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3 HOUSE AGRICULTURE AND FORESTRY COMMITTEE SUBSTITUTE FOR HB313
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8 SYNOPSIS: Under existing law, a privilege tax is
9 levied on the business activities of every person
10 engaging or continuing to engage in the state in
11 the business of severing timber or any other forest
12 products.

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

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

20 A BILL

21 TO BE ENTITLED

22 AN ACT
23

24 To amend Sections 9-13-80, 9-13-81, 9-13-82,
25 9-13-84, 9-13-86, 9-13-88, 9-13-93, 9-13-104, and 9-13-108,
26 Code of Alabama 1975, relating to forest products privilege
27 and severance taxes; to define terms, provide alternative tax

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

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 9-13-80, 9-13-81, 9-13-82,
7 9-13-84, 9-13-86, 9-13-88, 9-13-93, 9-13-104, and 9-13-108 of
8 the Code of Alabama 1975, are amended to read as follows:

9 "§9-13-80.

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

14 "(1) ~~(7)~~ COMMISSIONER. The Commissioner of Revenue of
15 the State of Alabama.

16 "(2) ~~(9)~~ CONCENTRATION YARD. A place where ~~lumber is~~
17 logs, pulpwood, or inwoods pulpwood chips severed in Alabama,
18 are brought or received within the State of Alabama in a green
19 or rough form or condition ~~for manufacturing or for processing~~
20 ~~or~~ for resale to processors or manufacturers or for shipment
21 out of state.

22 "(3) ~~(2)~~ DEPARTMENT. The Department of Revenue of the
23 State of Alabama.

24 "(4) ~~(5)~~ FOREST PRODUCTS. Logs, ~~timber,~~ pulpwood,
25 ~~chemical wood, bolts, crossties and switch ties, mine ties,~~
26 ~~coal mine props, ore mine props,~~ poles, piles pilings, inwoods

1 pulpwood chips, turpentine (crude gum) and stumpwood
2 (tarwood).

3 "(5) (8) MANUFACTURER. As applied to ~~forest products~~
4 logs suitable for manufacture into lumber, plywood, veneer, or
5 other solid wood product, the person who operates the sawmill
6 or plant in which ~~such~~ the products are ~~so~~ manufactured ~~into~~
7 ~~lumber;~~ as applied to pulpwood, ~~chemical wood and bolts,~~ the
8 person who operates the paper or pulp mill, ~~chemical plant~~
9 oriented strand board mill, pellet mill, or other plant in
10 which ~~such forest~~ the products are ~~processed~~ manufactured; as
11 applied to ~~crossties, switch ties, mine ties, props, poles and~~
12 ~~piles~~ pilings, the person who purchases from the producer; ~~as~~
13 ~~applied to turpentine, the person who processes or cooks the~~
14 ~~crude gum;~~ as applied to stumpwood, the person who operates
15 the plant or retort in which ~~such~~ the product is ~~processed~~
16 utilized.

17 "(6) (1) PERSON. ~~Such term includes any~~ Any
18 individual, firm, copartnership, association, corporation,
19 receiver, trustee, or any other group or combination acting as
20 a unit.

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

24 "(8) (4) PRODUCER. Any person engaging or continuing
25 to engage in this state in the business of severing timber or
26 any other forest products from the soil, whether as owner,
27 lessee, concessionaire, or contractor. ~~Such definition~~ The

1 term shall also include any person who assembles or causes to
2 be assembled any forest product for shipment out of the State
3 of Alabama in an unmanufactured condition.

4 "~~(9)(6)~~ SEVER. To fell, cut, or otherwise separate
5 from the soil, ~~provided, that for.~~ For the purpose of this
6 article, any person who is the owner or lessee of timber and
7 is also the processor thereof or a manufacturer of products
8 derived therefrom shall be deemed the ~~person~~ producer engaged
9 in severing such timber from the soil, notwithstanding the
10 fact that the severance is made by an independent contractor
11 or otherwise.

12 "~~(10)(3)~~ TAXPAYER. Any person liable for taxes under
13 this article.

14 "§9-13-81.

