

1 HB184
2 150295-5
3 By Representative Shiver (Constitutional Amendment)
4 RFD: Local Legislation
5 First Read: 05-MAR-15

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ENROLLED, An Act,

Relating to Monroe County; proposing an amendment to the Constitution of Alabama of 1901; to levy a tax on tobacco products and collect and distribute the proceeds from the tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) There is levied in Monroe County on every person, firm, or corporation that sells, stores, delivers, uses, or otherwise consumes tobacco or tobacco products in Monroe County a county privilege, license, or excise tax in the following amounts:

(1) An amount equal to twenty-five cents (\$0.25) for each package of 20 or less cigarettes sold within the county.

(2) An amount equal to thirty cents (\$0.30) for each package of 21 to 25 cigarettes sold within the county.

(3) An amount equal to one cent (\$0.01) for each cigar of any description made of tobacco or any substitute for a cigar sold in the county.

(4) An amount equal to twenty-five cents (\$0.25) for the first two ounces and twenty-five cents (\$0.25) for each

1 additional ounce or fraction of an ounce contained in each
2 individual package or can of smoking tobacco which is sold
3 within the county.

4 (5) An amount equal to twenty-five cents (\$0.25) for
5 the first two ounces and twenty-five cents (\$0.25) for each
6 additional ounce or fraction of an ounce contained in each
7 individual package or can of smokeless tobacco or snuff which
8 is sold within the county.

9 (b) The privilege, license, or excise tax imposed in
10 this amendment shall be in addition to all other taxes imposed
11 by law and shall be collected in the same manner as other
12 taxes on tobacco, except that when the license tax has been
13 paid by a wholesaler or seller of the products, that payment
14 shall be sufficient. The legislative intent of this amendment
15 is that the tax shall be paid only once on each package of
16 cigarettes, chewing tobacco, snuff, cigars of every
17 description, and smoking tobacco of every description.

18 (c) Every person, firm, corporation, club, or
19 association that sells, stores, or receives for the purpose of
20 selling or storing in Monroe County, any cigarettes, cigars,
21 snuff, and smoking tobacco products shall add the amount of
22 the license or privilege tax to the price of each product. It
23 is the purpose and intent of this amendment that the tax
24 required is, in fact, a levy on the consumer with the person,
25 firm, corporation, club, or association that sells or stores

1 or receives for the purpose of distributing the cigarettes,
2 cigars, snuff, and smoking tobacco products acting merely as
3 an agent for the collection of the tax. The dealer, storer, or
4 distributor shall state the amount of the tax separately from
5 the price of the cigarettes, cigars, snuff, and smoking
6 tobacco products on all price display signs, sales or delivery
7 slips, bills, and statements which advertise or indicate the
8 price of the cigarettes, cigars, snuff, and smoking tobacco
9 products.

10 (d) It shall be unlawful for any dealer, storer, or
11 distributor engaged in or continuing in the business in Monroe
12 County for which the tax is required to fail or refuse to add
13 to the sales price and collect from the purchaser the amount
14 due on account of the tax, to refund or offer to refund all or
15 any part of the amount collected, or absorb, or advertise
16 directly or indirectly the absorption of, the tax or any
17 portion thereof. Any person, firm, corporation, club, or
18 association violating this subsection shall be subject to a
19 civil penalty of not less than twenty-five dollars (\$25) nor
20 more than five hundred dollars (\$500). Each act in violation
21 of this subsection shall constitute a separate offense.

22 (e) (1) The State Department of Revenue or, as
23 otherwise provided by resolution of the county commission, the
24 Monroe County Tax Collector, shall collect all taxes required

1 pursuant to this amendment at the same time and in the same
2 manner as state sales and use taxes are collected.

3 (2) The tax imposed by this amendment shall be paid
4 by affixing stamps that are required for the payment of the
5 tax imposed by Sections 40-25-1 to 40-25-29, inclusive, Code
6 of Alabama 1975.

7 (3) The department shall have the same duties
8 relative to the preparation and sale of stamps to evidence the
9 payment of the tax that it has relative to the preparation and
10 sale of stamps under Sections 40-25-1 to 40-25-29, inclusive,
11 Code of Alabama 1975. The department may exercise the same
12 powers and perform the same duties in the same manner relative
13 to the collection of the tax imposed by this amendment that it
14 does relative to the collection of that tax, as long as it is
15 authorized and directed to do so under the resolution adopted
16 by the commission.

17 (4) In accordance with Section 40-25-2, Code of
18 Alabama 1975, in the event tobacco stamps are not available
19 for affixing to tobacco products packages and containers, or
20 by the authority of a duly promulgated regulation eliminating
21 the requirement of affixing county tobacco stamps, the
22 Commissioner of the Department of Revenue may require a
23 monthly report in lieu of stamps to report the amount of tax
24 due. The monthly report shall be in a form approved by the
25 commissioner and adopted by the department under the Alabama

1 Administrative Procedure Act, Title 41, Chapter 22 of the Code
2 of Alabama 1975.

3 (5) The department may promulgate and enforce rules
4 to effectuate the purposes of this amendment. All rules duly
5 promulgated shall have the same force and effect of law.

6 (f) All laws and rules of the department relating to
7 the manner and time of payment of the tax levied by Sections
8 40-25-1 to 40-25-29, inclusive, Code of Alabama 1975,
9 requiring reports from dealers and prescribing penalties for
10 violations shall apply with equal force to the tax imposed by
11 this amendment.

12 (g) The proceeds from the tax imposed, less the
13 amount or percentage of the actual cost of collection as may
14 be agreed upon by the commissioner and the Monroe County
15 Commission, shall be distributed to the Monroe County General
16 Fund.

17 (h) This amendment shall not be construed to apply
18 to cigarettes, cigars, snuff, smoking tobacco, and like
19 tobacco products stored by a wholesale dealer for the purpose
20 of resale or reshipment outside of the county which are
21 actually resold or reshipped.

22 Section 2. An election upon the proposed amendment
23 shall be held in accordance with Amendment 555 to the
24 Constitution of Alabama of 1901, now appearing as Section
25 284.01 of the Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, and the election laws of this
2 state.

3 Section 3. The appropriate election official shall
4 assign a ballot number for the proposed constitutional
5 amendment on the election ballot and shall set forth the
6 following description of the substance or subject matter of
7 the proposed constitutional amendment:

8 "Relating to Monroe County, proposing an amendment
9 to the Constitution of Alabama of 1901, to levy a tax on
10 tobacco products and collect and distribute the proceeds from
11 the tax.

12 "Proposed by Act _____."

13 This description shall be followed by the following
14 language:

15 "Yes () No ()."

