

1 SB318
2 117207-2
3 By Senators Holley, Smith and Bedford
4 RFD: Finance and Taxation Education
5 First Read: 02-FEB-10

2
3
4
5
6
7
8 SYNOPSIS: This bill would provide for sales and use
9 and property tax exemptions for any parts,
10 components, systems, supplies, and ancillary items
11 used in the conversion or refurbishing of
12 commercial passenger aircraft with a seating
13 capacity of 25 seats or more.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Sections 40-9-1, 40-23-4, and 40-23-62,
20 Code of Alabama 1975, relating to sales and use and property
21 tax exemptions, to exempt any parts, components, systems,
22 supplies, and ancillary items used in the conversion or
23 refurbishing of commercial passenger aircraft with a seating
24 capacity of 25 seats or more.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 40-9-1, 40-23-4, and 40-23-62,
27 Code of Alabama 1975, are amended to read as follows:

1 "§40-9-1.

2 "The following property and persons shall be exempt
3 from ad valorem taxation and none other:

4 "(1) All bonds of the United States and this state
5 and all county and municipal bonds issued by counties and
6 municipalities in this state, all property, real and personal,
7 of the United States and this state and of county and
8 municipal corporations in this state; all cemeteries, all
9 property, real and personal, used exclusively for religious
10 worship, for schools or for purposes purely charitable;
11 provided, that property, real or personal, owned by any
12 educational, religious or charitable institution, society or
13 corporation let for rent or hire or for use for business
14 purposes shall not be exempt from taxation, notwithstanding
15 that the income from such property shall be used exclusively
16 for education, religious or charitable purposes; all
17 mortgages, together with the notes, debts and credits secured
18 thereby on real and personal property situated in this state,
19 which mortgages have been filed for record and the privilege
20 tax paid thereon; all security agreements and security
21 interests under the Uniform Commercial Code, together with the
22 notes, debts and credits secured thereby; all money on deposit
23 in any bank or banking institution and all other solvent
24 credits; all warrants issued by county boards of education and
25 city boards of education for the purpose of erecting,
26 repairing, furnishing school buildings or for other school
27 purposes;

1 "(2) All property, real or personal, used
2 exclusively for hospital purposes, to the amount of \$75,000,
3 where such hospitals maintain wards for charity patients or
4 give treatment to such patients; provided, that the treatment
5 of charity patients constitutes at least 15 percent of the
6 business of such hospitals; provided further, that such
7 hospital need not be assessed for taxation if the owner or
8 manager shall file with the county tax assessor wherein such
9 hospital is located within the time allowed for assessing such
10 property for taxation a certificate that such hospital has
11 done 15 percent charity work in the preceding tax year; and
12 further provided, that such hospital through its owner or
13 manager shall have until the expiration of the preceding tax
14 year to class its work and ascertain whether or not such
15 hospital has done 15 percent of its treatment of patients as
16 charity work;

17 "(3) The shares of the capital stock of any
18 corporation owning and operating a hospital, to the extent of
19 \$75,000 in value; provided, that said corporation maintains
20 wards for charity patients and gives treatment to such
21 patients, which treatment constitutes at least 15 percent of
22 the business of the hospital of said corporation; provided,
23 that the total exemption granted to any such corporation shall
24 not exceed \$75,000, taking into consideration its real and
25 personal property and the value of its shares of capital
26 stock;

1 "(4) All property owned by the American Legion or by
2 Veterans of Foreign Wars or by the Disabled American Veterans,
3 or any post thereof; provided, that such property is used and
4 occupied exclusively by said organization;

5 "(5) All the property of literary and scientific
6 institutions and literary societies, when employed or used in
7 the regular business of such institutions;

8 "(6) The libraries of ministers of the gospel, all
9 libraries other than those of a professional character and all
10 religious books kept for sale by ministers of the gospel and
11 colporteurs;

12 "(7) The property of deaf mutes and insane persons
13 to the extent of \$3,000 and the property of blind persons to
14 the extent of \$12,000;

15 "(8) All family portraits;

16 "(9) All cotton, livestock or agricultural products
17 which have been raised or grown in the State of Alabama and
18 which shall remain in the hands of the producer thereof, or
19 his landlord, or in the hands of a cooperative association for
20 all time, and for a period of one year in the hands of the
21 purchaser or the manufacturer;

22 "(10) All cotton, wherever grown, stored in licensed
23 warehouses in the State of Alabama for a period not exceeding
24 12 months;

25 "(11) Provisions and supplies on hand for the
26 current year for the use of the family and the making of
27 crops; all wearing apparel; farming tools; tools and

1 implements of mechanics to the value of \$200; all livestock,
2 including mules, studs, jacks and jennets, cattle, horses,
3 cows, calves, hogs, sheep and goats; household and kitchen
4 furniture and one sewing machine;

5 "(12) No license or taxation of any character,
6 except franchise taxes provided by Section 229 of the
7 Constitution of the State of Alabama, shall be collected or
8 required to be paid to the state or any county or municipality
9 therein by any state or county fair, agricultural association,
10 stock, kennel or poultry show. Athletic stadiums owned and
11 controlled by universities, schools or colleges and which are
12 used exclusively for the purpose of promoting intercollegiate
13 or interschool athletics; provided, that the revenue received
14 from athletic stadiums, when admission is charged, shall be
15 used for the benefit of athletic associations of such
16 universities, colleges or schools. Nothing contained in this
17 subdivision shall be construed to prohibit any municipality,
18 county or state from imposing any license tax upon or for the
19 privilege of engaging in the business of supplying services
20 for hire or reward or selling commodities other than
21 livestock, farm products or farm implements or conducting or
22 operating devices or games of skill or amusements or other
23 games or devices, or conducting or operating shows, displays
24 or exhibits other than shows, displays or exhibits of
25 agricultural implements, farm products, livestock and athletic
26 prowess;

1 "(13) All material, including without limitation
2 coke, to be compounded or further manufactured, when stocked
3 at any plant or furnace for manufacturing purposes in Alabama;

4 "(14) All articles manufactured in Alabama,
5 including pig iron, in the hands of the producer or
6 manufacturer thereof, for 12 months after its production or
7 manufacture;

