

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

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8 SYNOPSIS: This bill would propose a local
9 constitutional amendment relating to Monroe County
10 to levy a tax on tobacco products and collect and
11 distribute the proceeds from the tax.
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13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to Monroe County; proposing an amendment to
18 the Constitution of Alabama of 1901; to levy a tax on tobacco
19 products and collect and distribute the proceeds from the tax.
20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 PROPOSED AMENDMENT

26 (a) There is levied in Monroe County on every
27 person, firm, or corporation that sells, stores, delivers,

1 uses, or otherwise consumes tobacco or tobacco products in
2 Monroe County a county privilege, license, or excise tax in
3 the following amounts:

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

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

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

11 (4) An amount equal to twenty-five cents (\$0.25) for
12 the first two ounces and twenty-five cents (\$0.25) for each
13 additional ounce or fraction of an ounce contained in each
14 individual package or can of smoking tobacco which is sold
15 within the county.

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

21 (b) The privilege, license, or excise tax imposed in
22 this amendment shall be in addition to all other taxes imposed
23 by law and shall be collected in the same manner as other
24 taxes on tobacco, except that when the license tax has been
25 paid by a wholesaler or seller of the products, that payment
26 shall be sufficient. The legislative intent of this amendment
27 is that the tax shall be paid only once on each package of

1 cigarettes, chewing tobacco, snuff, cigars of every
2 description, and smoking tobacco of every description.

3 (c) Every person, firm, corporation, club, or
4 association that sells, stores, or receives for the purpose of
5 selling or storing in Monroe County, any cigarettes, cigars,
6 snuff, and smoking tobacco products shall add the amount of
7 the license or privilege tax to the price of each product. It
8 is the purpose and intent of this amendment that the tax
9 required is, in fact, a levy on the consumer with the person,
10 firm, corporation, club, or association that sells or stores
11 or receives for the purpose of distributing the cigarettes,
12 cigars, snuff, and smoking tobacco products acting merely as
13 an agent for the collection of the tax. The dealer, storer, or
14 distributor shall state the amount of the tax separately from
15 the price of the cigarettes, cigars, snuff, and smoking
16 tobacco products on all price display signs, sales or delivery
17 slips, bills, and statements which advertise or indicate the
18 price of the cigarettes, cigars, snuff, and smoking tobacco
19 products.

20 (d) It shall be unlawful for any dealer, storer, or
21 distributor engaged in or continuing in the business in Monroe
22 County for which the tax is required to fail or refuse to add
23 to the sales price and collect from the purchaser the amount
24 due on account of the tax, to refund or offer to refund all or
25 any part of the amount collected, or absorb, or advertise
26 directly or indirectly the absorption of, the tax or any
27 portion thereof. Any person, firm, corporation, club, or

1 association violating this subsection shall be subject to a
2 civil penalty of not less than twenty-five dollars (\$25) nor
3 more than five hundred dollars (\$500). Each act in violation
4 of this subsection shall constitute a separate offense.

5 (e) (1) The State Department of Revenue or, as
6 otherwise provided by resolution of the county commission, the
7 Monroe County Tax Collector, shall collect all taxes required
8 pursuant to this amendment at the same time and in the same
9 manner as state sales and use taxes are collected.

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

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

24 (4) In accordance with Section 40-25-2, Code of
25 Alabama 1975, in the event tobacco stamps are not available
26 for affixing to tobacco products packages and containers, or
27 by the authority of a duly promulgated regulation eliminating

1 the requirement of affixing county tobacco stamps, the
2 Commissioner of the Department of Revenue may require a
3 monthly report in lieu of stamps to report the amount of tax
4 due. The monthly report shall be in a form approved by the
5 commissioner and adopted by the department under the Alabama
6 Administrative Procedure Act, Title 41, Chapter 22 of the Code
7 of Alabama 1975.

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

11 (f) All laws and rules of the department relating to
12 the manner and time of payment of the tax levied by Sections
13 40-25-1 to 40-25-29, inclusive, Code of Alabama 1975,
14 requiring reports from dealers and prescribing penalties for
15 violations shall apply with equal force to the tax imposed by
16 this amendment.

17 (g) The proceeds from the tax imposed, less the
18 amount or percentage of the actual cost of collection as may
19 be agreed upon by the commissioner and the Monroe County
20 Commission, shall be distributed to the Monroe County General
21 Fund.

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

1 Section 2. An election upon the proposed amendment
2 shall be held in accordance with Amendment 555 to the
3 Constitution of Alabama of 1901, now appearing as Section
4 284.01 of the Official Recompilation of the Constitution of
5 Alabama of 1901, as amended, and the election laws of this
6 state.

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

12 "Relating to Monroe County, proposing an amendment
13 to the Constitution of Alabama of 1901, to levy a tax on
14 tobacco products and collect and distribute the proceeds from
15 the tax.

16 "Proposed by Act _____."

17 This description shall be followed by the following
18 language:

19 "Yes () No ()."