

1 HB373
2 157594-2
3 By Representative Poole
4 RFD: Ways and Means Education
5 First Read: 30-JAN-14

1 "(2) DEPARTMENT. The Department of Revenue of the
2 State of Alabama.

3 "(3) COMMISSIONER. The Commissioner of Revenue of
4 the State of Alabama.

5 "(4) TAX YEAR or TAXABLE YEAR. The calendar year.

6 "(5) SALE or SALES. Installment and credit sales and
7 the exchange of properties as well as the sale thereof for
8 money, every closed transaction constituting a sale. Provided,
9 however, a transaction shall not be closed or a sale completed
10 until the time and place when and where title is transferred
11 by the seller or seller's agent to the purchaser or
12 purchaser's agent, and for the purpose of determining transfer
13 of title, a common carrier or the U. S. Postal Service shall
14 be deemed to be the agent of the seller, regardless of any
15 F.O.B. point and regardless of who selects the method of
16 transportation, and regardless of by whom or the method by
17 which freight, postage, or other transportation charge is
18 paid. Provided further that, where billed as a separate item
19 to and paid by the purchaser, the freight, postage, or other
20 transportation charge paid to a common carrier or the U.S.
21 Postal Service is not a part of the selling price.

22 "(6) GROSS PROCEEDS OF SALES. The value proceeding
23 or accruing from the sale of tangible personal property, and
24 including the proceeds from the sale of any property handled
25 on consignment by the taxpayer, including merchandise of any
26 kind and character without any deduction on account of the
27 cost of the property sold, the cost of the materials used,

1 labor or service cost, interest paid, any consumer excise
2 taxes that may be included within the sales price of the
3 property sold, or any other expenses whatsoever, and without
4 any deductions on account of losses; provided, that cash
5 discounts allowed and taken on sales shall not be included,
6 and "gross proceeds of sales" shall not include the sale price
7 of property returned by customers when the full sales price
8 thereof is refunded either in cash or by credit. The term
9 "gross proceeds of sale" shall also mean and include the
10 reasonable and fair market value of any tangible personal
11 property previously purchased at wholesale which is withdrawn
12 or used from the business or stock and used or consumed in
13 connection with a business, and shall also mean and include
14 the reasonable and fair market value of any tangible personal
15 property previously purchased at wholesale which is withdrawn
16 from the business or stock and used or consumed by any person
17 so withdrawing the same, except property which has been
18 previously withdrawn from business or stock and so used or
19 consumed with respect to which property the tax has been paid
20 because of previous withdrawal, use, or consumption, except
21 property which enters into and becomes an ingredient or
22 component part of tangible personal property or products
23 manufactured or compounded for sale and not for the personal
24 and private use or consumption of any person so withdrawing,
25 using, or consuming the same, and except refinery, residue, or
26 fuel gas, whether in a liquid or gaseous state, that has been
27 generated by, or is otherwise a by-product of, a

1 petroleum-refining process, which gas is then utilized in the
2 process to generate heat or is otherwise utilized in the
3 distillation or refining of petroleum products.

4 "In the case of the retail sale of equipment,
5 accessories, fixtures, and other similar tangible personal
6 property used in connection with the sale of commercial mobile
7 services as defined herein, or in connection with satellite
8 television services, at a price below cost, "gross proceeds of
9 sale" shall only include the stated sales price thereof and
10 shall not include any sales commission or rebate received by
11 the seller as a result of the sale. As used herein, the term
12 "commercial mobile services" shall have the same meaning as
13 that term has in 47 U.S.C. Sections 153(n) and 332(d), as in
14 effect from time to time.

15 "(7) TAXPAYER. Any person liable for taxes
16 hereunder.

17 "(8) GROSS RECEIPTS. The value proceeding or
18 accruing from the sale of tangible personal property,
19 including merchandise and commodities of any kind and
20 character, all receipts actual and accrued, by reason of any
21 business engaged in, not including, however, interest,
22 discounts, rentals of real estate or royalties, and without
23 any deduction on account of the cost of the property sold, the
24 cost of the materials used, labor or service cost, interest
25 paid, any consumer excise taxes that may be included in the
26 sales price of the property sold, or any other expenses
27 whatsoever and without any deductions on account of losses.