8 "(15) All property, both real and personal, owned by
9 any unit or organization of the Alabama National Guard
10 officially recognized as such by the federal government and
11 organized and maintained by the state, and all property owned
12 by shares and used exclusively by and kept exclusively in the
13 possession of any such unit or organization of the Alabama
14 National Guard, the annual rent or hire of which is not in
15 excess of the annual state, county and municipal taxes on said
16 property shall be exempt from taxation by the state, and the
17 county and municipality in which the same may be situated;

18 "(16) All poultry;

19 "(17) The property of all incompetent veterans to
20 the value of \$3,000;

21 "(18) The following items of personal property when
22 owned by individuals for personal use in the home or usually
23 kept at the home of the owner and not carried as stocks of
24 merchandise, namely: libraries; phonographs; pianos and other
25 musical instruments; paintings; precious stones, jewelry,
26 plate silverware, ornaments and articles of taste; watches and
27 clocks; wagons, buggies, bicycles, guns, pistols, canes, golf

1 sticks, golf bags and sporting goods; money hoarded; radios;
2 mechanical and electrical refrigerators; electrical
3 appliances;

4 "(19) All property owned by the Benevolent and
5 Protective Order of Elks, Fraternal Order of Police, Fraternal
6 Order of Eagles or Loyal Order of Moose, or lodge thereof;
7 provided, that such property is used and occupied exclusively
8 by such organization;

9 "(20) All devices, facilities or structures, and all
10 identifiable components thereof or materials for use therein,
11 acquired or constructed primarily for the control, reduction
12 or elimination of air or water pollution;

13 "(21) Tobacco leaf stored in hogsheads;

14 "(22) All farm tractors, as that term is defined in
15 subdivision (19) of Section 32-1-1.1; and all farming
16 implements, as that term is used in subdivision (b) (5) of
17 Section 40-11-1, as amended, when used exclusively in
18 connection with agricultural property as defined in
19 subdivision (b) (3) of Section 40-8-1, as amended;

20 "(23) All stocks of goods, wares and merchandise
21 described in subdivision (b) (4) of Section 40-11-1, as
22 amended; and

23 "(24) All aircraft, replacement parts, components,
24 systems, supplies and sundries affixed or used on said
25 aircraft, and ground support equipment and vehicles used by or
26 for the aircraft, when used by a certificated or licensed air
27 carrier with a hub operation within this state, for use in

1 conducting intrastate, interstate or foreign commerce for
2 transporting people or property by air. For the purpose of
3 this subdivision, the words "hub operation within this state"
4 shall be construed to have all of the following criteria:

5 "a. There originates from the location 15 or more
6 flight departures and five or more different first-stop
7 destinations five days per week for six or more months during
8 the calendar year; and

9 "b. Passengers and/or property are regularly
10 exchanged at the location between flights of the same or a
11 different certificated or licensed air carrier-;

12 "(25) All property described in Title 12 U.S.C.
13 §1701(Q), commonly known as HUD 202 property, is hereby exempt
14 from any and all ad valorem taxes-;

15 "(26) All vessels and equipment thereon, used
16 predominantly in the business of commercial shrimping by the
17 owners thereof-; and

18 "(27) All commercial aircraft in the State of
19 Alabama for the sole purpose of, and only for the time period
20 while undergoing a conversion, reconfiguration, refurbishment,
21 or repair if the aircraft was originally configured with a
22 seating capacity of 25 or more, or presently has storage space
23 sufficient to install 25 seats or more. The aircraft must be
24 located in a facility specifically designed for commercial
25 aircraft heavy maintenance services to include the conversion,
26 reconfiguration, refurbishment, or repair of aircraft.

27 "§40-23-4.

1 "(a) There are exempted from the provisions of this
2 division and from the computation of the amount of the tax
3 levied, assessed, or payable under this division and under the
4 provisions of any county or municipal sales tax levied or
5 assessed by any state law or by any county or municipal
6 ordinance or resolution, the following:

7 "(1) The gross proceeds of the sales of lubricating
8 oil and gasoline as defined in Sections 40-17-30 and 40-17-170
9 and the gross proceeds from those sales of lubricating oil
10 destined for out-of-state use which are transacted in a manner
11 whereby an out-of-state purchaser takes delivery of such oil
12 at a distributor's plant within this state and transports it
13 out-of-state, which are otherwise taxed.

14 "(2) The gross proceeds of the sale, or sales, of
15 fertilizer when used for agricultural purposes. The word
16 "fertilizer" shall not be construed to include cottonseed
17 meal, when not in combination with other materials.

18 "(3) The gross proceeds of the sale, or sales, of
19 seeds for planting purposes and baby chicks and poults.
20 Nothing herein shall be construed to exempt or exclude from
21 the computation of the tax levied, assessed, or payable, the
22 gross proceeds of the sale or sales of plants, seedlings,
23 nursery stock, or floral products.

24 "(4) The gross proceeds of sales of insecticides and
25 fungicides when used for agricultural purposes or when used by
26 persons properly permitted by the Department of Agriculture
27 and Industries or any applicable local or state governmental

1 authority for structural pest control work and feed for
2 livestock and poultry, but not including prepared food for
3 dogs and cats.

4 "(5) The gross proceeds of sales of all livestock by
5 whomsoever sold, and also the gross proceeds of poultry and
6 other products of the farm, dairy, grove, or garden, when in
7 the original state of production or condition of preparation
8 for sale, when such sale or sales are made by the producer or
9 members of his immediate family or for him by those employed
10 by him to assist in the production thereof. Nothing herein
11 shall be construed to exempt or exclude from the measure or
12 computation of the tax levied, assessed, or payable hereunder,
13 the gross proceeds of sales of poultry or poultry products
14 when not products of the farm.

15 "(6) Cottonseed meal exchanged for cottonseed at or
16 by cotton gins.

17 "(7) The gross receipts from the business on which,
18 or for engaging in which, a license or privilege tax is levied
19 by or under the provisions of Sections 40-21-50, 40-21-53, and
20 40-21-56 through 40-21-60; provided, that nothing contained in
21 this subdivision shall be construed to exempt or relieve the
22 person or persons operating the business enumerated in said
23 sections from the payments of the tax levied by this division
24 upon or measured by the gross proceeds of sales of any
25 tangible personal property, except gas and water, the gross
26 receipts from the sale of which are the measure of the tax
27 levied by said Section 40-21-50, merchandise or other tangible

1 commodities sold at retail by said persons, unless the gross
2 proceeds of sale thereof are otherwise specifically exempted
3 by the provisions of this division.

