

1 SB28  
2 171631-2  
3 By Senator Chambliss  
4 RFD: Finance and Taxation Education  
5 First Read: 09-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  
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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. Section 40-23-2 Code of Alabama 1975, is  
14 amended to read as follows:

15 "§40-23-2.

16 "There is levied, in addition to all other taxes of  
17 every kind now imposed by law, and shall be collected as  
18 herein provided, a privilege or license tax against the person  
19 on account of the business activities and in the amount to be  
20 determined by the application of rates against gross sales, or  
21 gross receipts, as the case may be, as follows:

22 "(1) Upon every person, firm, or corporation,  
23 (including the State of Alabama and its Alcoholic Beverage  
24 Control Board in the sale of alcoholic beverages of all kinds,  
25 the University of Alabama, Auburn University, and all other  
26 institutions of higher learning in the state, whether the  
27 institutions be denominational, state, county, or municipal

1 institutions, any association or other agency or  
2 instrumentality of the institutions) engaged or continuing  
3 within this state, in the business of selling at retail any  
4 tangible personal property whatsoever, including merchandise  
5 and commodities of every kind and character, (not including,  
6 however, bonds or other evidences of debts or stocks, nor  
7 sales of material and supplies to any person for use in  
8 fulfilling a contract for the painting, repair, or  
9 reconditioning of vessels, barges, ships, other watercraft,  
10 and commercial fishing vessels of over five tons load  
11 displacement as registered with the U.S. Coast Guard and  
12 licensed by the State of Alabama Department of Conservation  
13 and Natural Resources), an amount equal to four percent of the  
14 gross proceeds of sales of the business except where a  
15 different amount is expressly provided herein. Provided,  
16 however, that any person engaging or continuing in business as  
17 a retailer and wholesaler or jobber shall pay the tax required  
18 on the gross proceeds of retail sales of the business at the  
19 rates specified, when his or her books are kept so as to show  
20 separately the gross proceeds of sales of each business, and  
21 when his or her books are not kept he or she shall pay the tax  
22 as a retailer, on the gross sales of the business.

23 "Where any used part including tires of an  
24 automotive vehicle or a truck trailer, semitrailer, or house  
25 trailer is taken in trade, or in a series of trades, as a  
26 credit or part payment on the sale of a new or rebuilt part or  
27 tire, the tax levied herein shall be paid on the net

1 difference, that is, the price of the new or used part or tire  
2 sold less the credit for the used part or tire taken in trade,  
3 provided, however, this provision shall not be construed to  
4 include batteries.

5 "(2) Upon every person, firm, or corporation engaged  
6 or continuing within this state in the business of conducting  
7 or operating places of amusement or entertainment, billiard  
8 and pool rooms, bowling alleys, amusement devices, musical  
9 devices, theaters, opera houses, moving picture shows,  
10 vaudevilles, amusement parks, athletic contests, including  
11 wrestling matches, prize fights, boxing and wrestling  
12 exhibitions, football and baseball games, (including athletic  
13 contests, conducted by or under the auspices of any  
14 educational institution within this state, or any athletic  
15 association thereof, or other association whether the  
16 institution or association be a denominational, a state, or  
17 county, or a municipal institution, or association or a state,  
18 county, or city school, or other institution, association or  
19 school), skating rinks, race tracks, golf courses, or any  
20 other place at which any exhibition, display, amusement, or  
21 entertainment is offered to the public or place or places  
22 where an admission fee is charged, including public bathing  
23 places, public dance halls of every kind and description  
24 within the State of Alabama, an amount equal to four percent  
25 of the gross receipts of any such business. Provided, however,  
26 notwithstanding any language to the contrary in the prior  
27 portion of this subdivision, the tax provisions so specified

1 shall not apply to any athletic event conducted by a public or  
2 nonpublic primary or secondary school or any athletic event  
3 conducted by or under the auspices of the Alabama High School  
4 Athletic Association. The tax amount which would have been  
5 collected pursuant to this subdivision shall continue to be  
6 collected by the public or nonpublic primary or secondary  
7 school, but shall be retained by the school which collected it  
8 and shall be used by the school for school purposes.

9           "(3) Upon every person, firm, or corporation engaged  
10 or continuing within this state in the business of selling at  
11 retail machines used in mining, quarrying, compounding,  
12 processing, and manufacturing of tangible personal property an  
13 amount equal to one and one-half percent of the gross proceeds  
14 of the sale of the machines. The term "machine," as herein  
15 used, shall include machinery which is used for mining,  
16 quarrying, compounding, processing, or manufacturing tangible  
17 personal property, and the parts of the machines, attachments,  
18 and replacements therefor, which are made or manufactured for  
19 use on or in the operation of the machines and which are  
20 necessary to the operation of the machines and are customarily  
21 so used.

