

1 HB313
2 183630-4
3 By Representatives Beech, Mooney, Hanes, Ainsworth, Holmes
4 (M), Warren, Drummond, Forte, Clarke, Scott, Howard, Coleman,
5 Jackson, Ellis, Wingo, Fincher, Fridy, Ledbetter, Butler and
6 Weaver
7 RFD: Agriculture and Forestry
8 First Read: 23-FEB-17

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend 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,
10 Code of Alabama 1975, relating to forest products privilege
11 and severance taxes; to define terms, provide alternative tax
12 rates for certain types of timber, and exclude from the tax,
13 wood residue used in conjunction with a forest products
14 manufacturing process; and to repeal Section 9-13-85, Code of
15 Alabama 1975, relating to the allocation of funds.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 9-13-80, 9-13-81, 9-13-82,
18 9-13-84, 9-13-86, 9-13-88, 9-13-93, 9-13-104, and 9-13-108 of
19 the Code of Alabama 1975, are amended to read as follows:

20 "§9-13-80.

21 "The following words, terms, and phrases, when used
22 in this article, shall have the meanings ascribed to them in
23 this section, except where the context clearly indicates a
24 different meaning:

25 "(1) ~~(7)~~ COMMISSIONER. The Commissioner of Revenue of
26 the State of Alabama.

1 "(2)~~(9)~~ CONCENTRATION YARD. A place where ~~lumber is~~
2 logs, pulpwood, or inwoods pulpwood chips severed in Alabama,
3 are brought or received within the State of Alabama in a green
4 or rough form or condition ~~for manufacturing or for processing~~
5 or for resale to processors or manufacturers or for shipment
6 out of state.

7 "(3)~~(2)~~ DEPARTMENT. The Department of Revenue of the
8 State of Alabama.

9 "(4)~~(5)~~ FOREST PRODUCTS. Logs, ~~timber,~~ pulpwood,
10 ~~chemical wood, bolts, crossties and switch ties, mine ties,~~
11 ~~coal mine props, ore mine props,~~ poles, piles pilings, inwoods
12 pulpwood chips, turpentine (crude gum) and stumpwood
13 (tarwood).

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

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

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

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

15 "(9)~~(6)~~ SEVER. To fell, cut, or otherwise separate
16 from the soil, ~~provided, that for.~~ For the purpose of this
17 article, any person who is the owner or lessee of timber and
18 is also the processor thereof or a manufacturer of products
19 derived therefrom shall be deemed the ~~person~~ producer engaged
20 in severing such timber from the soil, notwithstanding the
21 fact that the severance is made by an independent contractor
22 or otherwise.

23 "(10)~~(3)~~ TAXPAYER. Any person liable for taxes under
24 this article.

25 "§9-13-81.

26 "To provide further for conservation of the natural
27 resources of the state by protection of the ~~forest products~~

1 state's forests and development of the forestry program, there
2 is hereby levied and shall be collected as provided in this
3 article a privilege tax on ~~account of the business activities~~
4 ~~upon~~ every person ~~engaging~~ who owns timber prior to severance
5 and engages or ~~continuing~~ continues to engage in the state in
6 the business of severing timber or any other forest products
7 from the soil for sale, profit, or commercial use whether as
8 owner, lessee, concessionaire, or contractor. The privilege
9 tax imposed by this article is in addition to other taxes now
10 levied and shall be known as the forest products severance
11 tax. ~~Said~~ The tax, together with interest and penalties
12 imposed by this article, shall be a lien upon the forest
13 products so severed and upon the product or products
14 manufactured therefrom until the tax imposed by this article
15 with respect to such forest products shall have been paid or
16 until such forest products or the products manufactured
17 therefrom shall have been sold by the manufacturer thereof,
18 but the lien of such tax shall not be enforceable against the
19 bona fide purchaser from the manufacturer of any such forest
20 products or of the products manufactured therefrom.

21 "§9-13-82.