4 "(8) The gross proceeds of sales or gross receipts
5 of or by any person, firm, or corporation, from the sale of
6 transportation, gas, water, or electricity, of the kinds and
7 natures, the rates and charges for which, when sold by public
8 utilities, are customarily fixed and determined by the Public
9 Service Commission of Alabama or like regulatory bodies.

10 "(9) The gross proceeds of the sale, or sales of
11 wood residue, coal, or coke to manufacturers, electric power
12 companies, and transportation companies for use or consumption
13 in the production of by-products, or the generation of heat or
14 power used in manufacturing tangible personal property for
15 sale, for the generation of electric power or energy for use
16 in manufacturing tangible personal property for sale or for
17 resale, or for the generation of motive power for
18 transportation.

19 "(10) The gross proceeds from the sale or sales of
20 fuel and supplies for use or consumption aboard ships,
21 vessels, towing vessels, or barges, or drilling ships, rigs or
22 barges, or seismic or geophysical vessels, or other watercraft
23 (herein for purposes of this exemption being referred to as
24 "vessels") engaged in foreign or international commerce or in
25 interstate commerce; provided, that nothing in this division
26 shall be construed to exempt or exclude from the measure of
27 the tax herein levied the gross proceeds of sale or sales of

1 material and supplies to any person for use in fulfilling a
2 contract for the painting, repair, or reconditioning of
3 vessels, barges, ships, other watercraft, and commercial
4 fishing vessels of over five tons load displacement as
5 registered with the U.S. Coast Guard and licensed by the State
6 of Alabama Department of Conservation and Natural Resources.

7 "For purposes of this subdivision, it shall be
8 presumed that vessels engaged in the transportation of cargo
9 between ports in the State of Alabama and ports in foreign
10 countries or possessions or territories of the United States
11 or between ports in the State of Alabama and ports in other
12 states are engaged in foreign or international commerce or
13 interstate commerce, as the case may be. For the purposes of
14 this subdivision, the engaging in foreign or international
15 commerce or interstate commerce shall not require that the
16 vessel involved deliver cargo to or receive cargo from a port
17 in the State of Alabama. For purposes of this subdivision,
18 vessels carrying passengers for hire, and no cargo, between
19 ports in the State of Alabama and ports in foreign countries
20 or possessions or territories of the United States or between
21 ports in the State of Alabama and ports in other states shall
22 be engaged in foreign or international commerce or interstate
23 commerce, as the case may be, if, and only if, both of the
24 following conditions are met: (i) The vessel in question is a
25 vessel of at least 100 gross tons; and (ii) the vessel in
26 question has an unexpired certificate of inspection issued by
27 the United States Coast Guard or by the proper authority of a

1 foreign country for a foreign vessel, which certificate is
2 recognized as acceptable under the laws of the United States.
3 Vessels which are engaged in foreign or international commerce
4 or interstate commerce shall be deemed for the purposes of
5 this subdivision to remain in such commerce while awaiting or
6 under repair in a port of the State of Alabama if such vessel
7 returns after such repairs are completed to engaging in
8 foreign or international commerce or interstate commerce. For
9 purposes of this subdivision, seismic or geophysical vessels
10 which are engaged either in seismic or geophysical tests or
11 evaluations exclusively in offshore federal waters or in
12 traveling to or from conducting such tests or evaluations
13 shall be deemed to be engaged in international or foreign
14 commerce. For purposes of this subdivision, proof that fuel
15 and supplies purchased are for use or consumption aboard
16 vessels engaged in foreign or international commerce or in
17 interstate commerce may be accomplished by the merchant or
18 seller securing the duly signed certificate of the vessel
19 owner, operator, or captain or their respective agent on a
20 form prescribed by the department that the fuel and supplies
21 purchased are for use or consumption aboard vessels engaged in
22 foreign or international commerce or in interstate commerce.
23 Any person filing a false certificate shall be guilty of a
24 misdemeanor and upon conviction shall be fined not less than
25 \$25 nor more than \$500 for each offense. Each false
26 certificate filed shall constitute a separate offense. Any
27 person filing a false certificate shall be liable to the

1 department for all taxes imposed by this division upon the
2 merchant or seller, together with any interest or penalties
3 thereon, by reason of the sale or sales of fuel and supplies
4 applicable to such false certificate. If a merchant or seller
5 of fuel and supplies secures the certificate herein mentioned,
6 properly completed, such merchant or seller shall not be
7 liable for the taxes imposed by this division, if such
8 merchant or seller had no knowledge that such certificate was
9 false when it was filed with such merchant or seller.

10 "(11) The gross proceeds of sales of tangible
11 personal property to the State of Alabama, to the counties
12 within the state and to incorporated municipalities of the
13 State of Alabama.

14 "(12) The gross proceeds of the sale or sales of
15 railroad cars, vessels, barges, and commercial fishing vessels
16 of over five tons load displacement as registered with the
17 U.S. Coast Guard and licensed by the State of Alabama
18 Department of Conservation and Natural Resources, when sold by
19 the manufacturers or builders thereof.

20 "(13) The gross proceeds of the sale or sales of
21 materials, equipment, and machinery which, at any time, enter
22 into and become a component part of ships, vessels, towing
23 vessels or barges, or drilling ships, rigs or barges, or
24 seismic or geophysical vessels, other watercraft and
25 commercial fishing vessels of over five tons load displacement
26 as registered with the U.S. Coast Guard and licensed by the

1 State of Alabama Department of Conservation and Natural
2 Resources.

3 "(14) The gross proceeds of the sale or sales of
4 fuel oil purchased as fuel for kiln use in manufacturing
5 establishments.

6 "(15) The gross proceeds of the sale or sales of
7 tangible personal property to county and city school boards,
8 independent school boards, and all educational institutions
9 and agencies of the State of Alabama, the counties within the
10 state, or any incorporated municipalities of the State of
11 Alabama.

