

1 HB604
2 158215-6
3 By Representative Lindsey (N & P)
4 RFD: Local Legislation
5 First Read: 13-MAR-14

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Cherokee County; to authorize the county
14 commission to levy an additional sales tax, for public school
15 purposes and for the benefit of the public safety of the
16 citizens of Cherokee County, to commence from the date of the
17 expiration of the current one cent sales tax that is levied by
18 the governing body of Cherokee County and used exclusively for
19 public school purposes; to provide that the proceeds of the
20 tax shall first be used to fund school resource officers for
21 Cherokee County schools, and 60 percent of the remaining
22 proceeds shall be distributed to the Cherokee County school
23 system, and the balance of the remaining proceeds shall be
24 distributed to the Cherokee County general fund; to authorize
25 the county commission to provide for a referendum; and to
26 provide for the collection of the tax.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall only apply to Cherokee
2 County.

3 Section 2. As used in this act, state sales tax
4 means the tax imposed by the state sales and use tax statutes,
5 including, but not limited to, Sections 40-23-1, 40-23-2,
6 40-23-3, and 40-23-4, Code of Alabama 1975.

7 Section 3. (a) The County Commission of Cherokee
8 County may levy within the police jurisdictions of the
9 incorporated municipalities in the county and the
10 unincorporated areas in the county, in addition to all other
11 taxes, a one cent (\$.01) sales and use tax against gross sales
12 or gross receipts to commence from the date of the expiration
13 of the current one cent (\$.01) sales tax that is levied by the
14 governing body of Cherokee County. However, the additional
15 sales tax upon each person, firm, or corporation engaged or
16 continuing within Cherokee County who are engaged in the
17 business of selling the following shall be as follows:

18 (1) Machines used in mining, quarrying, compounding,
19 processing, and manufacturing of tangible personal property,
20 an amount equal to one quarter of one percent (1/4%) of the
21 gross proceeds of the sale of the machines; provided, that the
22 term "machines," as herein used, shall include machinery which
23 is used for mining, quarrying, compounding, processing, or
24 manufacturing tangible personal property, and the parts of the
25 machines, attachments and replacements therefore which are
26 made or manufactured for use on or in the operation of the

1 machines and which are necessary to the operation of the
2 machines and are customarily so used.

3 (2) a. Automotive vehicle or truck trailer,
4 semi-trailer, house trailer or mobile home set-up materials
5 and supplies including but not limited to steps, blocks,
6 anchoring, cable pipes and any other materials pertaining
7 thereto, an amount equal to one quarter of one percent (1/4%)
8 of the gross proceeds of sale of said automotive vehicle,
9 truck trailer, semi-trailer, house trailer or mobile home
10 set-up materials and supplies. Provided, however, where a
11 person subject to the tax provided for in this subdivision
12 withdraws from his or her stock in trade any automotive
13 vehicle or truck trailer, semi-trailer or house trailer for
14 use by him or her or by his or her employee or agent in the
15 operation of the business, there shall be paid, in lieu of the
16 tax levied herein, a fee of ___ \$-0- per year or part thereof
17 during which the automotive vehicle, truck trailer,
18 semi-trailer or house trailer shall remain the property of the
19 person. Each year or part thereof shall begin with the day or
20 anniversary date, as the case may be, of the withdrawal and
21 shall run for the twelve succeeding months or part thereof
22 during which the automotive vehicle, truck trailer, or house
23 trailer shall remain the property of the person.

24 b. Where any used automotive vehicle or truck
25 trailer, semi-trailer or house trailer is taken in trade or in
26 a series of trades, as a credit or part payment on the sale of
27 a new or used vehicle, the tax levied herein shall be paid on

1 the net difference, that is, the price of the new or used
2 vehicle sold less the credit for the used vehicle taken in
3 trade.

4 (3) a. Any machine, machinery or equipment which is
5 used in planting, cultivating and harvesting farm products, or
6 used in connection with the production of agricultural produce
7 or products, livestock, or poultry on farms, and the parts of
8 the machines, machinery or equipment, attachments and
9 replacements therefore which are made or manufactured for use
10 on or in the operation of the machine, machinery or equipment,
11 and which are necessary to and customarily used in the
12 operation of the machine, machinery or equipment, an amount
13 equal to one quarter of one percent (1/4%) of the gross
14 proceeds of the sale thereof. Provided, however, the one
15 quarter of one percent (1/4%) rate herein prescribed with
16 respect to parts, attachments, and replacements shall not
17 apply to any automotive vehicle or trailer designed primarily
18 for public highway use, except farm trailers used primarily in
19 the production and harvesting of agricultural commodities.

