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3 SENATE AGRICULTURE, CONSERVATION, AND FORESTRY COMMITTEE
4 SUBSTITUTE FOR SB244

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9 SYNOPSIS: Under existing law, a privilege tax is
10 levied on the business activities of every person
11 engaging or continuing to engage in the state in
12 the business of severing timber or any other forest
13 products.

14 This bill would define processor and would
15 revise the amount of forest products severance tax
16 charged on certain forest products.

17 This bill would provide for the levy of a
18 forest products manufacturers' tax on manufacturers
19 located only within the state.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 To amend Sections 9-13-80, 9-13-81, 9-13-82,
26 9-13-84, 9-13-86, 9-13-88, 9-13-93, 9-13-104, and 9-13-108,

1 Code of Alabama 1975, relating to forest products privilege
2 and severance taxes; to define terms, provide alternative tax
3 rates for certain types of timber, and exclude from the tax,
4 wood residue used in conjunction with a forest products
5 manufacturing process; and to repeal Section 9-13-85, Code of
6 Alabama 1975, relating to the allocation of funds.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 9-13-80, 9-13-81, 9-13-82,
9 9-13-84, 9-13-86, 9-13-88, 9-13-93, 9-13-104, and 9-13-108 of
10 the Code of Alabama 1975, are amended to read as follows:

11 "§9-13-80.

12 "The following words, terms, and phrases, when used
13 in this article, shall have the meanings ascribed to them in
14 this section, except where the context clearly indicates a
15 different meaning:

16 "(1)~~(7)~~ COMMISSIONER. The Commissioner of Revenue of
17 the State of Alabama.

18 "(2)~~(9)~~ CONCENTRATION YARD. A place where ~~lumber is~~
19 logs, pulpwood, or inwoods pulpwood chips severed in Alabama,
20 are brought or received within the State of Alabama in a green
21 or rough form or condition ~~for manufacturing or for processing~~
22 ~~or~~ for resale to processors or manufacturers or for shipment
23 out of state.

24 "(3)~~(2)~~ DEPARTMENT. The Department of Revenue of the
25 State of Alabama.

1 "~~(4)(5)~~ FOREST PRODUCTS. Logs, ~~timber,~~ pulpwood,
2 ~~chemical wood, bolts, crossties and switch ties, mine ties,~~
3 ~~coal mine props, ore mine props,~~ poles, piles pilings, inwoods
4 pulpwood chips, turpentine (crude gum) and stumpwood
5 (tarwood).

6 "~~(5)(8)~~ MANUFACTURER. As applied to ~~forest products~~
7 logs suitable for manufacture into lumber, plywood, veneer, or
8 other solid wood product, the person who operates the sawmill
9 or plant in which ~~such~~ the products are ~~so~~ manufactured ~~into~~
10 lumber; as applied to pulpwood, ~~chemical wood and bolts,~~ the
11 person who operates the paper or pulp mill, ~~chemical plant~~
12 oriented strand board mill, pellet mill, or other plant in
13 which ~~such forest~~ the products are ~~processed~~ manufactured; as
14 applied to ~~crossties, switch ties, mine ties, props,~~ poles and
15 piles pilings, the person who purchases from the producer; ~~as~~
16 ~~applied to turpentine, the person who processes or cooks the~~
17 ~~crude gum;~~ as applied to stumpwood, the person who operates
18 the plant or retort in which ~~such~~ the product is ~~processed~~
19 utilized.

20 "~~(6)(1)~~ PERSON. ~~Such term includes any~~ Any
21 individual, firm, copartnership, association, corporation,
22 receiver, trustee, or any other group or combination acting as
23 a unit.

24 "(7) PROCESSOR. A chip mill or other facility that
25 receives forest products from a producer and further processes
26 those forest products before delivery to a manufacturer.

1 "(8)~~(4)~~ PRODUCER. Any person engaging or continuing
2 to engage in this state in the business of severing timber or
3 any other forest products from the soil, whether as owner,
4 lessee, concessionaire, l or contractor. ~~Such definition~~ The
5 term shall also include any person who assembles or causes to
6 be assembled any forest product for shipment out of the State
7 of Alabama in an unmanufactured condition.