12 "(16) The gross proceeds from the sale of all
13 devices or facilities, and all identifiable components
14 thereof, or materials for use therein, acquired primarily for
15 the control, reduction, or elimination of air or water
16 pollution and the gross proceeds from the sale of all
17 identifiable components of or materials used or intended for
18 use in structures built primarily for the control, reduction,
19 or elimination of air and water pollution.

20 "(17) The gross proceeds of sales of tangible
21 personal property or the gross receipts of any business which
22 the state is prohibited from taxing under the Constitution or
23 laws of the United States or under the Constitution of this
24 state.

25 "(18) When dealers or distributors use parts taken
26 from stocks owned by them in making repairs without charge for
27 such parts to the owner of the property repaired pursuant to

1 warranty agreements entered into by manufacturers, such use
2 shall not constitute taxable sales to the manufacturers,
3 distributors, or to the dealers, under this division or under
4 any county sales tax law.

5 "(19) The gross proceeds received from the sale or
6 furnishing of food, including potato chips, candy, fruit and
7 similar items, soft drinks, tobacco products, and stationery
8 and other similar or related articles by hospital canteens
9 operated by Alabama state hospitals at Bryce Hospital and
10 Partlow State School for Mental Deficients at Tuscaloosa,
11 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
12 benefit of the patients therein.

13 "(20) The gross proceeds of the sale, or sales, of
14 wrapping paper and other wrapping materials when used in
15 preparing poultry or poultry products for delivery, shipment,
16 or sale by the producer, processor, packer, or seller of such
17 poultry or poultry products, including pallets used in
18 shipping poultry and egg products, paper or other materials
19 used for lining boxes or other containers in which poultry or
20 poultry products are packed together with any other materials
21 placed in such containers for the delivery, shipment, or sale
22 of poultry or poultry products.

23 "(21) The gross proceeds of the sales of all
24 antibiotics, hormones and hormone preparations, drugs,
25 medicines or medications, vitamins, minerals or other
26 nutrients, and all other feed ingredients including
27 concentrates, supplements, and other feed ingredients when

1 such substances are used as ingredients in mixing and
2 preparing feed for fish raised to be sold on a commercial
3 basis, livestock, and poultry. Such exemption herein granted
4 shall be in addition to exemptions now provided by law for
5 feed for fish raised to be sold on a commercial basis,
6 livestock, and poultry, but not including prepared foods for
7 dogs or cats.

8 "(22) The gross proceeds of the sale, or sales, of
9 seedlings, plants, shoots, and slips which are to be used for
10 planting vegetable gardens or truck farms and other
11 agricultural purposes. Nothing herein shall be construed to
12 exempt, or exclude from the computation of the tax levied,
13 assessed, or payable, the gross proceeds of the sale, or the
14 use of plants, seedlings, shoots, slips, nursery stock, and
15 floral products, except as hereinabove exempted.

16 "(23) The gross proceeds of the sale, or sales, of
17 fabricated steel tube sections, when produced and fabricated
18 in this state by any person, firm, or corporation for any
19 vehicular tunnel for highway vehicular traffic, when sold by
20 the manufacturer or fabricator thereof, and also the gross
21 proceeds of the sale, or sales, of steel which enters into and
22 becomes a component part of such fabricated steel tube
23 sections of said tunnel.

24 "(24) The gross proceeds from sales of admissions to
25 any theatrical production, symphonic or other orchestral
26 concert, ballet, or opera production when such concert or
27 production is presented by any society, association, guild, or

1 workshop group, organized within this state, whose members or
2 some of whose members regularly and actively participate in
3 such concerts or productions for the purposes of providing a
4 creative outlet for the cultural and educational interests of
5 such members, and of promoting such interests for the
6 betterment of the community by presenting such productions to
7 the general public for an admission charge. The employment of
8 a paid director or conductor to assist in any such
9 presentation described in this subdivision shall not be
10 construed to prohibit the exemptions herein provided.

11 "(25) The gross proceeds of sales of herbicides for
12 agricultural uses by whomsoever sold. The term "herbicides,"
13 as used in this subdivision, means any substance or mixture of
14 substances intended to prevent, destroy, repel, or retard the
15 growth of weeds or plants. It shall include preemergence
16 herbicides, postemergence herbicides, lay-by herbicides,
17 pasture herbicides, defoliant herbicides, and desiccant
18 herbicides.

19 "(26) The Alabama Chapter of the Cystic Fibrosis
20 Research Foundation and the Jefferson Tuberculosis Sanatorium
21 and any of their departments or agencies, heretofore or
22 hereafter organized and existing in good faith in the State of
23 Alabama for purposes other than for pecuniary gain and not for
24 individual profit, shall be exempted from the computation of
25 the tax on the gross proceeds of all sales levied, assessed,
26 or payable.

1 "(27) The gross proceeds from the sale or sales of
2 fuel for use or consumption aboard commercial fishing vessels
3 are hereby exempt from the computation of all sales taxes
4 levied, assessed, or payable under the provisions of this
5 division or levied under any county or municipal sales tax
6 law.

7 "The words "commercial fishing vessels" shall mean
8 vessels whose masters and owners are regularly and exclusively
9 engaged in fishing as their means of livelihood.

10 "(28) The gross proceeds of sales of sawdust, wood
11 shavings, wood chips, and other like materials sold for use as
12 "chicken litter" by poultry producers and poultry processors.

13 "(29) The gross proceeds of the sales of all
14 antibiotics, hormones and hormone preparations, drugs,
15 medicines, and other medications including serums and
16 vaccines, vitamins, minerals, or other nutrients for use in
17 the production and growing of fish, livestock, and poultry by
18 whomsoever sold. Such exemption as herein granted shall be in
19 addition to the exemption provided by law for feed for fish,
20 livestock, and poultry, and in addition to the exemptions
21 provided by law for the above-enumerated substances and
22 products when mixed and used as ingredients in fish,
23 livestock, and poultry feed.

24 "(30) The gross proceeds of the sale or sales of all
25 medicines prescribed by physicians for persons who are 65
26 years of age or older, and when said prescriptions are filled
27 by licensed pharmacists, shall be exempted under this division

1 or under any county or municipal sales tax law. The exemption
2 provided in this section shall not apply to any medicine
3 purchased in any manner other than as is herein provided.

4 "For the purposes of this subdivision, proof of age
5 may be accomplished by filing with the dispensing pharmacist
6 any one or more of the following documents:

7 "a. The name and claim number as shown on a
8 "Medicare" card issued by the United States Social Security
9 Administration.

