

1 HB115
2 173457-1
3 By Representative Johnson (R)
4 RFD: Ways and Means General Fund
5 First Read: 03-FEB-16

2
3
4
5
6
7
8 SYNOPSIS: This bill would require wholesalers of
9 grocery items, including tobacco products, and
10 licensed beer distributors, making sales within
11 Alabama, on which sales or use tax was not
12 collected at the time of the sale, to provide
13 information reports with the Department of Revenue
14 regarding those exempt transactions.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To require sellers of grocery items and distributors
21 of beer to file information reports on sales made within
22 Alabama in which sales or use tax was not collected; to
23 provide penalties for noncompliance; to require the Department
24 of Revenue to promulgate rules; and to provide effective
25 dates.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) For the purpose of enforcing the
2 collection of taxes levied by Chapter 23 of Title 40 on the
3 sale of tangible personal property, every wholesaler of
4 grocery items and every beer distributor, making above a
5 specified amount of sales within Alabama on which sales or use
6 tax was not collected at the time of the sale, shall file
7 reports with sales and use tax returns.

8 (b) For the purpose of this act, the following terms
9 shall have the respective meanings ascribed by this section:

10 (1) LICENSED BEER DISTRIBUTOR. A distributor, as
11 licensed by the Alabama Beverage Control Board, selling or
12 distributing beer in this state.

13 (2) PERSONS OR COMPANY. Used interchangeably,
14 includes any individual, firm, copartnership, association,
15 corporation, receiver, trustee, or any other group or
16 combination acting as a unit and the plural as well as the
17 singular number, unless the intention to give a more limited
18 meaning is disclosed by the context.

19 (3) RETAILER. A person or company engaged in the
20 business of making sales of tangible personal property at
21 retail and who holds a license pursuant to Section 40-23-6 or
22 40-23-66.

23 (4) SELLER. A manufacturer, wholesaler, or
24 distributor of alcoholic beverages, tobacco products, or
25 grocery items who sells to a retailer in this state.

26 (c) Each seller selling or distributing beer,
27 tobacco, or grocery items for which sales or use tax was not

1 paid at the time of the sale, shall file a report of its
2 activity in accordance with this section.

3 (1) Each licensed beer distributor shall report
4 sales to all licensees for which an exemption from sales or
5 use tax was claimed at the time of the sale, to the Department
6 of Revenue.

7 (2) Each seller of groceries and grocery products,
8 including tobacco products, selling or distributing to a
9 retailer in this state, in which at least seventy-five percent
10 (75%) of total monthly sales or in which \$5,000,000 or more in
11 monthly sales, regardless of the percentage, are sold to
12 retailers, and for which an exemption from sales or use tax
13 was claimed at the time of the sale, shall report such sales
14 to the Department of Revenue within the period prescribed in
15 subsection (d).

16 (d) The information report must be filed in a manner
17 as prescribed by the department.

18 (1) The information provided in the report from each
19 seller or distributor described in subsection (c) (1) or (c)
20 (2), shall include the seller's legal name, seller's address,
21 seller's beverage license number, if applicable, retailer's
22 name, retailer's address, total amount sold for the reporting
23 period as specified in subsection (d), applicable resale
24 number provided by the retailer, and other information as
25 prescribed by the department.

1 (2) The report shall be due on or before the 20th
2 date of the month next succeeding the month in which the sale
3 occurs, unless otherwise provided for in subsection (d).

4 (3) When the total non-taxed sales average more than
5 six thousand dollars (\$6,000) per month but less than ten
6 thousand dollars (\$10,000) per month during the preceding
7 calendar year, a quarterly report in lieu of a monthly report
8 shall be made, and shall be due on or before the 20th day of
9 the month next succeeding the end of the quarter for which the
10 report is due.

11 (4) When the average non-taxed sales is six thousand
12 dollars (\$6,000) per month or less for the preceding calendar
13 year, an annual report in lieu of a monthly or quarterly
14 report may be made upon approval by the department, and shall
15 be due on or before the 20th day of the year next succeeding
16 the end of the year for which the report is due.

17 (e) If a seller or distributor fails to file the
18 required report with the department on or before the
19 prescribed date, a penalty of one-thousand dollars (\$1,000)
20 per reporting period may be assessed. This penalty may also be
21 assessed on any return on which the seller has not entered the
22 appropriate amount on the deductions line.

23 Section 2. The Department of Revenue may adopt rules
24 to administer and implement this act.

25 Section 3. Any laws in conflict with this act are
26 repealed to the extent that they conflict with the language
27 herein.

1 Section 4. This act shall become effective October
2 1, 2016, following its passage and approval by the Governor,
3 or its otherwise becoming law.