8 "(9)~~(6)~~ SEVER. To fell, cut, l or otherwise separate
9 from the soil; ~~provided, that for.~~ For the purpose of this
10 article, any person who is the owner or lessee of timber and
11 is also the processor thereof or a manufacturer of products
12 derived therefrom shall be deemed the ~~person~~ producer engaged
13 in severing such timber from the soil, notwithstanding the
14 fact that the severance is made by an independent contractor
15 or otherwise.

16 "(10)~~(3)~~ TAXPAYER. Any person liable for taxes under
17 this article.

18 "§9-13-81.

19 "To provide further for conservation of the natural
20 resources of the state by protection of the ~~forest products~~
21 state's forests and development of the forestry program, there
22 is ~~hereby~~ levied and shall be collected as provided in this
23 article a privilege tax on ~~account of the business activities~~
24 upon every person engaging who owns timber prior to severance
25 and engages or ~~continuing~~ continues to engage in the state in
26 the business of severing timber or any other forest products

1 from the soil for sale, profit, or commercial use whether as
2 owner, lessee, concessionaire, or contractor. The privilege
3 tax imposed by this article is in addition to other taxes now
4 levied and shall be known as the forest products severance
5 tax. ~~Said~~ The tax, together with interest and penalties
6 imposed by this article, shall be a lien upon the forest
7 products so severed and upon the product or products
8 manufactured therefrom until the tax imposed by this article
9 with respect to such forest products shall have been paid or
10 until such forest products or the products manufactured
11 therefrom shall have been sold by the manufacturer thereof,
12 but the lien of such tax shall not be enforceable against the
13 bona fide purchaser from the manufacturer of any such forest
14 products or of the products manufactured therefrom.

15 "§9-13-82.

16 "(a) The measure of the forest products severance
17 tax is at the following rates:

18 "~~(1) On pine lumber \$0.50, per 1,000 feet board~~
19 ~~measure lumber tally. Where the timber is sold as logs and is~~
20 ~~not converted into lumber~~ logs severed in Alabama and
21 delivered to a manufacturer, processor, or concentration yard
22 in Alabama, the rate shall be \$0.75 per 1,000 feet log scale
23 (Doyle rule), except that logs under eight inches in diameter
24 inside the bark at the small end shall be scaled as containing
25 one foot log scale for each foot of length, or, at the
26 election of the taxpayer, the rate shall be \$0.10 per ton

1 (2,000 pounds). On pine logs severed in Alabama for transport
2 out of the state, the rate shall be \$0.10 per ton (2,000
3 pounds).

4 "~~(2) On hardwood, cypress, and all other species of~~
5 logs severed in Alabama and delivered to a manufacturer,
6 processor, or concentration yard lumber, \$0.30, per 1,000 feet
7 board measure lumber tally. Where the timber is sold as logs
8 and is not converted into lumber in Alabama, the rate shall be
9 \$0.50, per 1,000 feet log scale (Doyle rule), except that logs
10 under eight inches in diameter inside the bark at the small
11 end shall be scaled as containing one foot log scale for each
12 foot of length, or, at the election of the taxpayer, the rate
13 shall be \$0.065 per ton (2,000 pounds). On all other species
14 of logs severed in Alabama for transport out of the state, the
15 rate shall be \$0.065 per ton (2,000 pounds).

16 "~~(3) On pulpwood, chemical wood, and bolts, \$0.25,~~
17 per standard cord of 128 cubic feet, or, at the election of
18 the taxpayer, \$0.10 per ton (2,000 pounds) on pulpwood severed
19 in Alabama and delivered to the manufacturer, concentration
20 yard, or processor. On pulpwood transported out of the state,
21 \$0.10 per ton (2,000 pounds) for pulpwood severed in Alabama.

22 "~~(4) On crossties, \$0.015 per piece, or, at the~~
23 election of the taxpayer, \$0.15 per ton (2,000 pounds), and on
24 switch ties, \$0.025 per piece, or, at the election of the
25 taxpayer, \$0.17 per ton (2,000 pounds).

