

1 SB200
2 165138-1
3 By Senator Livingston
4 RFD: Judiciary
5 First Read: 10-MAR-15

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8 SYNOPSIS: This bill would clarify that the taking of
9 consigned motor fuels and the taking of the
10 proceeds from the sale of consigned motor fuels
11 without the consent of the owner constitutes theft.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To add Article 3B to Chapter 8 of Title 13A,
11 comprised of Sections 13A-8-75 to 13A-8-77, inclusive, to the
12 Code of Alabama 1975; to provide for the crime of theft of
13 consigned motor fuels or the proceeds of consigned motor
14 fuels; and in connection therewith would have as its purpose
15 or effect the requirement of a new or increased expenditure of
16 local funds within the meaning of Amendment 621 of the
17 Constitution of Alabama of 1901, now appearing as Section
18 111.05 of the Official Recompilation of the Constitution of
19 Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Article 3B of Chapter 8 of Title 13A,
22 comprised of Sections 13A-8-75 to 13A-8-77, inclusive, is
23 added to the Code of Alabama 1975, to read as follows:

24 Article 3B.

25 §13A-8-75. Consigned motor fuels defined.

26 As used in this article, the term "consigned motor
27 fuels" means all grades of gasoline including gasohol or any

1 gasoline blend, number 1 diesel, number 2 diesel, kerosene,
2 and all aviation fuels delivered to a merchant by another for
3 the purpose of sale and the merchant deals in goods of that
4 kind. Consigned motor fuels are not owned by the party to whom
5 the fuels are delivered for sale, but remain the property of
6 the company delivering or having the motor fuels delivered.
7 The merchant agrees to sell the consigned motor fuels
8 belonging to another for a commission or other compensation.

9 §13A-8-76. Written consignment agreement.

10 There shall be a written agreement between the
11 person delivering or having the consigned motor fuels
12 delivered for sale, hereinafter designated the consignor, and
13 the merchant, hereinafter designated as the consignee,
14 reflecting not only the consignment agreement between the
15 parties, but that title to the consigned motor fuels and to
16 the proceeds from the sale of the consigned motor fuels is
17 always vested in the consignor and never the consignee.

18 §13A-8-77. Taking of consigned motor fuels without
19 consent of owner.

20 It shall be unlawful for any person to take, use,
21 sell, or dispose of consigned motor fuels or the proceeds from
22 the sale of consigned motor fuels without the consent of the
23 owner and in violation of the written agreement required in
24 Section 13A-8-76.

25 §13A-8-78. Penalties.

26 A person who violates this article shall be guilty
27 of the crime of theft of property and subject to those

1 penalties provided in Section 13A-8-3, 13A-8-4, or 13A-8-5,
2 based on value of the property taken.

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.