

ACT No. 2015- 503

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



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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-23-2.

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

"(1) Upon every person, firm, or corporation, (including the State of Alabama and its Alcoholic Beverage Control Board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University, and all other institutions of higher learning in the state, whether the institutions be denominational, state, county, or municipal

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

23 "Where any used part including tires of an  
24 automotive vehicle or a truck trailer, semitrailer, or house  
25 trailer is taken in trade, or in a series of trades, as a

1 credit or part payment on the sale of a new or rebuilt part or  
2 tire, the tax levied herein shall be paid on the net  
3 difference, that is, the price of the new or used part or tire  
4 sold less the credit for the used part or tire taken in trade,  
5 provided, however, this provision shall not be construed to  
6 include batteries.

7           "(2) Upon every person, firm, or corporation engaged  
8 or continuing within this state in the business of conducting  
9 or operating places of amusement or entertainment, billiard  
10 and pool rooms, bowling alleys, amusement devices, musical  
11 devices, theaters, opera houses, moving picture shows,  
12 vaudevilles, amusement parks, athletic contests, including  
13 wrestling matches, prize fights, boxing and wrestling  
14 exhibitions, football and baseball games, (including athletic  
15 contests, conducted by or under the auspices of any  
16 educational institution within this state, or any athletic  
17 association thereof, or other association whether the  
18 institution or association be a denominational, a state, or  
19 county, or a municipal institution, or association or a state,  
20 county, or city school, or other institution, association or  
21 school), skating rinks, race tracks, golf courses, or any  
22 other place at which any exhibition, display, amusement, or  
23 entertainment is offered to the public or place or places  
24 where an admission fee is charged, including public bathing  
25 places, public dance halls of every kind and description

1 within the State of Alabama, an amount equal to four percent  
2 of the gross receipts of any such business. Provided, however,  
3 notwithstanding any language to the contrary in the prior  
4 portion of this subdivision, the tax provisions so specified  
5 shall not apply to any athletic event conducted by a public or  
6 nonpublic primary or secondary school or any athletic event  
7 conducted by or under the auspices of the Alabama High School  
8 Athletic Association. The tax amount which would have been  
9 collected pursuant to this subdivision shall continue to be  
10 collected by the public or nonpublic primary or secondary  
11 school, but shall be retained by the school which collected it  
12 and shall be used by the school for school purposes.

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

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

24           "Where any used automotive vehicle or truck trailer,  
25 semitrailer, or house trailer is taken in trade or in a series

1 of trades, as a credit or part payment on the sale of a new or  
2 used vehicle, the tax levied herein shall be paid on the net  
3 difference, that is, the price of the new or used vehicle sold  
4 less the credit for the used vehicle taken in trade.

5 "Sales of automobiles, motorcycles, trucks, truck  
6 trailers, or semitrailers, excluding vehicle campers or  
7 housecars as defined in Section 40-12-240, that will be  
8 registered or titled outside Alabama, that are exported or  
9 removed from Alabama within 72 hours by the purchaser or his  
10 or her agent for first use outside Alabama are ~~not~~ subject to  
11 the Alabama sales tax in an amount equal to only the state  
12 automotive sales tax rate, unless the sales tax laws of the  
13 state in which the purchaser will title or register the  
14 vehicle, allows an Alabama resident to purchase a motor  
15 vehicle for first titling and registering in Alabama without  
16 the payment of tax to that state. The tax collected under this  
17 export provision shall be Alabama sales tax and shall exclude  
18 county and municipal sales tax. On January 1, 2016, and each  
19 January 1 thereafter, the Alabama Department of Revenue shall  
20 publish to the state's website a list of states that do not  
21 allow drive out provisions to Alabama residents. Should the  
22 list, required by this subsection and relied upon by the  
23 taxpayer, be incorrect, the taxpayer shall be relieved from  
24 the liability concerning the miscollection of the state  
25 automotive sales tax. Sales of other vehicles such as mobile

1 homes, motor bikes, all terrain vehicles, and boats do not  
2 qualify for the export exemption provision and are taxable  
3 unless the dealer can provide factual evidence that the  
4 vehicle was delivered outside of Alabama or to a common  
5 carrier for transportation outside Alabama. In order for the  
6 sale to be exempt from Alabama tax, the information relative  
7 to the exempt sale shall be documented on forms approved by  
8 the Revenue Department.

9 "Of the total \$.02 tax on each dollar of sale  
10 provided hereunder, 58 percent of the total tax generated by  
11 this subdivision (4) shall be deposited to the credit of the  
12 Education Trust Fund; and 42 percent of the total tax  
13 generated by this subdivision (4) shall be deposited to the  
14 credit of the State General Fund.

15 "(5) Upon every person, firm, or corporation engaged  
16 or continuing within this state in the business of selling  
17 through coin-operated dispensing machines, food and food  
18 products for human consumption, not including beverages other  
19 than coffee, milk, milk products, and substitutes therefor,  
20 there is levied a tax equal to three percent of the cost of  
21 the food, food products, and beverages sold through the  
22 machines, which cost for the purpose of this subdivision shall  
23 be the gross proceeds of sales of the business."

24 Section 2. All laws or parts of laws which conflict  
25 with this act are repealed.

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

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*[Handwritten Signature]*

Speaker of the House of Representatives

*Kay Ivey*

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 05-AUG-15.

Jeff Woodard  
Clerk

Senate

10-AUG-15

Passed

APPROVED 8-11-2015

TIME 3:00 pm

*Robert Bentley*  
GOVERNOR

Alabama Secretary Of State

Act Num.....: 2015-503  
Bill Num....: H-25

Recv'd 08/11/15 03:54pmSLF

SPONSOR

*R Johnson*  
*Morrey AB*  
*Paul Johnson*

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HOUSE ACTION

DATE: 8-3 2015  
RD 1 RFD WME

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on WME was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) w/sub this 4th day of August, 2015.  
*Jeff Woodard*, Chairperson

DATE: 8-4 2015  
RF RD 2 CAL

DATE: 8-4 2015  
RE-REFERRED  RE-COMMITTED

Committee WME

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 \_\_\_\_\_ NAYS \_\_\_\_\_  
YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

JEFF WOODARD,  
Clerk

FURTHER HOUSE ACTION (OVER)

SENATE ACTION

DATE: 8-6 2015  
RD 1 RFD FATG

This Bill was referred to the Standing Committee of the Senate on FATG and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) w/sub w/leng sub by a vote of 14 yeas 0 nays 0 abstain 0 this 7th day of August, 2015.  
*Patrick Harris*, Chairperson

DATE: 8-7 2015  
RF RD 2 CAL

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 \_\_\_\_\_ NAYS \_\_\_\_\_  
YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

PATRICK HARRIS,  
Secretary

DATE: 8-10-15 2015  
PASSED  PASSED AS AMENDED

YEAS 29 NAYS 0  
And was ordered returned forthwith to the House.

PATRICK HARRIS,  
Secretary

DATE: \_\_\_\_\_ 20\_\_\_\_  
INDEFINITELY POSTPONED YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

DATE: \_\_\_\_\_ 20\_\_\_\_  
RECONSIDERED \_\_\_\_\_ YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

FURTHER SENATE ACTION (OVER)