15 "To provide further for conservation of the natural
16 resources of the state by protection of the ~~forest products~~
17 state's forests and development of the forestry program, there
18 is hereby levied and shall be collected as provided in this
19 article a privilege tax on ~~account of the business activities~~
20 upon every person engaging who owns timber prior to severance
21 and engages or ~~continuing~~ continues to engage in the state in
22 the business of severing timber or any other forest products
23 from the soil for sale, profit, or commercial use whether as
24 owner, lessee, concessionaire, or contractor. The privilege
25 tax imposed by this article is in addition to other taxes now
26 levied and shall be known as the forest products severance
27 tax. ~~Said~~ The tax, together with interest and penalties

1 imposed by this article, shall be a lien upon the forest
2 products so severed and upon the product or products
3 manufactured therefrom until the tax imposed by this article
4 with respect to such forest products shall have been paid or
5 until such forest products or the products manufactured
6 therefrom shall have been sold by the manufacturer thereof,
7 but the lien of such tax shall not be enforceable against the
8 bona fide purchaser from the manufacturer of any such forest
9 products or of the products manufactured therefrom.

10 "§9-13-82.

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

13 "(1) On pine ~~lumber \$0.50, per 1,000 feet board~~
14 ~~measure lumber tally. Where the timber is sold as logs and is~~
15 ~~not converted into lumber~~ logs severed in Alabama and
16 delivered to a manufacturer, processor, or concentration yard
17 in Alabama, the rate shall be \$0.75 per 1,000 feet log scale
18 (Doyle rule), except that logs under eight inches in diameter
19 inside the bark at the small end shall be scaled as containing
20 one foot log scale for each foot of length, or, at the
21 election of the taxpayer, the rate shall be \$0.10 per ton
22 (2,000 pounds). On pine logs severed in Alabama for transport
23 out of the state, the rate shall be \$0.10 per ton (2,000
24 pounds).

25 "(2) On ~~hardwood, cypress, and all other species of~~
26 logs severed in Alabama and delivered to a manufacturer,
27 processor, or concentration yard ~~lumber, \$0.30, per 1,000 feet~~

1 ~~board measure lumber tally. Where the timber is sold as logs~~
2 ~~and is not converted into lumber in Alabama, the rate shall be~~
3 ~~\$0.50, per 1,000 feet log scale (Doyle rule), except that logs~~
4 ~~under eight inches in diameter inside the bark at the small~~
5 ~~end shall be scaled as containing one foot log scale for each~~
6 ~~foot of length, or, at the election of the taxpayer, the rate~~
7 ~~shall be \$0.065 per ton (2,000 pounds). On all other species~~
8 ~~of logs severed in Alabama for transport out of the state, the~~
9 ~~rate shall be \$0.065 per ton (2,000 pounds).~~

10 ~~"(3) On pulpwood, chemical wood, and bolts, \$0.25,~~
11 ~~per standard cord of 128 cubic feet, or, at the election of~~
12 ~~the taxpayer, \$0.10 per ton (2,000 pounds) on pulpwood severed~~
13 ~~in Alabama and delivered to the manufacturer, concentration~~
14 ~~yard, or processor. On pulpwood transported out of the state,~~
15 ~~\$0.10 per ton (2,000 pounds) for pulpwood severed in Alabama.~~

16 ~~"(4) On crossties, \$0.015 per piece, or, at the~~
17 ~~election of the taxpayer, \$0.15 per ton (2,000 pounds), and on~~
18 ~~switch ties, \$0.025 per piece, or, at the election of the~~
19 ~~taxpayer, \$0.17 per ton (2,000 pounds).~~

20 ~~"(5) On mine ties and coal mine props, \$0.125 per~~
21 ~~100 pieces, or, at the election of the taxpayer, \$0.15 per ton~~
22 ~~(2,000 pounds).~~

23 ~~"(6) On pine ore mine props, \$0.75 per 1,000 feet~~
24 ~~log scale (Doyle rule) and on hardwood ore mine props, \$0.50~~
25 ~~per 1,000 feet log scale (Doyle rule), except that props under~~
26 ~~eight inches in diameter at the small end shall be scaled as~~
27 ~~containing one foot log scale for each foot of length, or, at~~

1 ~~the election of the taxpayer, \$3.125 per 1,000 lineal feet,~~
2 ~~or, \$0.15 per ton (2,000 pounds), regardless of species.~~