22           (4) Upon every person, firm, or corporation engaged  
23 or continuing within this state in the business of selling at  
24 retail any automotive vehicle or truck trailer, semitrailer,  
25 or house trailer, or mobile home set-up materials and supplies  
26 including but not limited to steps, blocks, anchoring, cable  
27 pipes, and any other materials pertaining thereto an amount

1 equal to two percent of the gross proceeds of sale of the  
2 automotive vehicle or truck trailer, semitrailer, or house  
3 trailer, or mobile home set-up materials and supplies  
4 provided, however, where a person subject to the tax provided  
5 for in this subdivision withdraws from his or her stock in  
6 trade any automotive vehicle or truck trailer, semitrailer, or  
7 house trailer for use by him or her or by his or her employee  
8 or agent in the operation of the business, there shall be  
9 paid, in lieu of the tax levied herein, a fee of five dollars  
10 (\$5) per year or part thereof during which the automotive  
11 vehicle, truck trailer, semitrailer, or house trailer shall  
12 remain the property of the person. Each year or part thereof  
13 shall begin with the day or anniversary date, as the case may  
14 be, of such withdrawal and shall run for the 12 succeeding  
15 months or part thereof during which the automotive vehicle,  
16 truck trailer, semitrailer, or house trailer shall remain the  
17 property of the person.

18 "Where any used automotive vehicle or truck trailer,  
19 semitrailer, or house trailer is taken in trade or in a series  
20 of trades, as a credit or part payment on the sale of a new or  
21 used vehicle, the tax levied herein shall be paid on the net  
22 difference, that is, the price of the new or used vehicle sold  
23 less the credit for the used vehicle taken in trade.

24 "Sales of automobiles, motorcycles, trucks, truck  
25 trailers, or semitrailers, excluding ~~vehicle campers~~ travel  
26 trailers or housecars as defined in Section 40-12-240, that  
27 will be registered or titled outside Alabama, that are

1 exported or removed from Alabama within 72 hours by the  
2 purchaser or his or her agent for first use outside Alabama  
3 are subject to Alabama sales tax in an amount equal to only  
4 the state automotive sales tax rate, unless the sales tax laws  
5 of the state in which the purchaser will title or register the  
6 vehicle, allows an Alabama resident to purchase a motor  
7 vehicle for first titling and registering in Alabama without  
8 the payment of tax to that state. However, in no case shall  
9 the amount of Alabama state sales tax due on a motor vehicle  
10 that will be registered or titled for use in another state  
11 exceed the amount of sales tax that would otherwise have been  
12 due in the state where the vehicle will be registered or  
13 titled for first use. The tax collected under this export  
14 provision shall be Alabama sales tax and shall exclude county  
15 and municipal sales tax. On January 1, 2016, and each January  
16 1 thereafter, the Alabama Department of Revenue shall publish  
17 to the state's website a list of states that do not allow  
18 drive out provisions to Alabama residents. Should the list,  
19 required by this subsection and relied upon by the taxpayer,  
20 be incorrect, the taxpayer shall be relieved from the  
21 liability concerning the miscollection of the state automotive  
22 sales tax. Sales of all other vehicles such as mobile homes,  
23 motor bikes, all terrain vehicles, and boats do not qualify  
24 for the export exemption provision and are taxable unless the  
25 dealer can provide factual evidence that the vehicle was  
26 delivered outside of Alabama or to a common carrier for  
27 transportation outside Alabama. In order for the sale to be



1 exempt from Alabama tax, the information relative to the  
2 exempt sale shall be documented on forms approved by the  
3 Revenue Department.

4 "Of the total \$.02 tax on each dollar of sale  
5 provided hereunder, 58 percent of the total tax generated by  
6 this subdivision (4) shall be deposited to the credit of the  
7 Education Trust Fund; and 42 percent of the total tax  
8 generated by this subdivision (4) shall be deposited to the  
9 credit of the State General Fund.

10 "(5) Upon every person, firm, or corporation engaged  
11 or continuing within this state in the business of selling  
12 through coin-operated dispensing machines, food and food  
13 products for human consumption, not including beverages other  
14 than coffee, milk, milk products, and substitutes therefor,  
15 there is levied a tax equal to three percent of the cost of  
16 the food, food products, and beverages sold through the  
17 machines, which cost for the purpose of this subdivision shall  
18 be the gross proceeds of sales of the business."

19 Section 2. All laws or parts of laws which conflict  
20 with this act are repealed.

21 Section 3. This act shall become effective on  
22 January 1, 2016, following its passage and approval by the  
23 Governor, or its otherwise becoming law.