed from Alabama within 72 hours by the purchaser or his
27 or her agent for first use outside Alabama are ~~not~~ subject to

1 ~~the~~ Alabama sales tax in an amount equal to only the state
2 automotive sales tax rate, unless the sales tax laws of the
3 state in which the purchaser will title or register the
4 vehicle, allows an Alabama resident to purchase a motor
5 vehicle for first titling and registering in Alabama without
6 the payment of tax to that state. The tax collected under this
7 export provision shall be Alabama sales tax and shall exclude
8 county and municipal sales tax. On January 1, 2016, and each
9 January 1 thereafter, the Alabama Department of Revenue shall
10 publish to the state's website a list of states that do not
11 allow drive out provisions to Alabama residents. Should the
12 list, required by this subsection and relied upon by the
13 taxpayer, be incorrect, the taxpayer shall be relieved from
14 the liability concerning the miscollection of the state
15 automotive sales tax. Sales of other vehicles such as mobile
16 homes, motor bikes, all terrain vehicles, and boats do not
17 qualify for the export exemption provision and are taxable
18 unless the dealer can provide factual evidence that the
19 vehicle was delivered outside of Alabama or to a common
20 carrier for transportation outside Alabama. In order for the
21 sale to be exempt from Alabama tax, the information relative
22 to the exempt sale shall be documented on forms approved by
23 the Revenue Department.

24 "Of the total \$.02 tax on each dollar of sale
25 provided hereunder, 58 percent of the total tax generated by
26 this subdivision (4) shall be deposited to the credit of the
27 Education Trust Fund; and 42 percent of the total tax

1 generated by this subdivision (4) shall be deposited to the
2 credit of the State General Fund.

3 "(5) Upon every person, firm, or corporation engaged
4 or continuing within this state in the business of selling
5 through coin-operated dispensing machines, food and food
6 products for human consumption, not including beverages other
7 than coffee, milk, milk products, and substitutes therefor,
8 there is levied a tax equal to three percent of the cost of
9 the food, food products, and beverages sold through the
10 machines, which cost for the purpose of this subdivision shall
11 be the gross proceeds of sales of the business."

12 Section 2. All laws or parts of laws which conflict
13 with this act are repealed.

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