

1 HB541
2 176919-1
3 By Representative Johnson (K)
4 RFD: Ways and Means General Fund
5 First Read: 13-APR-16

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8 SYNOPSIS: This bill defines the term transient as used
9 in Chapter 26 of Title 40 and would clarify that
10 the entity collecting any rental charges shall be
11 responsible for remitting it to the Department.

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13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 To amend Section 40-26-1, Code of Alabama 1975,
18 relating to transient occupancy tax; to define transient.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 40-26-1, Code of Alabama 1975, is
21 amended to read as follows:

22 "§40-26-1.

23 "(a) There is levied and imposed, in addition to all
24 other taxes of every kind now imposed by law, a privilege or
25 license tax upon every person, firm, or corporation engaging
26 in the business of renting or furnishing any room or rooms,
27 lodging, or accommodations to transients ~~in~~ for any hotel,

1 motel, inn, tourist camp, tourist cabin, or any other place in
2 which rooms, lodgings, or accommodations are regularly
3 furnished to transients for a consideration, in any county
4 which is located in the geographic region comprising the
5 Alabama mountain lakes area, those being Blount, Cherokee,
6 Colbert, Cullman, DeKalb, Etowah, Franklin, Jackson,
7 Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall,
8 Morgan, and Winston, in an amount to be determined by the
9 application of the rate of five percent of the charge for such
10 room, rooms, lodgings, or accommodations, including the charge
11 for use or rental of personal property and services furnished
12 in such room, and the rate of four percent of the charge in
13 every other county. The term transient, as used in this
14 section, shall mean any person as defined in Section 40-23-1,
15 Code of Alabama 1975, to whom one or more rooms, meeting
16 rooms, lodgings, living quarters, or sleeping or housekeeping
17 accommodations, or other accommodations are rented or
18 furnished. There is exempted from the tax levied under this
19 chapter any rentals or services taxed under Division 1 of
20 Article 1 of Chapter 23 of this title. The tax imposed by this
21 section on the total rental amount charged for such
22 accommodations, including any service charges, shall be due
23 from any person, firm, or corporation charging or collecting
24 for such room or rooms, lodgings or other accommodations.

25 "(b) The tax shall not apply to rooms, lodgings, or
26 accommodations supplied: (i) For a period of 180 continuous
27 days or more in any place; (ii) by camps, conference centers,

1 or similar facilities operated by nonprofit organizations
2 primarily for the benefit of, and in connection with,
3 recreational or educational programs for children, students,
4 or members or guests of other nonprofit organizations during
5 any calendar year; ~~or~~ (iii) by privately operated camps,
6 conference centers, or similar facilities that provide lodging
7 and recreational or educational programs exclusively for the
8 benefit of children, students, or members or guests of
9 nonprofit organizations during any calendar year; (iv)
10 pursuant to a residential real estate agreement that creates a
11 leasehold in real property as covered under Chapter 9A of
12 Title 35; or (v) for accommodations paid for by a corporation
13 for the purposes of hiring, training, or relocating employees,
14 provided the corporation is in compliance with the state, and
15 has been afforded financial incentives by a recognized
16 economic development board to relocate personnel or facilities
17 to this state.

18 "(c) For purposes of subsection (b): "Children"
19 means individuals under age 21; "student" is defined in
20 accordance with 26 U.S.C. §151(c)(4), as in effect from time
21 to time or by any successor law; "nonprofit organization" is
22 an organization exempt from federal income tax under 26 U.S.C.
23 §501(c)(3), as in effect from time to time or any successor
24 law; and "privately operated" refers to any camp, conference
25 center, or similar facility other than those operated by a
26 nonprofit organization as herein defined.

1 "(d) For purposes of the exemption provided in
2 subsection (b) to corporations renting accommodations for the
3 purposes of hiring, training, or relocating employees, such
4 corporations must apply to the Department for a certificate of
5 exemption from lodgings tax documenting that it is in
6 compliance with the state and providing evidence that it has
7 been afforded financial incentives by a recognized economic
8 development board to relocate personnel or facilities to this
9 state. Upon receipt of the completed and documented
10 application for a certificate of exemption, the Department
11 will issue the corporation a certificate of exemption from the
12 lodgings tax herein levied. Such certificate must be provided
13 by the corporation to the person renting or furnishing the
14 accommodations as proof of the exemption provided. Such
15 accommodations must be paid for directly by the corporation to
16 the person renting or furnishing the accommodations in order
17 for the exemption to apply. Accommodations paid for by an
18 employee and later reimbursed by the corporation will not meet
19 the requirements of subsection (b).

20 "(e) Any overpayment of tax, levied under this
21 chapter, erroneously paid directly to the department shall be
22 subject the provisions of Section 40-1-44, Code of Alabama
23 1975."

24 Section 2. All laws or parts of laws which conflict
25 with this act are hereby repealed.

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