

- 1 HB75
- 2 182286-8
- 3 By Representative Johnson (R)
- 4 RFD: Ways and Means Education
- 5 First Read: 07-FEB-17
- 6 PFD: 02/01/2017



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2 ENROLLED, An Act,

3 To establish the Wholesale to Retail Accountability
4 Program or "WRAP". To standardize the reporting of sellers of
5 tobacco products and distributors of beer and wine to file
6 informational reports on sales for resale purposes made within
7 this state on which sales or use tax was not collected; to
8 provide electronic filing of required informational reports;
9 to establish an industry advisory group; to provide penalties
10 for noncompliance; to authorize the Department of Revenue to
11 adopt rules; to provide for duplicate information reporting
12 from reporting entities as defined in Section 6050W of the
13 Internal Revenue Code; to provide for information on municipal
14 business privilege license applications to be submitted to the
15 department.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. (a) This act shall establish the
18 Wholesale to Retail Accountability Program or "WRAP".

19 (b) For the purpose of this act, the following words
20 shall have the following meanings:

21 (1) DEPARTMENT. The State Department of Revenue.

22 (2) LICENSED BEER OR WINE DISTRIBUTOR. A
23 distributor, as licensed by the Alabama Alcoholic Beverage
24 Control Board, selling or distributing beer or wine in this
25 state.

1 (3) PERSON. Any individual, firm, partnership,
2 association, corporation, limited liability company, receiver,
3 trustee, or any other entity.

4 (4) RETAILER. A person or group of persons that have
5 a relationship with each other as defined in Section 267(b) of
6 the federal Internal Revenue Code whose primary business is
7 the sale of tangible personal property at retail, including
8 supporting operations such as warehousing, shipping, and
9 storage of product, and who holds a license pursuant to
10 Section 40-23-6 or 40-23-66, Code of Alabama 1975.

11 (5) SELLER. A manufacturer, wholesaler, or
12 distributor of beer, wine, or tobacco products who sells to a
13 retailer in this state. The term also includes a wholesale
14 club or warehouse club that sells tobacco under a membership.

15 (c) For the purpose of enforcing the collection of
16 taxes levied by Chapter 23 of Title 40, Code of Alabama 1975,
17 on the sale of tangible personal property, every seller of
18 tobacco products making sales within this state on which sales
19 or use tax was not collected at the time of the sale and every
20 beer or wine distributor, shall file informational reports
21 with the department pursuant to subsection (d) as follows:

22 (1) Each licensed beer or wine distributor shall
23 report sales of any beer or wine made to licensees for which
24 an exemption from sales or use tax collection was claimed at
25 the time of the sale. A licensed beer or wine distributor who

1 donates beer or wine in the same manner as a retailer making a
2 gift pursuant to Section 40-23-1(f) shall not be required to
3 report such transaction under this act and is subject to the
4 same exemption as a retailer making a gift pursuant to Section
5 40-23-1(f).

6 (2) Each seller of tobacco products, selling or
7 distributing to retailers in this state, shall report sales of
8 tobacco products for which exemptions from sales or use tax
9 were claimed at the time of the sale.

10 (d) The informational report shall be filed in the
11 following manner as provided by the department:

12 (1) The information provided in the report from each
13 seller or distributor required in subdivision (1) of
14 subsection (c) shall include seller's legal name, seller's
15 address, seller's beverage license number, if applicable,
16 retailer's name, retailer's address, total dollar amount sold
17 for the reporting period, invoice period, invoice date and
18 applicable Alabama Alcoholic Beverage Control Board license
19 number provided by the retailer.

20 (2) The information provided in the report from each
21 seller or distributor required in subdivision (2) of
22 subsection (c) shall include the seller's legal name, seller's
23 address, retailer's name, retailer's address, total dollar
24 amount sold for the reporting period, and applicable sales tax
25 number provided by the retailer. The department shall allow

1 the seller to file a consolidated report to meet the
2 requirements of Section 40-25-16.1, Code of Alabama 1975, and
3 this act.

4 (3) The department shall provide an electronic
5 filing mechanism for submission of the informational report to
6 the department.

7 (4) The informational report shall be due on or
8 before the 20th day of the month next succeeding the month in
9 which a sale occurs. The first informational report due shall
10 be for sales occurring on or after July 1, 2018.

11 (e) If a seller fails to properly file the required
12 informational report in good faith with the department on or
13 before the prescribed date, the following penalties shall
14 apply on or after January 1, 2019 and each reporting period
15 thereafter:

16 (1) The first violation of this section shall result
17 in a written notice from the department. The notice shall
18 advise the seller of the non-compliance and the penalty for
19 future non-compliance if the required informational reports is
20 not filed within 30 days from the written notice as provided
21 herein.

22 (2) The second violation of this section shall
23 result in a penalty not to exceed five hundred dollars (\$500).

1 (3) The third and each subsequent violation of this
2 section shall result in a penalty not to exceed one thousand
3 dollars (\$1,000).

4 (f) The department shall not initiate an automated
5 assessment or automated audit based solely on data provided to
6 the department in the informational reports.

7 (g) The informational report filed with the
8 department shall be subject to the exchange of information
9 provisions set forth in Title 40, Chapter 2A, Section 10, Code
10 of Alabama 1975 for municipal and county government agencies
11 in this state. Effective January 1, 2022, the department shall
12 be the sole source for municipal and county government
13 agencies to obtain sales information that is required to be
14 provided under this act to the department.