1 The term "gross receipts" shall also mean and include the
2 reasonable and fair market value of any tangible personal
3 property previously purchased at wholesale which is withdrawn
4 or used from the business or stock and used or consumed in
5 connection with a business, and shall also mean and include
6 the reasonable and fair market value of any tangible personal
7 property previously purchased at wholesale which is withdrawn
8 from the business or stock and used or consumed by any person
9 so withdrawing the same, except property which has been
10 previously withdrawn from business or stock and so used or
11 consumed and with respect to which property the tax has been
12 paid because of previous withdrawal, use, or consumption,
13 except property which enters into and becomes an ingredient or
14 component part of tangible personal property or products
15 manufactured or compounded for sale as provided in subdivision
16 (9) and not for the personal and private use or consumption of
17 any person so withdrawing, using, or consuming the same, and
18 except refinery, residue, or fuel gas, whether in a liquid or
19 gaseous state, that has been generated by, or is otherwise a
20 by-product of, a petroleum-refining process, which gas is then
21 utilized in the process to generate heat or is otherwise
22 utilized in the distillation or refining of petroleum
23 products.

24 "(9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
25 the following:

26 "a. A sale of tangible personal property by
27 wholesalers to licensed retail merchants, jobbers, dealers, or

1 other wholesalers for resale and does not include a sale by
2 wholesalers to users or consumers, not for resale.

3 "b. A sale of tangible personal property or
4 products, including iron ore, and including the furnished
5 container and label of such property or products, to a
6 manufacturer or compounder which enter into and become an
7 ingredient or component part of the tangible personal property
8 or products which the manufacturer or compounder manufactures
9 or compounds for sale, whether or not such tangible personal
10 property or product used in manufacturing or compounding a
11 finished product is used with the intent that it becomes a
12 component of the finished product; provided, however, that it
13 is the intent of this section that no sale of capital
14 equipment, machinery, tools, or product shall be included in
15 the term "wholesale sale." The term "capital equipment,
16 machinery, tools, or product" shall mean property that is
17 subject to depreciation allowances for Alabama income tax
18 purposes.

19 "c. A sale of containers intended for one-time use
20 only, and the labels thereof, when containers are sold without
21 contents to persons who sell or furnish containers along with
22 the contents placed therein for sale by persons.

23 "d. A sale of pallets intended for one-time use only
24 when pallets are sold without contents to persons who sell or
25 furnish pallets along with the contents placed thereon for
26 sale by persons.

1 "e. A sale to a manufacturer or compounder, of
2 crowns, caps, and tops intended for one-time use employed and
3 used upon the containers in which a manufacturer or compounder
4 markets his products.

5 "f. A sale of containers to persons engaged in
6 selling or otherwise supplying or furnishing baby chicks to
7 growers thereof where containers are used for the delivery of
8 chicks or a sale of containers for use in the delivery of eggs
9 by the producer thereof to the distributor or packer of eggs
10 even though containers used for delivery of baby chicks or
11 eggs may be recovered for reuse.

12 "g. A sale of bagging and ties used in preparing
13 cotton for market.

14 "h. A sale to meat packers, manufacturers,
15 compounders, or processors of meat products of all casings
16 used in molding or forming wieners and Vienna sausages even
17 though casings may be recovered for reuse.

18 "i. A sale of commercial fish feed including
19 concentrates, supplements, and other feed ingredients when
20 substances are used as ingredients in mixing and preparing
21 feed for fish raised to be sold on a commercial basis.

22 "j. A sale of tangible personal property to any
23 person engaging in the business of leasing or renting tangible
24 personal property to others, if tangible personal property is
25 purchased for the purpose of leasing or renting it to others
26 under a transaction subject to the privilege or license tax
27 levied in Article 4 of Chapter 12 of this title against any

1 person engaging in the business of leasing or renting tangible
2 personal property to others.

3 "k. A purchase or withdrawal of parts or materials
4 from stock by any person licensed under this division where
5 parts or materials are used in repairing or reconditioning the
6 tangible personal property of a licensed person, which
7 tangible personal property is a part of the stock of goods of
8 a licensed person, offered for sale by him, and not for use or
9 consumption of a licensed person.