3 "~~(4)(7)~~ On ~~piling pilings~~ and poles, ~~\$1.875 per~~
4 ~~1,000 board feet (Doyle scale), or, at the election of the~~
5 ~~taxpayer, \$0.205 per ton (2,000 pounds) on pilings and poles~~
6 ~~severed in Alabama and delivered to a manufacturer or~~
7 ~~concentration yard. On pilings and poles severed in Alabama~~
8 ~~and transported out of the state, \$0.205 per ton (2,000~~
9 ~~pounds).~~

10 "~~(8)~~ On turpentine (crude gum), ~~\$0.15 per barrel of~~
11 ~~400 pounds.~~

12 "~~(5)(9)~~ On stumpwood (tarwood), \$0.125 per ton
13 (2,000 pounds) on stumpwood severed in Alabama and delivered
14 to a manufacturer. On stumpwood severed in Alabama and
15 transported out of the state, \$0.125 per ton (2,000 pounds).

16 "~~(6)(10)~~ On inwoods pulpwood chips, ~~\$0.25 per 190~~
17 ~~cubic feet, or, at the election of the taxpayer, \$0.10 per ton~~
18 (2,000 pounds) on chips produced in the woods from pulpwood
19 severed in Alabama and delivered to the manufacturer or
20 concentration yard. On inwoods pulpwood chips produced from
21 pulpwood severed in Alabama and transported out of the state,
22 \$0.10 per ton (2,000 pounds).

23 "(b) There is also levied a privilege tax against
24 ~~the processor of the forest products or the manufacturer using~~
25 the forest products in an amount equal to 50 percent of the
26 tax on the severer as set out above. The privilege tax shall
27 be collected in the same manner as the forest products

1 severance tax ~~on the severer~~ is collected and shall be known
2 as the forest products manufacturers tax. This tax is levied
3 ~~not only upon processors or~~ on manufacturers located only
4 within this state ~~but also upon out-of-state processors or~~
5 ~~manufacturers who obtain the timber within this state and ship~~
6 ~~it outside the state for completion of the manufacturing~~
7 ~~process.~~ It is the legislative intent that this privilege tax
8 is not to be levied in any manner upon the person owning the
9 land from which the forest products are severed nor upon the
10 ~~person actually cutting the forest products~~ producer but it is
11 levied upon the ~~processor processing the forest products or~~
12 ~~manufacturer~~ using that uses the forest products in the
13 manufacturing process.

14 "(c) ~~Round wood pulpwood~~ Pulpwood, logs, or portions
15 thereof on which the forest products severance tax has been
16 paid shall not be subject to an additional forest products
17 severance tax when converted into pulpwood chips, but the
18 additional forest products manufacturers tax levied by
19 subsection (b) ~~of this section~~ shall be paid by the ~~person,~~
20 ~~firm, or corporation~~ manufacturer utilizing the chips in a
21 manufacturing process.

22 "(d) A manufacturer may establish entitlement to the
23 exemption from forest products severance tax provided by
24 subsection (c) by obtaining a certificate from the seller
25 providing that the seller is a manufacturer, concentration
26 yard, or processor that is registered with the department to
27 remit forest products severance taxes, and any manufacturer

1 who obtains a certificate shall not be held liable for any
2 forest products severance tax on the pulpwood chips or
3 residual pulpwood chips purchased from the seller.

4 "(e) It is the intent of the Legislature to
5 encourage the use of forest based renewable energy. Fuel chips
6 produced in the woods at the site of severance are not subject
7 to the taxes set forth in this article. For purposes of this
8 section, fuel chips include woodchips that are produced from
9 tree tops and limbs, logging slash, down timber material, or
10 standing live or dead trees which do not meet commercial
11 standards because of size, species, merchantable volume, or
12 economic selection criteria, and are used as a form of energy
13 in conjunction with a manufacturing process. Fuel chips do not
14 include similar materials utilized as feedstock in a
15 manufacturing process.

16 "§9-13-84.