1 ~~"(5) On mine ties and coal mine props, \$0.125 per~~
2 ~~100 pieces, or, at the election of the taxpayer, \$0.15 per ton~~
3 ~~(2,000 pounds).~~

4 ~~"(6) On pine ore mine props, \$0.75 per 1,000 feet~~
5 ~~log scale (Doyle rule) and on hardwood ore mine props, \$0.50~~
6 ~~per 1,000 feet log scale (Doyle rule), except that props under~~
7 ~~eight inches in diameter at the small end shall be scaled as~~
8 ~~containing one foot log scale for each foot of length, or, at~~
9 ~~the election of the taxpayer, \$3.125 per 1,000 lineal feet,~~
10 ~~or, \$0.15 per ton (2,000 pounds), regardless of species.~~

11 ~~"(4)(7) On piling pilings and poles, \$1.875 per~~
12 ~~1,000 board feet (Doyle scale), or, at the election of the~~
13 ~~taxpayer, \$0.205 per ton (2,000 pounds) on pilings and poles~~
14 ~~severed in Alabama and delivered to a manufacturer or~~
15 ~~concentration yard. On pilings and poles severed in Alabama~~
16 ~~and transported out of the state, \$0.205 per ton (2,000~~
17 ~~pounds).~~

18 ~~"(8) On turpentine (crude gum), \$0.15 per barrel of~~
19 ~~400 pounds.~~

20 ~~"(5)(9) On stumpwood (tarwood), \$0.125 per ton~~
21 ~~(2,000 pounds) on stumpwood severed in Alabama and delivered~~
22 ~~to a manufacturer. On stumpwood severed in Alabama and~~
23 ~~transported out of the state, \$0.125 per ton (2,000 pounds).~~

24 ~~"(6)(10) On inwoods pulpwood chips, \$0.25 per 190~~
25 ~~cubic feet, or, at the election of the taxpayer, \$0.10 per ton~~
26 ~~(2,000 pounds) on chips produced in the woods from pulpwood~~

1 severed in Alabama and delivered to the manufacturer or
2 concentration yard. On inwoods pulpwood chips produced from
3 pulpwood severed in Alabama and transported out of the state,
4 \$0.10 per ton (2,000 pounds).

5 " (b) There is also levied a privilege tax against
6 ~~the processor of the forest products or~~ the manufacturer using
7 the forest products in an amount equal to 50 percent of the
8 tax on the severer as set out above. The privilege tax shall
9 be collected in the same manner as the forest products
10 ~~severance tax on the severer~~ is collected and shall be known
11 as the forest products manufacturers tax. This tax is levied
12 ~~not only upon processors or~~ on manufacturers located only
13 ~~within this state but also upon out-of-state processors or~~
14 ~~manufacturers who obtain the timber within this state and ship~~
15 ~~it outside the state for completion of the manufacturing~~
16 ~~process.~~ It is the legislative intent that this privilege tax
17 is not to be levied in any manner upon the person owning the
18 land from which the forest products are severed nor upon the
19 ~~person actually cutting the forest products~~ producer but it is
20 levied upon the ~~processor processing the forest products or~~
21 manufacturer ~~using~~ that uses the forest products in the
22 manufacturing process.

23 " (c) ~~Round wood pulpwood~~ Pulpwood, logs, or portions
24 thereof on which the forest products severance tax has been
25 paid shall not be subject to an additional forest products
26 severance tax when converted into pulpwood chips, ~~but the.~~ The

1 additional forest products manufacturers tax levied by
2 subsection (b) ~~of this section~~ shall be paid by the ~~person,~~
3 ~~firm, or corporation~~ manufacturer utilizing the pulpwood chips
4 in a manufacturing process. A manufacturer utilizing logs in a
5 manufacturing process that also produces residual pulpwood
6 chips from those logs shall not be liable for the additional
7 forest products manufacturers tax levied by subsection (b) on
8 that portion of the log that is converted into residual
9 pulpwood chips. The additional forest products manufacturers
10 tax levied by subsection (b) attributable to those residual
11 pulpwood chips shall be paid by the manufacturer utilizing the
12 residual pulpwood chips in a manufacturing process.

13 "(d) A manufacturer may establish entitlement to the
14 exemption from forest products severance tax provided by
15 subsection (c) by obtaining a certificate from the seller
16 providing that the seller is a manufacturer, concentration
17 yard, or processor that is registered with the department to
18 remit forest products severance taxes, and any manufacturer
19 who obtains a certificate shall not be held liable for any
20 forest products severance tax on the pulpwood chips or
21 residual pulpwood chips purchased from the seller.