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

24 "(1) On pine ~~lumber \$0.50, per 1,000 feet board~~
25 ~~measure lumber tally. Where the timber is sold as logs and is~~
26 ~~not converted into lumber~~ logs severed in Alabama and
27 delivered to a manufacturer, processor, or concentration yard

1 in Alabama, ~~the rate shall be \$0.75 per 1,000 feet log scale~~
2 ~~(Doyle rule), except that logs under eight inches in diameter~~
3 ~~inside the bark at the small end shall be scaled as containing~~
4 ~~one foot log scale for each foot of length, or, at the~~
5 ~~election of the taxpayer, the rate shall be \$0.10 per ton~~
6 ~~(2,000 pounds). On pine logs severed in Alabama for transport~~
7 ~~out of the state, the rate shall be \$0.10 per ton (2,000~~
8 ~~pounds).~~

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

21 " (3) ~~On pulpwood, chemical wood, and bolts, \$0.25,~~
22 ~~per standard cord of 128 cubic feet, or, at the election of~~
23 ~~the taxpayer, \$0.10 per ton (2,000 pounds) on pulpwood severed~~
24 ~~in Alabama and delivered to the manufacturer, concentration~~
25 ~~yard, or processor. On pulpwood transported out of the state,~~
26 ~~\$0.10 per ton (2,000 pounds) for pulpwood severed in Alabama.~~

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

5 "~~(5) On mine ties and coal mine props, \$0.125 per~~
6 ~~100 pieces, or, at the election of the taxpayer, \$0.15 per ton~~
7 ~~(2,000 pounds).~~

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

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

22 "~~(8) On turpentine (crude gum), \$0.15 per barrel of~~
23 ~~400 pounds.~~

24 "(5)(9) On stumpwood (tarwood), \$0.125 per ton
25 (2,000 pounds) on stumpwood severed in Alabama and delivered
26 to a manufacturer. On stumpwood severed in Alabama and
27 transported out of the state, \$0.125 per ton (2,000 pounds).

1 "~~(6)(10)~~ On inwoods pulpwood chips, \$0.25 per 190
2 cubic feet, or, at the election of the taxpayer, \$0.10 per ton
3 (2,000 pounds) on chips produced in the woods from pulpwood
4 severed in Alabama and delivered to the manufacturer or
5 concentration yard. On inwoods pulpwood chips produced from
6 pulpwood severed in Alabama and transported out of the state,
7 \$0.10 per ton (2,000 pounds).

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

26 "(c) ~~Round wood pulpwood~~ Pulpwood, logs, or portions
27 thereof on which the forest products severance tax has been

1 paid shall not be subject to an additional forest products
2 severance tax when converted into pulpwood chips, ~~but the~~. The
3 additional forest products manufacturers tax levied by
4 subsection (b) ~~of this section~~ shall be paid by the ~~person,~~
5 ~~firm, or corporation~~ manufacturer utilizing the pulpwood chips
6 in a manufacturing process.

7 A manufacturer utilizing logs in a manufacturing
8 process that also produces residual pulpwood chips from those
9 logs shall not be liable for the additional forest products
10 manufacturers tax levied by subsection (b) on that portion of
11 the log that is converted into residual pulpwood chips. The
12 additional forest products manufacturers tax levied by
13 subsection (b) attributable to those residual pulpwood chips
14 shall be paid by the manufacturer utilizing the residual
15 pulpwood chips in a manufacturing process.

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

25 "(e) It is the intent of the Legislature to
26 encourage the use of forest based renewable energy. Fuel chips
27 produced in the woods at the site of severance are not subject

1 to the taxes set forth in this article. For purposes of this
2 section, fuel chips include woodchips that are produced from
3 tree tops and limbs, logging slash, down timber material, or
4 standing live or dead trees which do not meet commercial
5 standards because of size, species, merchantable volume, or
6 economic selection criteria, and are used as a form of energy
7 in conjunction with a manufacturing process. Fuel chips do not
8 include similar materials utilized as feedstock in a
9 manufacturing process.

10 "§9-13-84.

