

1 HB20
2 171631-1
3 By Representative Johnson (K)
4 RFD: Ways and Means General Fund
5 First Read: 08-SEP-15

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8 SYNOPSIS: Existing law requires that sales of
9 automobiles, motorcycles, trucks, truck trailers,
10 or semi-trailers that will be registered or titled
11 outside of Alabama, that are exported or removed
12 from Alabama within 72 hours by the purchaser or
13 his or her agent for first time use outside Alabama
14 are subject to the Alabama automotive sales tax
15 unless the state in which the purchaser will title
16 or register the vehicle allows an Alabama resident
17 to purchase a motor vehicle for first titling and
18 registration in Alabama without the payment of tax
19 to that state. It also provides for exclusions to
20 the drive out provision and for the publication of
21 a list of states that do not allow this provision.

22 This bill would amend this section thereby
23 pending that in no case shall the amount of Alabama
24 state sales tax due exceed the amount that would
25 have been paid in the state where the vehicle is
26 first registered or titled.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Section 40-23-2 of the Code of Alabama
6 1975, relating to the taxation of sales of automobiles,
7 motorcycles, trucks, truck trailers, or semi-trailers that
8 will be registered or titled outside of Alabama or are
9 exported or removed from Alabama within 72 hours by the
10 purchaser, or his or her agent, for first time use outside
11 Alabama.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. This act shall be known as the "Motor
14 Vehicle Ad Valorem Tax Fairness Act."

15 Section 2. The Legislature finds that there is a
16 loophole in the current ad valorem tax collection system for
17 motor vehicles. The current allowance for deferral of ad
18 valorem taxes on motor vehicles allows some individuals to not
19 remit the taxes due. The Legislature finds that it is in the
20 best interest of the state to remove such provisions allowing
21 for the deferral of ad valorem taxes on motor vehicles.

22 Section 3. Section 40-23-2 Code of Alabama 1975, is
23 amended to read as follows:

24 "§40-23-2.

25 "There is levied, in addition to all other taxes of
26 every kind now imposed by law, and shall be collected as
27 herein provided, a privilege or license tax against the person

1 on account of the business activities and in the amount to be
2 determined by the application of rates against gross sales, or
3 gross receipts, as the case may be, as follows:

4 "(1) Upon every person, firm, or corporation,
5 (including the State of Alabama and its Alcoholic Beverage
6 Control Board in the sale of alcoholic beverages of all kinds,
7 the University of Alabama, Auburn University, and all other
8 institutions of higher learning in the state, whether the
9 institutions be denominational, state, county, or municipal
10 institutions, any association or other agency or
11 instrumentality of the institutions) engaged or continuing
12 within this state, in the business of selling at retail any
13 tangible personal property whatsoever, including merchandise
14 and commodities of every kind and character, (not including,
15 however, bonds or other evidences of debts or stocks, nor
16 sales of material and supplies to any person for use in
17 fulfilling a contract for the painting, repair, or
18 reconditioning of vessels, barges, ships, other watercraft,
19 and commercial fishing vessels of over five tons load
20 displacement as registered with the U.S. Coast Guard and
21 licensed by the State of Alabama Department of Conservation
22 and Natural Resources), an amount equal to four percent of the
23 gross proceeds of sales of the business except where a
24 different amount is expressly provided herein. Provided,
25 however, that any person engaging or continuing in business as
26 a retailer and wholesaler or jobber shall pay the tax required
27 on the gross proceeds of retail sales of the business at the

1 rates specified, when his or her books are kept so as to show
2 separately the gross proceeds of sales of each business, and
3 when his or her books are not kept he or she shall pay the tax
4 as a retailer, on the gross sales of the business.

5 "Where any used part including tires of an
6 automotive vehicle or a truck trailer, semitrailer, or house
7 trailer is taken in trade, or in a series of trades, as a
8 credit or part payment on the sale of a new or rebuilt part or
9 tire, the tax levied herein shall be paid on the net
10 difference, that is, the price of the new or used part or tire
11 sold less the credit for the used part or tire taken in trade,
12 provided, however, this provision shall not be construed to
13 include batteries.

14 "(2) Upon every person, firm, or corporation engaged
15 or continuing within this state in the business of conducting
16 or operating places of amusement or entertainment, billiard
17 and pool rooms, bowling alleys, amusement devices, musical
18 devices, theaters, opera houses, moving picture shows,
19 vaudevilles, amusement parks, athletic contests, including
20 wrestling matches, prize fights, boxing and wrestling
21 exhibitions, football and baseball games, (including athletic
22 contests, conducted by or under the auspices of any
23 educational institution within this state, or any athletic
24 association thereof, or other association whether the
25 institution or association be a denominational, a state, or
26 county, or a municipal institution, or association or a state,
27 county, or city school, or other institution, association or

1 school), skating rinks, race tracks, golf courses, or any
2 other place at which any exhibition, display, amusement, or
3 entertainment is offered to the public or place or places
4 where an admission fee is charged, including public bathing
5 places, public dance halls of every kind and description
6 within the State of Alabama, an amount equal to four percent
7 of the gross receipts of any such business. Provided, however,
8 notwithstanding any language to the contrary in the prior
9 portion of this subdivision, the tax provisions so specified
10 shall not apply to any athletic event conducted by a public or
11 nonpublic primary or secondary school or any athletic event
12 conducted by or under the auspices of the Alabama High School
13 Athletic Association. The tax amount which would have been
14 collected pursuant to this subdivision shall continue to be
15 collected by the public or nonpublic primary or secondary
16 school, but shall be retained by the school which collected it
17 and shall be used by the school for school purposes.