10 "b. A certificate executed by any adult person
11 having knowledge of the fact that the person for whom the
12 medicine was prescribed is not less than 65 years of age.

13 "c. An affidavit executed by any adult person having
14 knowledge of the fact that the person for whom the medicine
15 was prescribed is not less than 65 years of age.

16 "For the purposes of this subdivision, any person
17 filing a false proof of age shall be guilty of a misdemeanor
18 and upon conviction thereof shall be punished by a fine of
19 \$100.

20 "(31) There shall be exempted from the tax levied by
21 this division the gross receipts of sales of grass sod of all
22 kinds and character when in the original state of production
23 or condition of preparation for sale, when such sales are made
24 by the producer or members of his family or for him by those
25 employed by him to assist in the production thereof; provided,
26 that nothing herein shall be construed to exempt sales of sod

1 by a person engaged in the business of selling plants,
2 seedlings, nursery stock, or floral products.

3 "(32) The gross receipts of sales of the following
4 items or materials which are necessary in the farm-to-market
5 production of tomatoes when such items or materials are used
6 by the producer or members of his family or for him by those
7 employed by him to assist in the production thereof: Twine for
8 tying tomatoes, tomato stakes, field boxes (wooden boxes used
9 to take tomatoes from the fields to shed), and tomato boxes
10 used in shipments to customers.

11 "(33) The gross proceeds from the sale of liquefied
12 petroleum gas or natural gas sold to be used for agricultural
13 purposes.

14 "(34) The gross receipts of sales from state
15 nurseries of forest tree seedlings.

16 "(35) The gross receipts of sales of forest tree
17 seed by the state.

18 "(36) The gross receipts of sales of Lespedeza
19 bicolor and other species of perennial plant seed and
20 seedlings sold for wildlife and game food production purposes
21 by the state.

22 "(37) The gross receipts of any aircraft
23 manufactured, sold, and delivered in this state if said
24 aircraft are not permanently domiciled in Alabama and are
25 removed to another state within three days of delivery.

26 "(38) The gross proceeds from the sale or sales of
27 all diesel fuel used for off-highway agricultural purposes.

1 "(39) The gross proceeds from sales of admissions to
2 any sporting event which:

3 "a. Takes place in the State of Alabama on or after
4 January 1, 1984, regardless of when such sales occur; and

5 "b. Is hosted by a not-for-profit corporation
6 organized and existing under the laws of the State of Alabama;
7 and

8 "c. Determines a national championship of a national
9 organization, including but not limited to the Professional
10 Golfers Association of America, the Tournament Players
11 Association, the United States Golf Association, the United
12 States Tennis Association, and the National Collegiate
13 Athletic Association; and

14 "d. Has not been held in the State of Alabama on
15 more than one prior occasion, provided, however, that for such
16 purpose the Professional Golfers Association Championship, the
17 United States Open Golf Championship, the United States
18 Amateur Golf Championship of the United States Golf
19 Association, and the United States Open Tennis Championship
20 shall each be treated as a separate event.

21 "(40) The gross receipts from the sale of any
22 aircraft and replacement parts, components, systems, supplies,
23 and sundries affixed or used on said aircraft and ground
24 support equipment and vehicles used by or for the aircraft to
25 or by a certificated or licensed air carrier with a hub
26 operation within this state, for use in conducting intrastate,
27 interstate, or foreign commerce for transporting people or

1 property by air. For the purpose of this subdivision, the
2 words "hub operation within this state" shall be construed to
3 have all of the following criteria:

4 "a. There originates from the location 15 or more
5 flight departures and five or more different first-stop
6 destinations five days per week for six or more months during
7 the calendar year; and

8 "b. Passengers and/or property are regularly
9 exchanged at the location between flights of the same or a
10 different certificated or licensed air carrier.

11 "(41) The gross receipts from the sale of hot or
12 cold food and beverage products sold to or by a certificated
13 or licensed air carrier with a hub operation within this
14 state, for use in conducting intrastate, interstate, or
15 foreign commerce for transporting people or property by air.
16 For the purpose of this subdivision, the words "hub operation
17 within this state" shall be construed to have all of the
18 following criteria:

19 "a. There originates from the location 15 or more
20 flight departures and five or more different first-stop
21 destinations five days per week for six or more months during
22 the calendar year; and

23 "b. Passengers and/or property are regularly
24 exchanged at the location between flights of the same or a
25 different certificated or licensed air carrier.

26 "(42) The gross proceeds of the sale or sales of the
27 following:

1 "a. Drill pipe, casing, tubing, and other pipe used
2 for the exploration for or production of oil, gas, sulphur, or
3 other minerals in offshore federal waters.

4 "b. Tangible personal property exclusively used for
5 the exploration for or production of oil, gas, sulphur, or
6 other minerals in offshore federal waters.

7 "c. Fuel and supplies for use or consumption aboard
8 boats, ships, aircraft, and towing vessels when used
9 exclusively in transporting persons or property between a
10 point in Alabama and a point or points in offshore federal
11 waters for the exploration for or production of oil, gas,
12 sulphur, or other minerals in offshore federal waters.

13 "d. Drilling equipment that is used for the
14 exploration for or production of oil, gas, sulphur, or other
15 minerals, that is built for exclusive use outside this state
16 and that is, on completion, removed forthwith from this state.

17 "The delivery of items exempted by this subdivision
18 to the purchaser or lessee in this state does not disqualify
19 the purchaser or lessee from the exemption if the property is
20 removed from the state by any means, including by the use of
21 the purchaser's or lessee's own facilities.

22 "The shipment to a place in this state of equipment
23 exempted by this subdivision for further assembly or
24 fabrication does not disqualify the purchaser or lessee from
25 the exemption if on completion of the further assembly or
26 fabrication the equipment is removed forthwith from this
27 state. This subdivision applies to a sale that may occur when

1 the equipment exempted is further assembled or fabricated if
2 on completion the equipment is removed forthwith from this
3 state.