10 "(10) SALE AT RETAIL or RETAIL SALE. All sales of
11 tangible personal property except those above defined as
12 wholesale sales. The quantities of goods sold or prices at
13 which sold are immaterial in determining whether or not a sale
14 is at retail. Sales of building materials to contractors,
15 builders, or landowners for resale or use in the form of real
16 estate are retail sales in whatever quantity sold. Sales of
17 building materials, fixtures, or other equipment to a
18 manufacturer or builder of modular buildings for use in
19 manufacturing, building, or equipping a modular building
20 ultimately becoming a part of real estate situated in the
21 State of Alabama are retail sales, and the use, sale, or
22 resale of building shall not be subject to the tax. Sales of
23 tangible personal property to undertakers and morticians are
24 retail sales and subject to the tax at the time of purchase,
25 but are not subject to the tax on resale to the consumer.
26 Sales of tangible personal property or products to
27 manufacturers, quarry operators, mine operators, or

1 compounders, which are used or consumed by them in
2 manufacturing, mining, quarrying, or compounding and do not
3 become an ingredient or component part of the tangible
4 personal property manufactured or compounded as provided in
5 subdivision (9) are retail sales. The term "sale at retail" or
6 "retail sale" shall also mean and include the withdrawal, use,
7 or consumption of any tangible personal property by any one
8 who purchases same at wholesale, except property which has
9 been previously withdrawn from the business or stock and so
10 used or consumed and with respect to which property tax has
11 been paid because of previous withdrawal, use, or consumption,
12 except property which enters into and becomes an ingredient or
13 component part of tangible personal property or products
14 manufactured or compounded for sale as provided in subdivision
15 (9) and not for the personal and private use or consumption of
16 any person so withdrawing, using, or consuming the same; and
17 wholesale purchaser shall report and pay the taxes thereon. In
18 the case of the sale of equipment, accessories, fixtures, and
19 other similar tangible personal property used in connection
20 with the sale of commercial mobile services as defined in
21 subdivision (6) above, or in connection with satellite
22 television services, at a price below cost, the term "sale at
23 retail" and "retail sale" shall include those sales, and those
24 sales shall not also be taxable as a withdrawal, use, or
25 consumption of such tangible personal property.

26 "(11) BUSINESS. All activities engaged in, or caused
27 to be engaged in, with the object of gain, profit, benefit, or

1 advantage, either direct or indirect, and not excepting
2 subactivities producing marketable commodities used or
3 consumed in the main business activity, each of which
4 subactivities shall be considered business engaged in, taxable
5 in the class in which it falls.

6 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
7 crawler, crawler crane, ditcher, or any similar machine which
8 is self-propelled, in addition to self-propelled machines
9 which are used primarily as instruments of conveyance.

10 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a
11 prepaid telephone calling card or a prepaid authorization
12 number, or both, shall be deemed the sale of tangible personal
13 property subject to the tax imposed on the sale of tangible
14 personal property pursuant to this chapter. For purposes of
15 this subdivision (13), the sale of prepaid wireless service
16 that is evidenced by a physical card constitutes the sale of a
17 prepaid telephone calling card, and the sale of prepaid
18 wireless service that is not evidenced by a physical card
19 constitutes the sale of a prepaid authorization number.

20 "(b) The use within this state of tangible personal
21 property by the manufacturer thereof, as building materials in
22 the performance of a construction contract, shall, for the
23 purposes of this division, be considered as a retail sale
24 thereof by manufacturer, who shall also be construed as the
25 ultimate consumer of materials or property, and who shall be
26 required to report transaction and pay the sales tax thereon,
27 based upon the reasonable and fair market price thereof at the

1 time and place where same are used or consumed by him or it.
2 Where the contractor is the manufacturer or compounder of
3 ready-mix concrete or asphalt plant mix used in the
4 performance of a contract, whether the ready-mix concrete or
5 asphalt plant mix is manufactured or compounded at the job
6 site or at a fixed or permanent plant location, the tax
7 applies only to the cost of the ingredients that become a
8 component part of the ready-mix concrete or the asphalt plant
9 mix. The provisions of this subsection shall not apply to any
10 tangible personal property which is specifically exempted from
11 the tax levied in this division.

12 "(c) The sale of lumber by a lumber manufacturer to
13 a trucker for resale is a sale at wholesale as sales are
14 defined herein where the trucker is either a licensed dealer
15 in lumber or, if a resident of Alabama, has registered with
16 the Department of Revenue, and has received therefrom a
17 certificate of registration or, if a nonresident of this state
18 purchasing lumber for resale outside the State of Alabama, has
19 furnished to the lumber manufacturer his name, address and the
20 vehicle license number of the truck in which the lumber is to
21 be transported, which name, address, and vehicle license
22 number shall be shown on the sales invoice rendered by the
23 lumber manufacturer. The certificate provided for herein shall
24 be valid for the calendar year of its issuance and may be
25 renewed from year to year on application to the Department of
26 Revenue on or before January 31 of each succeeding year;

1 provided, that if not renewed the certificate shall become
2 invalid for the purpose of this division on February 1.