18 "(3) Upon every person, firm, or corporation engaged
19 or continuing within this state in the business of selling at
20 retail machines used in mining, quarrying, compounding,
21 processing, and manufacturing of tangible personal property an
22 amount equal to one and one-half percent of the gross proceeds
23 of the sale of the machines. The term "machine," as herein
24 used, shall include machinery which is used for mining,
25 quarrying, compounding, processing, or manufacturing tangible
26 personal property, and the parts of the machines, attachments,
27 and replacements therefor, which are made or manufactured for

1 use on or in the operation of the machines and which are
2 necessary to the operation of the machines and are customarily
3 so used.

4 (4) Upon every person, firm, or corporation engaged
5 or continuing within this state in the business of selling at
6 retail any automotive vehicle or truck trailer, semitrailer,
7 or house trailer, or mobile home set-up materials and supplies
8 including but not limited to steps, blocks, anchoring, cable
9 pipes, and any other materials pertaining thereto an amount
10 equal to two percent of the gross proceeds of sale of the
11 automotive vehicle or truck trailer, semitrailer, or house
12 trailer, or mobile home set-up materials and supplies
13 provided, however, where a person subject to the tax provided
14 for in this subdivision withdraws from his or her stock in
15 trade any automotive vehicle or truck trailer, semitrailer, or
16 house trailer for use by him or her or by his or her employee
17 or agent in the operation of the business, there shall be
18 paid, in lieu of the tax levied herein, a fee of five dollars
19 (\$5) per year or part thereof during which the automotive
20 vehicle, truck trailer, semitrailer, or house trailer shall
21 remain the property of the person. Each year or part thereof
22 shall begin with the day or anniversary date, as the case may
23 be, of such withdrawal and shall run for the 12 succeeding
24 months or part thereof during which the automotive vehicle,
25 truck trailer, semitrailer, or house trailer shall remain the
26 property of the person.

1 "Where any used automotive vehicle or truck trailer,
2 semitrailer, or house trailer is taken in trade or in a series
3 of trades, as a credit or part payment on the sale of a new or
4 used vehicle, the tax levied herein shall be paid on the net
5 difference, that is, the price of the new or used vehicle sold
6 less the credit for the used vehicle taken in trade.

7 "Sales of automobiles, motorcycles, trucks, truck
8 trailers, or semitrailers, excluding ~~vehicle campers~~ travel
9 trailers or housecars as defined in Section 40-12-240, that
10 will be registered or titled outside Alabama, that are
11 exported or removed from Alabama within 72 hours by the
12 purchaser or his or her agent for first use outside Alabama
13 are subject to Alabama sales tax in an amount equal to only
14 the state automotive sales tax rate, unless the sales tax laws
15 of the state in which the purchaser will title or register the
16 vehicle, allows an Alabama resident to purchase a motor
17 vehicle for first titling and registering in Alabama without
18 the payment of tax to that state. However, in no case shall
19 the amount of Alabama state sales tax due on a motor vehicle
20 that will be registered or titled for use in another state
21 exceed the amount of sales tax that would otherwise have been
22 due in the state where the vehicle will be registered or
23 titled for first use. The tax collected under this export
24 provision shall be Alabama sales tax and shall exclude county
25 and municipal sales tax. On January 1, 2016, and each January
26 1 thereafter, the Alabama Department of Revenue shall publish
27 to the state's website a list of states that do not allow

1 drive out provisions to Alabama residents. Should the list,
2 required by this subsection and relied upon by the taxpayer,
3 be incorrect, the taxpayer shall be relieved from the
4 liability concerning the miscollection of the state automotive
5 sales tax. Sales of all other vehicles such as mobile homes,
6 motor bikes, all terrain vehicles, and boats do not qualify
7 for the export exemption provision and are taxable unless the
8 dealer can provide factual evidence that the vehicle was
9 delivered outside of Alabama or to a common carrier for
10 transportation outside Alabama. In order for the sale to be
11 exempt from Alabama tax, the information relative to the
12 exempt sale shall be documented on forms approved by the
13 Revenue Department.

14 "Of the total \$.02 tax on each dollar of sale
15 provided hereunder, 58 percent of the total tax generated by
16 this subdivision (4) shall be deposited to the credit of the
17 Education Trust Fund; and 42 percent of the total tax
18 generated by this subdivision (4) shall be deposited to the
19 credit of the State General Fund.

20 "(5) Upon every person, firm, or corporation engaged
21 or continuing within this state in the business of selling
22 through coin-operated dispensing machines, food and food
23 products for human consumption, not including beverages other
24 than coffee, milk, milk products, and substitutes therefor,
25 there is levied a tax equal to three percent of the cost of
26 the food, food products, and beverages sold through the

1 machines, which cost for the purpose of this subdivision shall
2 be the gross proceeds of sales of the business."

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

5 Section 5. This act shall become effective on
6 January 1, 2016, following its passage and approval by the
7 Governor, or its otherwise becoming law.