20 b. Where any used machine, machinery or equipment
21 which is used in planting, cultivating, and harvesting farm
22 products, or used in connection with the production of
23 agricultural produce or products, livestock and poultry on
24 farms is taken in trade or in a series of trades as a credit
25 or part payment on a sale of a new or used machine, machinery
26 or equipment, the tax levied herein shall be paid on the net
27 difference, that is, the price of the new or used machine,

1 machinery or equipment sold, less the credit for the used
2 machine, machinery or equipment taken in trade.

3 (4) Dispensing machines, food, and food products for
4 human consumption, not including beverages other than coffee,
5 milk, milk products and substitutes therefore, there is hereby
6 levied a tax equal to one quarter of one percent (1/4%) of the
7 cost of the food, food products and beverages sold through the
8 machines, which cost for the purpose of this subsection shall
9 be the gross proceeds of sales of the business.

10 (b) The proceeds from the additional tax shall first
11 be used to fund school resource officers for Cherokee County
12 schools, and 60 percent of the remaining proceeds shall be
13 distributed to the Cherokee County school system, and the
14 balance shall be distributed to the county general fund.

15 Section 4. The tax authorized by this act, if
16 levied, and except as otherwise provided, shall be due and
17 payable to the director of revenue or any other county officer
18 or employee charged with the duty of collecting county license
19 or privilege taxes, on or before the 20th day of each month
20 next succeeding the month in which the tax accrues. On or
21 before the 20th day of each month after the ratification date
22 of the tax, every person upon whom the tax is levied shall
23 provide to the director, on a form prescribed by the director,
24 a true and correct statement showing the gross proceeds of the
25 business subject to the tax for the then preceding month,
26 together with such other information as the director may
27 require. When making the monthly report, the taxpayer shall

1 compute and pay to the director the amount of taxes shown to
2 be due; provided, however, any person subject to the tax who
3 conducts any business on a credit basis may defer reporting
4 and paying the tax until after the person has received payment
5 for the items, articles, or accommodations furnished. In the
6 event the taxpayer so defers reporting and paying any taxes,
7 he or she shall thereafter include in each monthly report all
8 credit collections made during the then preceding month and
9 shall pay the amount of taxes computed thereon at the time of
10 filing the report. Every person engaged or continuing in any
11 business subject to the tax shall keep suitable records of the
12 gross proceeds of the business and such other books or
13 accounts as may be necessary to determine the amount of tax
14 for which he or she is liable. The records shall be kept and
15 preserved for a period of five years and shall be open for
16 examination at any time by the director or by any duly
17 authorized agent, deputy, or employee of the director. Any
18 person who fails to pay the tax within the time required by
19 this act shall pay in addition to the tax a penalty of 10
20 percent of the amount of tax due, together with interest
21 thereon at the rate of one-half of one percent per month or
22 fraction thereof from the date on which the tax becomes due
23 and payable, to be assessed and collected as a part of the
24 tax. The director may waive or remit the penalty or any
25 portion thereof.

26 Section 5. Sections 1 to 4, inclusive, of this act
27 shall become operative only if approved by a majority of the

1 qualified electors of Cherokee County who vote in an election
2 to be held on the day of the next election held in the county
3 following the effective date of this act. The notice of the
4 election shall be given by the judge of probate, and the
5 election shall be held, conducted, and the results canvassed
6 in the manner as other county elections. The question shall
7 be, "Do you favor the adoption of Act _____, of the 2014
8 Regular Session of the Alabama Legislature, which authorizes
9 the County Commission of Cherokee County to levy an additional
10 one cent (\$.01) sales tax to fund school resource officers for
11 all county schools, and 60 percent of the remaining proceeds
12 shall be distributed to the Cherokee County school system, and
13 the balance shall be distributed to the county general fund,
14 and shall commence from the date of the expiration of the
15 current one cent (\$0.01) sales tax that is levied by the
16 governing body of Cherokee County? Yes () No ()." The county
17 shall pay any costs and expenses not otherwise reimbursed by a
18 governmental agency which are incidental to the election. If a
19 majority of the votes cast in the election are "Yes," Sections
20 1 to 4, inclusive, of this act shall become operative on
21 October 1, 2014. If the majority of the votes are "No," this
22 act shall be repealed and shall have no further effect. The
23 Judge of Probate of Cherokee County shall certify the results
24 of the election to the Secretary of State.

25 Section 6. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