3 "(d) The dispensing or transferring of ophthalmic
4 materials, including lenses, frames, eyeglasses, contact
5 lenses, and other therapeutic optic devices, to a patient by a
6 licensed ophthalmologist, as a part of his or her professional
7 service, shall, for purposes of this division, constitute a
8 sale, subject to the state sales tax. The licensed
9 ophthalmologist or licensed optometrist shall collect the
10 state sales tax. In no event shall the providing of
11 professional services in connection with the dispensing or
12 transferring of ophthalmic materials, including dispensing
13 fees or fitting fees, by a licensed ophthalmologist or
14 licensed optometrist be considered a sale subject to the state
15 sales tax. When the ophthalmic materials are purchased by a
16 consumer covered by a third party benefit plan, including
17 Medicare, the sales tax shall be applicable to the amount that
18 the ophthalmologist, optometrist, or optician is reimbursed by
19 the third party benefit plan plus the amount that the consumer
20 pays to the ophthalmologist, optometrist, or optician at the
21 time of the sale. All transfers of ophthalmic materials by
22 opticians or optometrists shall be considered retail sales
23 subject to the state sales tax. The term supplier shall
24 include but not be limited to optical laboratories, ophthalmic
25 material wholesalers, or anyone selling ophthalmic materials
26 to ophthalmologists.

1 "(e) Notwithstanding the above, the withdrawal, use,
2 or consumption of a manufactured product by the manufacturer
3 thereof in quality control testing performed by employees or
4 independent contractors of the taxpayer, for purposes of this
5 division, shall not be deemed or considered to constitute a
6 transaction subject to sales tax, nor shall a gift by the
7 manufacturer of a manufactured product, withdrawn from the
8 manufacturer's inventory, to an entity listed in 26 U.S.C.
9 Sections 170(b) or (c), be considered a transaction subject to
10 sales tax.

11 "(f) Notwithstanding the foregoing, a gift by a
12 retailer of a product or products where the aggregate retail
13 value of any single gift is equal to or less than ten thousand
14 dollars (\$10,000), withdrawn from the retailer's inventory, to
15 an entity listed in 26 U.S.C. Sections 170(b) or (c) shall not
16 be deemed or considered to constitute a transaction subject to
17 sales and use tax.

18 "(14) PREPAID WIRELESS SERVICE. The right to use
19 mobile telecommunications service, which must be paid for in
20 advance and that is sold in predetermined units or dollars of
21 which the number declines with use in a known amount, and
22 which may include rights to use non-telecommunications
23 services or to download digital products or digital content.
24 For purposes of this subdivision (14), "mobile
25 telecommunications service" has the meaning ascribed by
26 Section 40-21-120."

1 Section 2. Section 40-23-60, Code of Alabama 1975,
2 is hereby amended to read as follows:

3 "§40-23-60.

4 For the purpose of this article, the following terms
5 shall have the respective meanings ascribed to them in this
6 section:

7 (1) PERSON or COMPANY. Any individual, firm,
8 company, partnership, association, corporation, receiver or
9 trustee, or any other group or combination acting as a unit,
10 and the plural as well as the singular number, unless the
11 intention to give a more limited meaning is disclosed by the
12 context.

13 (2) DEPARTMENT. The Department of Revenue of the
14 State of Alabama.

15 (3) COMMISSIONER. The Commissioner of Revenue of the
16 State of Alabama.

17 (4) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
18 the following:

19 a. A sale of tangible personal property by
20 wholesaler to licensed retail merchants, jobbers, dealers or
21 other wholesalers for resale and does not include a sale by
22 wholesalers to users or consumers, not for resale.

23 b. A sale of tangible personal property or products,
24 including iron ore, and including the furnished container and
25 label of such property or products, to a manufacturer or
26 compounder which enter into and become an ingredient or
27 component part of the tangible personal property or products

1 which the manufacturer or compounder manufactures or compounds
2 for sale, whether or not such tangible personal property or
3 product used in manufacturing or compounding a finished
4 product is used with the intent that it become a component of
5 the finished product; provided, however, that it is the intent
6 of this section that no sale of capital equipment, machinery,
7 tools, or product shall be included in the term "wholesale
8 sale." The term "capital equipment, machinery, tools, or
9 product" shall mean property that is subject to depreciation
10 allowances for Alabama income tax purposes.

11 c. A sale of containers intended for one-time use
12 only, and the labels thereof, when such containers are sold
13 without contents to persons who sell or furnish such
14 containers along with the contents placed therein for sale by
15 such persons.