17 "(a) The taxes imposed by this article, and any
18 other taxes imposed on the severance of forest products, shall
19 be due and payable quarterly to the ~~State Department of~~
20 ~~Revenue~~ department and ~~shall~~, when collected, shall be paid by
21 ~~such~~ the department into the State Treasury. When so paid into
22 the State Treasury, all such taxes shall be credited by the
23 Treasurer to a special fund which is hereby created and which
24 shall be known as the Special State Forestry Fund of the State
25 of Alabama, which fund shall be disbursed under the
26 supervision of the State Forester, subject to the restrictions
27 embodied in this article, for the purpose of carrying out the

1 statewide forestry program as provided by law and for no other
2 or different purposes. Not less than 85 percent of the taxes
3 collected under and by virtue of this article shall be
4 expended for forest protection. No portion of ~~such~~ the fund
5 shall revert to the General Fund of the state at the end of
6 any fiscal year, and any surplus shall be allowed to
7 accumulate from year to year and be disbursed as exigencies of
8 the statewide forestry program may require.

9 " (b) There is ~~hereby~~ continuously appropriated the
10 receipts from the taxes levied in this article to the State
11 Forestry Commission for the use of the State Forestry
12 Commission. ~~Such~~ The amount of money as shall be appropriated
13 for each fiscal year by the Legislature to the ~~Department of~~
14 ~~Revenue~~ department with which to pay the salaries, the cost of
15 operation, and the management of the ~~said~~ department shall be
16 deducted, as a first charge thereon, from the taxes collected
17 under and pursuant to ~~said~~ this article; ~~provided, however,~~
18 ~~that the.~~ The expenditure of ~~said~~ the sum so appropriated
19 shall be budgeted and allotted pursuant to Article 4, and
20 commencing with Section 41-4-80, of Chapter 4, Title 41 and
21 limited to the amount appropriated to defray the expenses of
22 operating ~~said~~ the department for each fiscal year; ~~provided~~
23 ~~further, however, that for the fiscal years ending September~~
24 ~~30, 1989, and September 30, 1990, the portion of the receipts~~
25 ~~allocated to the Forestry Commission is hereby appropriated~~
26 ~~for use in their fire control program,~~ or two percent of the
27 receipts, whichever is less.

1 "§9-13-86.

2 "Every manufacturer ~~of forest products shall and~~
3 processor, within 30 days after the expiration of each quarter
4 annual period expiring, respectively, shall on the last day of
5 March, June, September, and December of each year, file with
6 the ~~Department of Revenue of the State of Alabama~~ department a
7 statement under oath, on forms prescribed by the ~~said~~
8 ~~Department of Revenue~~ department, showing the kinds of forest
9 products and the gross quantity of each manufactured during
10 the preceding quarter annual period by ~~such the~~ manufacturer
11 ~~of forest products or processor~~, showing the county or
12 counties in which such products were severed from the soil and
13 showing the gross quantity, if any, of such forest products
14 severed from soil outside the State of Alabama and such other
15 reasonable and necessary information pertaining thereto as the
16 ~~Department of Revenue~~ department may require for the proper
17 enforcement of ~~the provisions of~~ this article. At the time of
18 rendering such quarter annual reports, the manufacturer ~~of~~
19 ~~forest products or processor~~ shall pay to the ~~Department of~~
20 ~~Revenue~~ department the taxes imposed by this article with
21 respect to all forest products severed from the soil in the
22 State of Alabama and embraced in ~~such the~~ report; ~~provided,~~
23 ~~that in.~~ In the case that any ~~lumber is~~ logs, pulpwood, or
24 inwoods pulpwood chips are sold or delivered to a
25 concentration yard ~~as is defined in this article~~, then the
26 taxes provided for in this article shall be reported and paid
27 by the owner or owners of ~~such the~~ concentration yard to the

1 ~~state instead of the manufacturer, but it shall be the duty of~~
2 ~~the owner or owners of any such concentration yard to collect~~
3 ~~the tax in all cases from the seller department.~~

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

20 "§9-13-88.

21 "It shall be the duty of every manufacturer ~~of~~
22 ~~forest products~~ and processor in this state and of every
23 producer who shall ship forest products out of the State of
24 Alabama in an unmanufactured condition and of every
25 concentration yard ~~as is defined in this article~~ where any
26 ~~lumber is~~ logs, pulpwood, or inwoods pulpwood chips are sold
27 or delivered to it to keep and preserve suitable records with

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

9 "§9-13-93.

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

14 "§9-13-104.

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

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

5 "§9-13-108.

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

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

23 Section 3. All laws or parts of laws which conflict
24 with this act are repealed. Section 9-13-85, Code of Alabama
25 1975, relating to the allocation of funds, is specifically
26 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.