22 "(e) It is the intent of the Legislature to
23 encourage the use of forest based renewable energy. Fuel chips
24 produced in the woods at the site of severance are not subject
25 to the taxes set forth in this article. For purposes of this
26 section, fuel chips include woodchips that are produced from

1 tree tops and limbs, logging slash, down timber material, or
2 standing live or dead trees which do not meet commercial
3 standards because of size, species, merchantable volume, or
4 economic selection criteria, and are used as a form of energy
5 in conjunction with a manufacturing process. Fuel chips do not
6 include similar materials utilized as feedstock in a
7 manufacturing process.

8 "§9-13-84.

9 "(a) The taxes imposed by this article, and any
10 other taxes imposed on the severance of forest products, shall
11 be due and payable quarterly to the ~~State Department of~~
12 ~~Revenue~~ department and ~~shall~~, when collected, shall be paid by
13 ~~such the~~ department into the State Treasury. When so paid into
14 the State Treasury, all such taxes shall be credited by the
15 Treasurer to a special fund which is hereby created and which
16 shall be known as the Special State Forestry Fund of the State
17 of Alabama, which fund shall be disbursed under the
18 supervision of the State Forester, subject to the restrictions
19 embodied in this article, for the purpose of carrying out the
20 statewide forestry program as provided by law and for no other
21 or different purposes. Not less than 85 percent of the taxes
22 collected under and by virtue of this article shall be
23 expended for forest protection. No portion of ~~such the~~ fund
24 shall revert to the General Fund of the state at the end of
25 any fiscal year, and any surplus shall be allowed to

1 accumulate from year to year and be disbursed as exigencies of
2 the statewide forestry program may require.

3 "(b) There is ~~hereby~~ continuously appropriated the
4 receipts from the taxes levied in this article to the State
5 Forestry Commission for the use of the State Forestry
6 Commission. ~~Such~~ The amount of money as shall be appropriated
7 for each fiscal year by the Legislature to the ~~Department of~~
8 ~~Revenue~~ department with which to pay the salaries, the cost of
9 operation, and the management of the ~~said~~ department shall be
10 deducted, as a first charge thereon, from the taxes collected
11 under and pursuant to ~~said~~ this article; ~~provided, however,~~
12 ~~that the.~~ The expenditure of ~~said~~ the sum so appropriated
13 shall be budgeted and allotted pursuant to Article 4, and
14 commencing with Section 41-4-80, of Chapter 4, Title 41 and
15 limited to the amount appropriated to defray the expenses of
16 operating ~~said~~ the department for each fiscal year; ~~provided~~
17 ~~further, however,~~ that for the fiscal years ending September
18 30, 1989, and September 30, 1990, the portion of the receipts
19 allocated to the Forestry Commission is hereby appropriated
20 for use in their fire control program, or two percent of the
21 receipts, whichever is less.

22 "§9-13-86.

23 "Every manufacturer of forest products shall and
24 processor, within 30 days after the expiration of each quarter
25 annual period expiring, respectively, shall on the last day of
26 March, June, September, and December of each year, file with

1 the ~~Department of Revenue of the State of Alabama~~ department a
2 statement under oath, on forms prescribed by the ~~said~~
3 ~~Department of Revenue~~ department, showing the kinds of forest
4 products and the gross quantity of each manufactured during
5 the preceding quarter annual period by ~~such~~ the manufacturer
6 ~~of forest products or processor~~, showing the county or
7 counties in which such products were severed from the soil and
8 showing the gross quantity, if any, of such forest products
9 severed from soil outside the State of Alabama and such other
10 reasonable and necessary information pertaining thereto as the
11 ~~Department of Revenue~~ department may require for the proper
12 enforcement of ~~the provisions of~~ this article. At the time of
13 rendering such quarter annual reports, the manufacturer ~~of~~
14 ~~forest products or processor~~ shall pay to the ~~Department of~~
15 ~~Revenue~~ department the taxes imposed by this article with
16 respect to all forest products severed from the soil in the
17 State of Alabama and embraced in ~~such~~ the report; ~~provided,~~
18 ~~that in.~~ In the case that any ~~lumber is~~ logs, pulpwood, or
19 inwoods pulpwood chips are sold or delivered to a
20 concentration yard ~~as is defined in this article~~, then the
21 taxes provided for in this article shall be reported and paid
22 by the owner or owners of ~~such~~ the concentration yard to the
23 ~~state instead of the manufacturer, but it shall be the duty of~~
24 ~~the owner or owners of any such concentration yard to collect~~
25 ~~the tax in all cases from the seller~~ department.