4 "(43) The gross receipts derived from all bingo
5 games and operations which are conducted in compliance with
6 validly enacted legislation authorizing the conduct of such
7 games and operations, and which comply with the distribution
8 requirements of the applicable local laws; provided that the
9 exemption from sales taxation granted by this subdivision
10 shall apply only to gross receipts taxable under subdivision
11 (2) of Section 40-23-2. It is further provided that this
12 exemption shall not apply to any gross receipts from the sale
13 of tangible personal property, such as concessions, novelties,
14 food, beverages, etc. The exemption provided for in this
15 section shall be limited to those games and operations by
16 organizations which have qualified for exemption under the
17 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
18 (19), or which are defined in 26 U.S.C. § 501(d).

19 "(44) The gross receipts derived from the sale or
20 sales of fruit or other agricultural products by the person or
21 corporation that planted, cultivated, and harvested such fruit
22 or agricultural product.

23 "(45) The gross receipts derived from the sale or
24 sales of all domestically mined or produced coal, coke, and
25 coke by-products used in cogeneration plants.

26 "(46) The gross receipts from the sale of parts,
27 components, systems, supplies, and ancillary items that become

1 part of a commercial aircraft that undergoes a conversion,
2 reconfiguration, refurbishment, or repair if the aircraft was
3 originally configured with a seating capacity of 25 or more,
4 or presently has storage space sufficient to install 25 seats
5 or more.

6 "(b) Any violation of any provision of this section
7 shall be punishable in a court of competent jurisdiction by a
8 fine of not less than \$500 and no more than \$2,000 and
9 imprisonment of not less than six months nor more than one
10 year in the county jail.

11 "§40-23-62.

12 "The storage, use or other consumption in this state
13 of the following tangible personal property is hereby
14 specifically exempted from the tax imposed by this article and
15 any county or municipal use tax imposed by any state law or by
16 any county or municipal ordinance or resolution:

17 "(1) Property, on which the sales tax imposed by the
18 provisions of Article 1 of this chapter is paid by the
19 consumer to a person licensed under the provisions of Article
20 1 of this chapter.

21 "(2) Property, the storage, use or other consumption
22 of which this state is prohibited from taxing under the
23 Constitution or laws of the United States of America or under
24 the constitution of this state.

25 "(3) Tangible personal property, not to be used in
26 the performance of a contract, brought into this state by a

1 nonresident thereof for his own storage, use or consumption
2 while temporarily within this state.

3 "(4) Lubricating oil and gasoline as defined in
4 Sections 40-17-30 and 40-17-170, the storage, use or other
5 consumption of which is otherwise taxed.

6 "(5) All fertilizer; provided, that the word
7 "fertilizer" as used in this article shall not be construed to
8 include cottonseed meal when not in combination with other
9 material.

10 "(6) All seeds for planting purposes and baby chicks
11 and poults; provided, that nothing herein shall be construed
12 to exempt plants, seedlings, nursery stock or floral products.

13 "(7) Insecticides and fungicides and feed for
14 livestock and poultry, but not including prepared foods for
15 dogs and cats.

16 "(8) The use, storage or consumption of all
17 livestock by whomsoever sold; and also the gross proceeds of
18 poultry and other products of the farm, dairy, grove or
19 garden, when in the original state of production or condition
20 of preparation for sale, when such sale or sales are made by
21 the producer or members of his immediate family or for him by
22 those employed by him to assist in the production thereof.
23 Nothing herein shall be construed to exempt or exclude from
24 the measure or computation of the tax levied, assessed or
25 payable hereunder, the gross proceeds of sales of poultry or
26 poultry products when not products of the farm.

1 "(9) Cottonseed meal exchanged for cottonseed at or
2 by cotton gins.

3 "(10) Transportation, gas, water or electricity, of
4 the kinds and natures, the rates and charges for which when
5 sold by public utilities, are customarily fixed and determined
6 by the Public Service Commission of Alabama or like regulatory
7 bodies.

8 "(11) Coal or coke to be stored, used or consumed by
9 manufacturers, electric power companies and transportation
10 companies for use or consumption in the production of
11 by-products or the generation of heat or power used:

12 "a. In manufacturing tangible personal property for
13 sale;

14 "b. For the generation of electric power or energy
15 for use in manufacturing tangible personal property for sale
16 or for resale; or

17 "c. For the generation of motive power for
18 transportation.

19 "(12) Fuel and supplies for use or consumption
20 aboard ships, vessels, towing vessels, or barges, or drilling
21 ships, rigs or barges, or seismic or geophysical vessels, or
22 other watercraft (herein for purposes of this exemption being
23 referred to as "vessels") engaged in foreign or international
24 commerce or in interstate commerce; provided, that nothing in
25 this article shall be construed to exempt or exclude from the
26 measure of the tax herein levied the gross proceeds of sale or
27 sales of material and supplies to any person for use in

1 fulfilling a contract for the painting, repair or
2 reconditioning of vessels, barges, ships, other watercraft and
3 commercial fishing vessels of over five tons load displacement
4 as registered with the U.S. Coast Guard and licensed by the
5 State of Alabama Department of Conservation and Natural
6 Resources. For purposes of this subdivision, it shall be
7 presumed that vessels engaged in the transportation of cargo
8 between ports in the State of Alabama and ports in foreign
9 countries or possessions or territories of the United States
10 or between ports in the State of Alabama and ports in other
11 states are engaged in foreign or international commerce or
12 interstate commerce, as the case may be. For the purposes of
13 this subdivision, the engaging in foreign or international
14 commerce or interstate commerce shall not require that the
15 vessel involved deliver cargo to or receive cargo from a port
16 in the State of Alabama. For purposes of this subdivision,
17 vessels carrying passengers for hire, and no cargo, between
18 ports in the State of Alabama and ports in foreign countries
19 or possessions or territories of the United States or between
20 ports in the State of Alabama and ports in other states shall
21 be engaged in foreign or international commerce or interstate
22 commerce, as the case may be, if, and only if, both of the
23 following conditions are met: (i) The vessel in question is a
24 vessel of at least 100 gross tons; and (ii) the vessel in
25 question has an unexpired certificate of inspection issued by
26 the United States Coast Guard or by the proper authority of a
27 foreign country for a foreign vessel, which certificate is