16 d. A sale of pallets intended for one-time use only
17 when such pallets are sold without contents to persons who
18 sell or furnish such pallets along with the contents placed
19 thereon for sale by such persons.

20 e. A sale to a manufacturer or compounder, of
21 crowns, caps and tops intended for one-time use employed and
22 used upon the containers in which such manufacturer or
23 compounder markets his products.

24 f. A sale of containers to persons engaged in
25 selling or otherwise supplying or furnishing baby chicks to
26 growers thereof where such containers are used for the
27 delivery of such chicks or a sale of containers for use in the

1 delivery of eggs by the producer thereof to the distributor or
2 packer of such eggs even though such containers used for
3 delivery of baby chicks or eggs may be recovered for reuse.

4 g. A sale of bagging and ties used in preparing
5 cotton for market.

6 h. A sale of commercial fish feed including
7 concentrates, supplements and other feed ingredients when such
8 substances are used as ingredients in mixing and preparing
9 feed for fish raised to be sold on a commercial basis.

10 i. A sale of tangible personal property to any
11 person engaging in the business of leasing or renting such
12 tangible personal property to others, if such tangible
13 personal property is purchased for the purpose of leasing or
14 renting it to others under a transaction subject to the
15 privilege or license tax levied in Article 4 of Chapter 12 of
16 this title against any person engaging in the business of
17 leasing or renting tangible personal property to others.

18 j. A purchase or withdrawal of parts or materials
19 from stock by any person licensed under this article where
20 such parts or materials are used in repairing or
21 reconditioning the tangible personal property of such licensed
22 person which tangible personal property is a part of the stock
23 of goods of such licensed person, offered for sale by him and
24 not for use or consumption of such licensed person.

25 k. A sale to meat packers, manufacturers,
26 compounders or processors of meat products of all casings used

1 in moulding or forming wieners and Vienna sausages, even
2 though such casings may be recovered for reuse.

3 (5) SALE AT RETAIL or RETAIL SALE. All sales of
4 tangible personal property except those above defined as
5 wholesale sales. The quantities of goods sold or prices at
6 which sold are immaterial in determining whether or not a sale
7 is at retail. Sales of building materials to contractors,
8 builders or landowners for resale or use in the form of real
9 estate are retail sales in whatever quantity sold. Sales of
10 building materials, fixtures or other equipment to a
11 manufacturer or builder of modular buildings for use in
12 manufacturing, building or equipping a modular building
13 ultimately becoming a part of real estate situated in the
14 State of Alabama are retail sales, and the use, sale or resale
15 of such building shall not be subject to the tax. Sales of
16 tangible personal property to undertakers and morticians are
17 retail sales and subject to the tax at the time of purchase,
18 but are not subject to the tax on resale to the consumer.
19 Sales of tangible personal property or products to
20 manufacturers, quarry operators, mine operators or
21 compounders, which are used or consumed by them in
22 manufacturing, mining, quarrying or compounding and do not
23 become an ingredient or component part of the tangible
24 personal property manufactured or compounded as provided in
25 subdivision (4) are retail sales. The term "sale at retail" or
26 "retail sale" shall also mean and include the withdrawal, use
27 or consumption of any tangible personal property by anyone who

1 purchases same at wholesale, except property which has been
2 previously withdrawn from the business or stock and so used or
3 consumed and with respect to which property the tax has been
4 paid because of such previous withdrawal, use or consumption,
5 except property which enters into and becomes an ingredient or
6 component part of tangible personal property or products
7 manufactured or compounded for sale as provided in subdivision
8 (4); and not for the personal and private use or consumption
9 of any person so withdrawing, using or consuming the same, and
10 such wholesale purchaser shall report and pay the taxes
11 thereon; and except refinery, residue, or fuel gas, whether in
12 a liquid or gaseous state, that has been generated by, or is
13 otherwise a by-product of, a petroleum-refining process, which
14 gas is then utilized in the process to generate heat or is
15 otherwise utilized in the distillation or refining of
16 petroleum products. The term "retail sale" or "sale at retail"
17 shall also mean and include the sale of tangible personal
18 property previously purchased at wholesale for the purpose of
19 leasing or renting under a transaction subject to the
20 privilege or license tax levied in Article 4 of Chapter 12 of
21 this title, regardless of whether such sale is to the person
22 who theretofore leased or rented the said tangible personal
23 property or to some other person.