1 ~~"It shall be unlawful for the owner or owners of any~~
2 ~~such concentration yard to fail or refuse to collect the tax~~
3 ~~from the seller as aforesaid. It shall also be unlawful to~~
4 ~~refund or offer to refund all or any part of the tax collected~~
5 ~~by the owner of the concentration yard from a seller or to~~
6 ~~absorb or advertise directly or indirectly that the~~
7 ~~concentration yard will absorb or refund to the seller all or~~
8 ~~part of said tax. Any persons, firms, associations,~~
9 ~~corporations or copartnerships violating any of the provisions~~
10 ~~of this section or this article in said respect shall be~~
11 ~~guilty of a misdemeanor and, upon conviction, shall be~~
12 ~~punished by a fine of not less than \$50.00 nor more than~~
13 ~~\$100.00, or by imprisonment in the county jail for not more~~
14 ~~than six months or by both such fine and imprisonment, and~~
15 ~~each act in violation of the provisions of this article shall~~
16 ~~constitute a separate offense.~~

17 "§9-13-88.

18 ~~"It shall be the duty of every manufacturer of~~
19 ~~forest products and processor~~ in this state and of every
20 producer who shall ship forest products out of the State of
21 Alabama in an unmanufactured condition and of every
22 concentration yard ~~as is defined in this article~~ where any
23 ~~lumber is~~ logs, pulpwood, or inwoods pulpwood chips are sold
24 or delivered to it to keep and preserve suitable records with
25 the items separated into the various items on which privilege
26 taxes are levied in this article, and ~~such~~ other books or

1 accounts as may be necessary to determine the amount of taxes
2 for which he or she is liable under ~~the provisions of~~ this
3 article. ~~Said~~ The books and records shall be kept and
4 preserved for a period of three years, and all ~~such~~ records
5 shall be open for examination at any time by the department or
6 its duly authorized agent.

7 "§9-13-93.

8 "The taxes provided in this article shall become
9 delinquent after the date fixed for the filing of the quarter
10 annual report to be filed ~~in the office of~~ with the ~~Department~~
11 ~~of Revenue~~ department.

12 "§9-13-104.

13 "When requested by the ~~commissioner~~ department, all
14 transporters of forest products out of, within or across the
15 State of Alabama shall be required to furnish ~~said~~
16 ~~commissioner~~ the department, under oath and upon forms
17 prescribed by ~~him~~ the department, any and all information
18 relative to the transportation of ~~such~~ forest products, and
19 ~~such~~ the reports shall contain, in addition to other required
20 information, the name of the shipper, the date of shipment,
21 the quantity and type or character of ~~such~~ the forest
22 products, stated in units or measurements applicable to ~~such~~
23 the forest products, the point of receipt or shipment, and the
24 point of destination; ~~provided, that in~~ . In the case of
25 common carriers using bills of lading or way bills prescribed
26 or approved by the interstate commerce commission, ~~such~~ the

1 common carriers shall only be required to keep the usual
2 records at the office or offices in this state where ~~such~~ the
3 records are usually kept.

4 "§9-13-108.

5 "Any and all taxes upon the excise or privilege of
6 severing, ~~processing~~, or manufacturing of forest products
7 shall inure to the State of Alabama and shall be exercised
8 only in a uniform, statewide tax. No tax shall be levied by
9 local law or by any political subdivision of the state,
10 including counties, cities, special taxing authorities, or
11 other taxing instrumentalities, upon the excise or privilege
12 of severing, ~~processing~~ or manufacturing of forest products in
13 Alabama."

14 Section 2. The amendments to Section 9-13-82, Code
15 of Alabama 1975, by this act shall apply retroactively to all
16 open tax periods and all periods for which a preliminary or
17 final assessment of tax could be or was entered pursuant to
18 Section 40-2A-7, Code of Alabama 1975, or any successor
19 general or local law. No refunds shall be due or issued
20 pursuant to this act with respect to those periods prior to
21 the effective date of this act.

22 Section 3. All laws or parts of laws which conflict
23 with this act are repealed. Section 9-13-85, Code of Alabama
24 1975, relating to the allocation of funds, is specifically
25 repealed.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.