1 recognized as acceptable under the laws of the United States.
2 Vessels which are engaged in foreign or international commerce
3 or interstate commerce shall be deemed for the purposes of
4 this subdivision to remain in such commerce while awaiting or
5 under repair in a port of the State of Alabama if such vessel
6 returns after such repairs are completed to engaging in
7 foreign or international commerce or interstate commerce. For
8 purposes of this subdivision, seismic or geophysical vessels
9 which are engaged either in seismic or geophysical tests or
10 evaluations exclusively in offshore federal waters or in
11 traveling to or from conducting such tests or evaluations
12 shall be deemed to be engaged in international or foreign
13 commerce. For purposes of this subdivision, proof that fuel
14 and supplies purchased are for use or consumption aboard
15 vessels engaged in foreign or international commerce or in
16 interstate commerce may be accomplished by the merchant or
17 seller securing the duly signed certificate of the vessel
18 owner, operator or captain or their respective agent on a form
19 prescribed by the department that the fuel and supplies
20 purchased are for use or consumption aboard vessels engaged in
21 foreign or international commerce or in interstate commerce.
22 Any person filing a false certificate shall be guilty of a
23 misdemeanor and upon conviction shall be fined not less than
24 \$25 nor more than \$500 for each offense. Each false
25 certificate filed shall constitute a separate offense. Any
26 person filing a false certificate shall be liable to the
27 department for all taxes imposed by this division upon the

1 merchant or seller, together with any interest or penalties
2 thereon, by reason of the sale or sales of fuel and supplies
3 applicable to such false certificate. If a merchant or seller
4 of fuel and supplies secures the certificate herein mentioned,
5 properly completed, such merchant or seller shall not be
6 liable for the taxes imposed by this division, if such
7 merchant or seller had no knowledge that such certificate was
8 false when it was filed with such merchant or seller.

9 "(13) Property stored, used or consumed by the State
10 of Alabama, by the counties within the state or by
11 incorporated municipalities of the State of Alabama.

12 "(14) The use, storage or consumption of materials,
13 equipment and machinery which, at any time, enter into and
14 become a component part of ships, vessels, towing vessels or
15 barges, or drilling ships, rigs or barges, or seismic or
16 geophysical vessels, other watercraft and commercial fishing
17 vessels of over five tons load displacement as registered with
18 the U.S. Coast Guard and licensed by the State of Alabama
19 Department of Conservation and Natural Resources.

20 "(15) The use, storage or consumption of fuel oil
21 purchased as fuel for kilns used in manufacturing
22 establishments.

23 "(16) Tangible personal property stored, used or
24 consumed by county and city school boards, independent school
25 boards and all educational institutions and agencies of the
26 State of Alabama, the counties within the state or any
27 incorporated municipality of the State of Alabama.

1 "(17) The storage, use or consumption of railroad
2 cars, vessels, and barges and commercial fishing vessels of
3 over five tons load displacement as registered with the U.S.
4 Coast Guard and licensed by the State of Alabama Department of
5 Conservation and Natural Resources when purchased from the
6 manufacturers or builders thereof.

7 "(18) The storage, use or consumption of all devices
8 or facilities, and all identifiable components thereof or
9 materials for use therein, used or placed in operation
10 primarily for the control, reduction or elimination of air or
11 water pollution, and the storage, use or consumption of all
12 identifiable components of or materials used or intended for
13 use in structures built primarily for the control, reduction
14 or elimination of air or water pollution.

15 "(19) When dealers or distributors use parts taken
16 from stocks owned by them in making repairs without charge for
17 such parts to the owner of the property required pursuant to
18 warranty agreements entered into by manufacturers, such use
19 shall not constitute taxable sales to the manufacturers,
20 distributors or to the dealers, under this article, or under
21 any county use tax law.

22 "(20) The storage, use or other consumption in this
23 state of religious magazines and publications. For the purpose
24 of this subdivision the words "religious magazines and
25 publications" shall be construed to mean printed or
26 illustrated lessons, notes and explanations distributed by
27 churches or other religious organizations free of charge to

1 pupils or students in Sunday schools, Bible classes or other
2 educational facilities established and maintained by churches
3 or similar religious organizations in this state.

4 "(21) The storage, use or other consumption of
5 wrapping paper and other wrapping materials when used in
6 preparing poultry or poultry products for delivery, shipment
7 or sale by the producer, processor, packer or seller of such
8 poultry or poultry products including pallets used in shipping
9 poultry and egg products, paper or other materials used for
10 lining boxes or other containers in which poultry or poultry
11 products are packed together with any other materials placed
12 in such containers for the delivery, shipment or sale of
13 poultry or poultry products.

14 "(22) The storage, use or other consumption of all
15 antibiotics, hormones and hormone preparations, drugs,
16 medicines or medications, vitamins, minerals or other
17 nutrients and all other feed ingredients including
18 concentrates, supplements and other feed ingredients when such
19 substances are used as ingredients in mixing and preparing
20 feed for livestock and poultry. Such exemption herein granted
21 shall be in addition to exemptions now provided by law for
22 feed for livestock and poultry, but not including prepared
23 foods for dogs and cats.

24 "(23) The use of seedlings, plants, shoots, and
25 slips which are to be used for planting vegetable gardens or
26 truck farms. Nothing herein shall be construed to exempt, or
27 exclude from the computation of the tax levied, assessed or

1 payable, the use of plants, seedlings, shoots, slips, nursery
2 stock and floral products except as hereinabove exempted.

3 "(24) Fabricated steel tube sections, when produced
4 and fabricated in this state by any person, firm or
5 corporation, for any vehicular tunnel for highway vehicular
6 traffic, when sold by the manufacturer or fabricator thereof,
7 and also steel which enters into and becomes a component part
8 of such fabricated steel tube sections of said tunnel, shall
9 be exempted from the provisions of this article and from the
10 computation of the amount of the tax levied, assessed or
11 payable under this article.

12 "(25) The storage, use or other consumption of
13 herbicides for agricultural uses by whomsoever sold. The term
14 "herbicides" as used in this subdivision means any substance
15 or mixture of substances intended to prevent, destroy, repel
16 or retard the growth of weeds or plants. It shall include
17 preemergence herbicides, postemergence herbicides, lay-by
18 herbicides, pasture herbicides, defoliant herbicides and
19 desiccant herbicides.