11 "(a) The taxes imposed by this article, and any
12 other taxes imposed on the severance of forest products, shall
13 be due and payable quarterly to the ~~State Department of~~
14 ~~Revenue~~ department and ~~shall~~, when collected, shall be paid by
15 ~~such~~ the department into the State Treasury. When so paid into
16 the State Treasury, all such taxes shall be credited by the
17 Treasurer to a special fund which is hereby created and which
18 shall be known as the Special State Forestry Fund of the State
19 of Alabama, which fund shall be disbursed under the
20 supervision of the State Forester, subject to the restrictions
21 embodied in this article, for the purpose of carrying out the
22 statewide forestry program as provided by law and for no other
23 or different purposes. Not less than 85 percent of the taxes
24 collected under and by virtue of this article shall be
25 expended for forest protection. No portion of ~~such~~ the fund
26 shall revert to the General Fund of the state at the end of
27 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
27 the ~~Department of Revenue of the State of Alabama~~ department a

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

25 "It shall be unlawful for the owner or owners of any
26 such concentration yard to fail or refuse to collect the tax
27 from the seller as aforesaid. It shall also be unlawful to

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

14 "§9-13-88.

15 "It shall be the duty of every manufacturer of
16 ~~forest products~~ and processor in this state and of every
17 producer who shall ship forest products out of the State of
18 Alabama in an unmanufactured condition and of every
19 concentration yard ~~as is defined in this article~~ where any
20 ~~lumber is~~ logs, pulpwood, or inwoods pulpwood chips are sold
21 or delivered to it to keep and preserve suitable records with
22 the items separated into the various items on which privilege
23 taxes are levied in this article, and ~~such~~ other books or
24 accounts as may be necessary to determine the amount of taxes
25 for which he or she is liable under ~~the provisions of this~~
26 article. ~~Said~~ The books and records shall be kept and
27 preserved for a period of three years, and all ~~such~~ records

1 shall be open for examination at any time by the department or
2 its duly authorized agent.

3 "§9-13-93.

4 "The taxes provided in this article shall become
5 delinquent after the date fixed for the filing of the quarter
6 annual report to be filed ~~in the office of~~ with the Department
7 of Revenue department.

8 "§9-13-104.

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

26 "§9-13-108.

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

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

18 (a) The Legislature finds and declares that the
19 intent of this amendatory act is to simplify and clarify
20 existing language used to calculate and collect forest product
21 severance taxes and forest product manufacturing taxes and to
22 ensure that these taxes are levied and paid only once. In
23 furtherance of that intent, the Legislature finds that this
24 amendatory act clarifies all of the following:

25 (1) Before the effective date of this amendatory
26 act, if a manufacturer paid forest products severance tax
27 utilizing a formula to convert from the weight of delivered

1 logs to an estimate of volume based on either board measure
2 lumber tally or log scale (Doyle Rule) for the purposes of
3 determining the amount of forest products severance tax to be
4 paid, then no additional forest products severance tax shall
5 be due on the products produced from that log including the
6 parts of the logs that are converted to residual pulpwood
7 chips.

8 (2) Before the effective date of this amendatory
9 act, if any manufacturer collected and paid forest products
10 severance tax based on the weight of delivered logs, no
11 additional forest products severance tax shall be due on the
12 products produced from that log including the parts of the
13 logs that are converted to residual pulpwood chips.

14 (3) Before the effective date of this amendatory
15 act, if the forest products severance tax was paid on either
16 pulpwood chips or the logs used to produce pulpwood chips, no
17 additional forest products severance tax shall be due by the
18 manufacturer purchasing the pulpwood chips for use in a
19 manufacturing process.

20 (b) The clarifications provided in subsection (a)
21 shall apply to all open tax periods and all periods for which
22 a preliminary or final assessment of tax could be or was
23 entered pursuant to Section 40-2A-7, Code of Alabama 1975, or
24 any successor general or local law, before the effective date
25 of this amendatory act.

26 (c) No refunds shall be due or issued pursuant to
27 the clarifications provided in subsection (a) with respect to

1 those tax periods occurring before the effective date of this
2 amendatory act.

3 Section 3. All laws or parts of laws which conflict
4 with this act are repealed. Section 9-13-85, Code of Alabama
5 1975, relating to the allocation of funds, is specifically
6 repealed.

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Agriculture and
Forestry..... 23-FEB-17

Read for the second time and placed
on the calendar with 1 substitute
and..... 09-MAR-17

Read for the third time and passed
as amended..... 06-APR-17

Yeas 103, Nays 0, Abstains 0

Jeff Woodard
Clerk