

1 SB265
2 168703-1
3 By Senators Stutts, Ward, Singleton and Whatley
4 RFD: Finance and Taxation General Fund
5 First Read: 17-FEB-16

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8 SYNOPSIS: Under existing law, the Alabama Uniform
9 Severance Tax Act provides for the taxation of
10 materials severed from the ground in this state.

11 This bill would remove the exception from
12 the tax for certain minerals that are severed from
13 the ground in this state, sold to a purchaser for
14 use in another state, and not transported on public
15 roads in Alabama.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 40-13-53, Code of Alabama 1975,
22 relating to the Alabama Uniform Severance Tax Act; to remove
23 the exception from the tax for certain minerals that are
24 severed from the ground in this state, sold to a purchaser for
25 use in another state, and not transported on public roads in
26 Alabama.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 40-13-53 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§40-13-53.

4 "(a) The term severed material, as defined in
5 subdivision (9) of Section 40-13-51 shall not include lime or
6 limestone used for agricultural purposes or for pollution
7 control or abatement purposes, nor rock dust used for settling
8 coal dust in underground mines or similar uses, nor any
9 natural minerals used for the purpose of producing portland
10 cement, nor processed sand used in the foundry cores, mold,
11 and linings, nor clay that produces lightweight aggregate,
12 severed materials that are further processed into a finished
13 aggregate or limestone product without being transported on a
14 public road, marble and marble by-products, iron ore,
15 quartzite, coal, oil, and natural gas and the severance of
16 marble and marble by-products, iron ore, quartzite, coal, oil,
17 and natural gas shall not be subject to the provisions of this
18 article.

19 "(b) The tax levied by this article shall apply to
20 all severed material severed from the ground within this state
21 and sold as tangible personal property, regardless of the
22 place of sale or the fact that delivery may be made outside
23 the county, ~~except that no tax shall be due on any such~~
24 ~~minerals that are sold to a purchaser for use outside the~~
25 ~~state provided such minerals are not transported on public~~
26 ~~roads in Alabama.~~ Records relating to minerals purchased for
27 use outside the state, including method of delivery, shall be

1 available for verification and audit purposes to the
2 department and the department shall make the records available
3 to the county commission of the county from which the
4 materials were severed upon request of the county commission.

5 "(c) Notwithstanding the provisions of subsection
6 (b), or any other provisions in this article to the contrary:

7 "(1) Any severed material severed from the earth by
8 an operator or producer and moved from one place to another on
9 the same site, or transported to another site owned by the
10 same operator or producer shall not be considered a severance
11 thereof for purposes of taxation.

12 "(2) Any severed materials or any other kind of
13 material when severed and used for fill by an operator,
14 producer, or any other person, whether from the same
15 construction site, job site, borrow pit, or any site other
16 than a commercial quarry shall be exempt from the severance
17 tax levied by this article.

18 "(3) Chert shall be exempt from the severance tax
19 levied by this article, including any county or municipality
20 owned and operated chert facility.

21 "(4) Severed materials which are sold, delivered, or
22 transferred between separate legal entities are subject to the
23 tax regardless of any common ownership or other affiliation
24 between the producer and the purchaser.

25 "(5) A producer who severs material from the earth
26 and sells the severed material to the first purchaser without
27 the materials being transported on a public road shall be

1 exempt from the payment of the tax on the sale, provided that
2 the materials will later be processed into a finished
3 aggregate or limestone product for resale. In such instance,
4 the tax shall be levied on the finished aggregate or limestone
5 product made from such exempt material and shall be remitted
6 by the first purchaser who shall be subject to the provisions
7 of this chapter. The severance tax shall not apply to severed
8 material that is wasted by any manufacturing process provided
9 the material is not transported on a public road in this state
10 and is not sold to another entity.

11 "(6) The federal government and the State of
12 Alabama, along with their agencies and political subdivisions,
13 including municipalities, counties, and city and county school
14 boards, are sovereign governmental entities. Direct purchases
15 by sovereign governmental entities are not subject to the tax
16 hereunder.

17 "(d) Any severed material which has been severed and
18 on which any county severance tax has accrued prior to October
19 1, 2004, in the county in which the severance has occurred
20 shall be exempt if such tax has been paid."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.