20 "(26) The Alabama Chapter of the Cystic Fibrosis
21 Research Foundation, and the Jefferson Tuberculosis Sanatorium
22 and any of their departments or agencies, heretofore or
23 hereafter organized and existing in good faith in the State of
24 Alabama for purposes other than for pecuniary gain and not for
25 individual profit, shall be exempted from the payment of the
26 state use tax levied under this article.

1 "(27) Fuel for use or consumption aboard commercial
2 fishing vessels are hereby exempt from the payment of the
3 state use tax levied under this article, or levied under any
4 county or municipal use tax law.

5 "The words "commercial fishing vessels" shall mean
6 vessels whose masters and owners are regularly and exclusively
7 engaged in fishing as their means of livelihood.

8 "(28) The storage, use or withdrawal of sawdust,
9 wood shavings, wood chips and other like materials purchased
10 for use as "chicken litter" by poultry producers and poultry
11 processors shall be exempt under this article.

12 "(29) The storage, use or other consumption of all
13 antibiotics, hormones and hormone preparations, drugs,
14 medicines and other medications including serums and vaccines,
15 vitamins, minerals or other nutrients for use in the
16 production and growing of fish, livestock and poultry are
17 hereby specifically exempted from the payment of the state use
18 tax levied by this article. Such exemption as herein granted
19 shall be in addition to the exemptions now provided by law for
20 feed for fish, livestock and poultry, and in addition to the
21 exemptions now provided by law for the above-enumerated
22 substances and products when mixed and used as ingredients in
23 fish, livestock and poultry feeds.

24 "(30) All medicines prescribed by physicians for
25 persons who are 65 years of age or older, and when said
26 prescriptions are filled by licensed pharmacists, shall be
27 exempted from the operation of the state use tax law levied by

1 this article, or by any county or municipal use tax law. The
2 exemptions provided in this subdivision shall not apply to any
3 medicine purchased in any manner other than as is herein
4 provided.

5 "For the purposes of this subdivision, proof of age
6 may be accomplished by filing with the dispensing pharmacist
7 any one or more of the following documents:

8 "a. The name and claim number as shown on a
9 "Medicare" card issued by the United States Social Security
10 Administration.

11 "b. A certificate executed by any adult person
12 having knowledge of the fact that the person for whom the
13 medicine was prescribed is not less than 65 years of age.

14 "c. An affidavit executed by any adult person having
15 knowledge of the fact that the person for whom the medicine
16 was prescribed is not less than 65 years of age.

17 "For the purposes of this subdivision any person
18 filing a false proof of age shall be guilty of a misdemeanor
19 and upon conviction thereof shall be punished by a fine of
20 \$100.

21 "(31) All diesel fuel used for off-highway
22 agricultural purposes.

23 "(32) The storage, use or other consumption of any
24 aircraft and replacement parts, components, systems, supplies
25 and sundries affixed or used on said aircraft and ground
26 support equipment and vehicles used by or for the aircraft by
27 a certificated or licensed air carrier with a hub operation

1 within this state, for use in conducting intrastate,
2 interstate or foreign commerce for transporting people or
3 property by air. For the purpose of this subdivision, the
4 words "hub operation within this state" shall be construed to
5 have all of the following criteria:

6 "a. There originates from the location 15 or more
7 flight departures and five or more different first-stop
8 destinations five days per week for six or more months during
9 the calendar year; and

10 "b. Passengers and/or property are regularly
11 exchanged at the location between flights of the same or a
12 different certificated or licensed air carrier.

13 "(33) The storage, use or other consumption of hot
14 or cold food and beverage products by a certificated or
15 licensed air carrier with a hub operation within this state,
16 for use in conducting intrastate, interstate or foreign
17 commerce for transporting people or property by air. For the
18 purpose of this subdivision, the words "hub operation within
19 this state" shall be construed to have all of the following
20 criteria:

21 "a. There originates from the location 15 or more
22 flight departures and five or more different first-stop
23 destinations five days per week for six or more months during
24 the calendar year; and

25 "b. Passengers and/or property are regularly
26 exchanged at the location between flights of the same or a
27 different certificated or licensed air carrier.

1 "(34) The storage, use or other consumption of the
2 following:

3 "a. Drill pipe, casing, tubing, and other pipe used
4 for the exploration for or production of oil, gas, sulphur, or
5 other minerals in offshore federal waters.

6 "b. Tangible personal property exclusively used for
7 the exploration for or production of oil, gas, sulphur, or
8 other minerals in offshore federal waters.

9 "c. Fuel and supplies for use or consumption aboard
10 boats, ships, aircraft and towing vessels when used
11 exclusively in transporting persons or property between a
12 point in Alabama and a point or points in offshore federal
13 waters for the exploration for or production of oil, gas,
14 sulphur, or other minerals in offshore federal waters.

15 "d. Drilling equipment that is used for the
16 exploration for or production of oil, gas, sulphur, or other
17 minerals, that is built for exclusive use outside this state
18 and that is, on completion, removed forthwith from this state.

19 "e. All domestically mined or produced coal, coke,
20 and coke by-products used in cogeneration plants in Alabama.

21 "The delivery of items exempted by this subdivision
22 to the purchaser or lessee in this state does not disqualify
23 the purchaser or lessee from the exemption if the property is
24 removed from the state by any means, including by the use of
25 the purchaser's or lessee's own facilities.

26 "The shipment to a place in this state of equipment
27 exempted by this subdivision for further assembly or

1 fabrication does not disqualify the purchaser or lessee from
2 the exemption if on completion of the further assembly or
3 fabrication the equipment is removed forthwith from this
4 state. This subdivision applies to a sale that may occur when
5 the equipment exempted is further assembled or fabricated if
6 on completion the equipment is removed forthwith from this
7 state.

8 "(35) The storage, use, or other consumption of
9 parts, components, systems, supplies, and ancillary items that
10 become part of a commercial aircraft that undergoes a
11 conversion, reconfiguration, refurbishment, or repair if the
12 aircraft was originally configured with a seating capacity of
13 25 or more, or presently has storage space sufficient to
14 install 25 seats or more."

15 Section 2. The provisions of this act are severable.
16 If any part of this act is declared invalid or
17 unconstitutional, that declaration shall not affect the part
18 which remains.

19 Section 3. All laws or parts of laws which conflict
20 with this act are repealed.

21 Section 4. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.