15 (h) (1) To ensure that taxpayers and industry have
16 meaningful input into the informational reports, a Wholesale
17 and Distributor Reporting Advisory Group is hereby established
18 to make recommendations regarding the reporting of the
19 informational reports required herein.

20 (2) The advisory group shall consist of the
21 following individuals:

22 a. One representative from the Alabama Department of
23 Revenue as designated by the Commissioner who shall serve as
24 chair of the group.

1 b. One representative of county government,
2 appointed by the Association of County Commissions of Alabama.

3 c. One representative of municipal government,
4 appointed by the Alabama League of Municipalities.

5 d. One representative of the industry community,
6 appointed by the Alabama Wholesale Beer Association.

7 e. One representative of the tobacco industry
8 community, appointed by the Alabama Wholesale Distributors
9 Association.

10 f. One representative of the retail community,
11 appointed by the Alabama Retail Association.

12 g. One representative from the Alabama Alcoholic
13 Beverage Control Board as designated by the Administrator.

14 h. One representative of the industry community,
15 appointed by the Alabama Beer Association.

16 i. One representative of the industry community,
17 appointed by the Alabama Grocers Association.

18 j. One representative of the industry community,
19 appointed by the Petroleum and Convenience Marketers of
20 Alabama.

21 k. One representative of the industry community,
22 appointed by the Cigar Association of America, Inc.

23 l. Three additional industry representatives as
24 designated by the Commissioner of Revenue.

1 (3) The designating and appointing authorities shall
2 coordinate their designations and appointments to assure the
3 advisory group is inclusive and reflects the racial, gender,
4 geographic, urban, rural, and economic diversity of the state.

5 (4) a. The advisory group shall receive no
6 compensation or reimbursement of expense from the state for
7 serving on the committee.

8 b. The advisory group shall meet with the Designee
9 of the Commissioner of Revenue and with other employees of the
10 department as the commissioner deems appropriate. The meeting
11 times and place will be determined by the designee of the
12 commissioner.

13 c. The role of the advisory group shall be limited
14 to providing industry input and recommendations towards the
15 filing of required informational reports. The group shall make
16 no review of any other department matter beyond the
17 recommendation of required reporting by this act.

18 (i) By no later than January 15, 2020, the
19 department shall submit a report regarding the implementation,
20 administration, achievements, and suggested improvements
21 related to the WRAP Program to the Chairs of the House Ways
22 and Means General Fund and Education Trust Fund Committees and
23 the Senate Finance and Taxation General Fund and Education
24 Trust Fund Committees and the Legislative Fiscal Office.

1 Section 2. (a) The Department is authorized to
2 require that every payment settlement entity, third party
3 settlement organization, electronic payment facilitator, or
4 other third party acting on behalf of a payment settlement
5 entity, all as defined in Section 6050W of the Internal
6 Revenue Code and referred to herein as a reporting entity,
7 required to file information reports pursuant to that section
8 shall, within thirty (30) days of the filing due date, file
9 with the department in such form and manner as prescribed by
10 the department either a duplicate of all such information
11 returns or a duplicate of such information returns related to
12 taxpayers or participating payees, as defined in Section 6050W
13 of the Internal Revenue Code, with an Alabama address. The
14 department may require that such duplicate information returns
15 be filed electronically.

16 (b) The information received by the department on a
17 duplicate information return filed pursuant to this section
18 shall be used only for taxes administered by the department.

19 (c) Any reporting entity failing to file a duplicate
20 information return with the department on or before the
21 prescribed date shall be subject to the following penalties:

22 (1) The first violation shall result in a written
23 notice from the department. The notice shall advise the
24 reporting entity of the non-compliance and the penalty for
25 future non-compliance if the required duplicate information

1 return is not filed within 30 days from the written notice as
2 provided herein.

3 (2) The subsequent violation(s) shall result in a
4 penalty not to exceed one-thousand dollars (\$1,000) for each
5 month or fraction of a month during which each failure
6 continues.

7 Section 3. (a) Information on all municipal business
8 privilege license applications for new licenses and renewals
9 issued on or after October 1, 2019, shall be electronically
10 transmitted to the department by the licensing official or
11 agent in the same manner as privilege licenses issued pursuant
12 to Chapter 12 of Title 40, Code of Alabama 1975.

13 (b) The department may adopt rules to administer and
14 implement this section.

15 Section 4. Section 1 of this act is limited to the
16 reporting of certain information to the Department of Revenue
17 and shall not be construed as limiting or changing the
18 existing record keeping requirements as provided in Section
19 40-23-9.

20 Section 5. All laws or parts of laws which conflict
21 with this act are repealed.

22 Section 6. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.

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Mac McClatchan

Speaker of the House of Representatives

Del Mar

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 11-APR-17, as amended.

Jeff Woodard
Clerk

Senate

02-MAY-17

Passed

APPROVED

5-16-17

TIME

2:35 PM

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num.....: 2017-294
Bill Num....: H-75

Recv'd 05/16/17 04:13pmSLF

SPONSORS

Handwritten signature

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 75

YEAS 26 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. 75 AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees

FURTHER SENATE ACTION (OVER)

DATE: 4-13 2011

RD 1 RFD FRED

This Bill was referred to the Standing Committee of the Senate on FRED

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) w/sub by a vote of

yeas 10 nays abstain this 19th day of April 2011, Chairperson

DATE: 4-20 2011

RF RD 2 CAL

DATE: 2011

RE-REFERRED RE-COMMITTED

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 75

YEAS 26 NAYS 0

PATRICK HARRIS, Secretary