24 (6) BUSINESS. All activities engaged in, or caused
25 to be engaged in, with the object of gain, profit, benefit or
26 advantage, either direct or indirect, and not excepting
27 subactivities producing marketable commodities used or

1 consumed in the main business activity, each of which
2 subactivities shall be considered business engaged in, taxable
3 in the class in which it falls.

4 (7) STORAGE. Any keeping or retention in this state
5 for any purpose except sale in the regular course of business
6 or subsequent use solely outside this state of tangible
7 personal property purchased at retail.

8 (8) USE. The exercise of any right or power over
9 tangible personal property incident to the ownership of that
10 property, or by any transaction where possession is given,
11 except that it shall not include the sale of that property in
12 the regular course of business.

13 (9) PURCHASE. Acquired for a consideration, whether
14 such acquisition was effected by a transfer of title, or of
15 possession or of both, or a license to use or consume; whether
16 such transfer shall have been absolute or conditional, and by
17 whatsoever means the same shall have been effected; and
18 whether such consideration be a price or rental in money, or
19 by way of exchange or barter.

20 (10) SALES PRICE. The total amount for which
21 tangible personal property is sold, including any services,
22 including transportation, that are a part of the sale, valued
23 in money, whether paid in money or otherwise, and includes any
24 amount for which credit is given to the purchaser by the
25 seller, without any deduction therefrom on account of the cost
26 of the property sold, the cost of the materials used, labor or
27 service cost, interest charged, losses or any other expenses

1 whatsoever; provided, that cash discounts allowed and taken on
2 sales shall not be included and sales price shall not include
3 the amount charged for property returned by customers when the
4 entire amount charged therefor is refunded either in cash or
5 by credit.

6 (11) IN THIS STATE or IN THE STATE. Within the
7 exterior limits of the State of Alabama, and includes all
8 territory within such limits owned by or ceded to the United
9 States of America.

10 (12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
11 crawler, crawler crane, ditcher or any similar machine which
12 is self-propelled, in addition to self-propelled machines
13 which are used primarily as instruments of conveyance.

14 (13) PREPAID TELEPHONE CALLING CARD. A sale of a
15 prepaid telephone calling card or a prepaid authorization
16 number, or both, shall be deemed the sale of tangible personal
17 property subject to the tax imposed pursuant to this chapter.
18 For purposes of this subdivision (13), the sale of prepaid
19 wireless service that is evidenced by a physical card
20 constitutes the sale of a prepaid telephone calling card, and
21 the sale of prepaid wireless service that is not evidenced by
22 a physical card constitutes the sale of a prepaid
23 authorization number.

24 (14) PREPAID WIRELESS SERVICE. The right to use
25 mobile telecommunications service, which must be paid for in
26 advance and that is sold in predetermined units or dollars of
27 which the number declines with use or the expiration of time

1 in a known amount, and which may include rights to use
2 non-telecommunications services or to download digital
3 products or digital content. For purposes of this subdivision
4 (14), "mobile telecommunications service" has the meaning
5 ascribed by Section 40-21-120.

6 ~~(14)~~ (15) REMOTE USE TAX. Amounts collected from out
7 of state vendors who, on October 1, 2012, were or would have
8 been remote sellers as defined in Section 40-23-171; and
9 amounts remitted by consumers on the individual tax return.

10 Section 3. The provisions of this act are severable.
11 If any part of this act is declared invalid or
12 unconstitutional, that declaration shall not affect the part
13 which remains.

14 Section 4. All laws or parts of laws which conflict
15 with this act are repealed.

16 Section 5. The amendments in this act are intended
17 to clarify existing law and are not substantive changes to the
18 tax law. For that reason, the amendments should be applied to
19 all open tax periods.

20 Section 6. For transactions that occurred prior to
21 the effective date of this act in which the consumer did not
22 receive from the retailer either an authorization number or a
23 physical card, neither the Department of Revenue nor local tax
24 officials may seek payment for sales tax not collected. This
25 limitation on the authority of the department or local
26 officials shall not apply to audits that began or assessments
27 that were entered prior to the effective date of this act.

1 With regard to such transactions in which sales tax was
2 collected and remitted, neither the taxpayer nor the entity
3 remitting sales tax shall have the right to seek refund of
4 such tax.

5 Section 7. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
Education..... 30-JAN-14

Read for the second time and placed
on the calendar..... 06-FEB-14

Read for the third time and passed
as amended..... 20-FEB-14

Yeas 100, Nays 0, Abstains 1

Jeff Woodard
Clerk