

1 HB75  
2 181013-3  
3 By Representative Johnson (R)  
4 RFD: Ways and Means Education  
5 First Read: 07-FEB-17  
6 PFD: 02/01/2017

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8 SYNOPSIS: This bill establishes the Wholesale to  
9 Retail Accountability Program or "WRAP". This bill  
10 would standardize the informational reporting of  
11 licensed beer and wine distributors and sellers of  
12 tobacco products making sales within this state for  
13 resale purposes, on which sales or use tax was not  
14 collected at the time of the sale, to the  
15 Department of Revenue regarding those transactions.  
16 This bill establishes an industry advisory group.  
17 The bill would also provide for information on  
18 municipal business privilege licenses to be  
19 submitted to the department.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT

24  
25 To establish the Wholesale to Retail Accountability  
26 Program or "WRAP". To standardize the reporting of sellers of  
27 tobacco products and distributors of beer and wine to file

1 informational reports on sales for resale purposes made within  
2 this state in which sales or use tax was not collected; to  
3 provide electronic filing of required informational reports;  
4 to establish an industry advisory group; to provide penalties  
5 for noncompliance; to authorize the Department of Revenue to  
6 adopt rules; to provide for duplicate information reporting  
7 from reporting entities as defined in Section 6050W of the  
8 Internal Revenue Code; to provide for information on municipal  
9 business privilege license applications to be submitted to the  
10 department.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. (a) This act shall establish the  
13 Wholesale to Retail Accountability Program or "WRAP".

14 (b) For the purpose of this act, the following words  
15 shall have the following meanings:

16 (1) DEPARTMENT. The State Department of Revenue.

17 (2) LICENSED BEER OR WINE DISTRIBUTOR. A  
18 distributor, as licensed by the Alabama Alcoholic Beverage  
19 Control Board, selling or distributing beer or wine in this  
20 state.

21 (3) PERSON. Any individual, firm, partnership,  
22 association, corporation, limited liability company, receiver,  
23 trustee, or any other entity.

24 (4) RETAILER. A person or group of persons that have  
25 a relationship with each other as defined in Section 267(b) of  
26 the federal Internal Revenue Code whose primary business is  
27 the sale of tangible personal property at retail, including

1 supporting operations such as warehousing, shipping, and  
2 storage of product, and who holds a license pursuant to  
3 Section 40-23-6 or 40-23-66, Code of Alabama 1975.

4 (5) SELLER. A manufacturer, wholesaler, or  
5 distributor of beer, wine, or tobacco products who sells to a  
6 retailer in this state. The term also includes a wholesale  
7 club or warehouse club that sells under a membership.

8 (c) For the purpose of enforcing the collection of  
9 taxes levied by Chapter 23 of Title 40, Code of Alabama 1975,  
10 on the sale of tangible personal property, every seller of  
11 tobacco products making sales within this state on which sales  
12 or use tax was not collected at the time of the sale and every  
13 beer or wine distributor, shall file informational reports  
14 with the department pursuant to subsection (d) as follows:

15 (1) Each licensed beer or wine distributor shall  
16 report sales of any beer or wine made to licensees for which  
17 an exemption from sales or use tax collection was claimed at  
18 the time of the sale.

19 (2) Each seller of tobacco products, selling or  
20 distributing to retailers in this state, shall report sales of  
21 tobacco products for which exemptions from sales or use tax  
22 were claimed at the time of the sale.

23 (d) The informational report shall be filed in the  
24 following manner as provided by the department:

25 (1) The information provided in the report from each  
26 seller or distributor required in subdivision (1) of  
27 subsection (c) shall include the seller's legal name, seller's

1 federal employee identification number (FEIN) or Social  
2 Security number, seller's address, seller's beverage license  
3 number, if applicable, retailer's name, retailer's federal  
4 employee identification number (FEIN) or Social Security  
5 number, retailer's address, total amount sold for the  
6 reporting period, invoice period, invoice date and applicable  
7 resale number provided by the retailer.

8 (2) The information provided in the report from each  
9 seller or distributor required in subdivision (2) of  
10 subsection (c) shall include the seller's legal name, seller's  
11 federal employee identification number (FEIN) or Social  
12 Security number, seller's address, retailer's name, retailer's  
13 address, retailer's federal employee identification number  
14 (FEIN) or Social Security number, and total amount sold for  
15 the reporting period. The department shall allow the seller to  
16 file a consolidated report to meet the requirements of Section  
17 40-25-16.1, Code of Alabama 1975, and this act.

18 (3) The department shall provide an electronic  
19 filing mechanism for submission of the informational report to  
20 the department.

21 (4) The informational report shall be due on or  
22 before the 20th day of the month next succeeding the month in  
23 which a sale occurs. The first informational report due shall  
24 be for sales occurring on or after January 1, 2018.

25 (e) If a seller fails to properly file the required  
26 informational report with the department on or before the

1 prescribed date, the following penalties shall apply per  
2 reporting period:

3 (1) The first violation of this section shall result  
4 in a written notice from the department. The notice shall  
5 advise the seller of the non-compliance and the penalty for  
6 future non-compliance if the required informational reports is  
7 not filed within 30 days from the written notice as provided  
8 herein.

9 (2) The second violation of this section shall  
10 result in a penalty not to exceed five hundred dollars (\$500).

11 (3) The third and each subsequent violation of this  
12 section shall result in a penalty not to exceed one thousand  
13 dollars (\$1,000).

14 (f) The department shall not initiate an automated  
15 assessment or automated audit based solely on data provided to  
16 the department in the informational reports

17 (g) The informational report filed with the  
18 department shall be subject to the exchange of information  
19 provisions set forth in Title 40, Chapter 2A, Section 10, Code  
20 of Alabama 1975 for municipal and county government agencies  
21 in this state.

22 (h) (1) To ensure that taxpayers and industry have  
23 meaningful input into the informational reports, a Wholesale  
24 and Distributor Reporting Advisory Group is hereby established  
25 to make recommendations regarding the reporting of the  
26 informational reports required herein.

1                   (2) The advisory group shall consist of the  
2 following individuals:

3                   a. One representative from the Alabama Department of  
4 Revenue as designated by the Commissioner who shall serve as  
5 chair of the group.

6                   b. One representative of county government,  
7 appointed by the Association of County Commissions of Alabama.

8                   c. One representative of municipal government,  
9 appointed by the Alabama League of Municipalities.

10                  d. One representative of the industry community,  
11 appointed by the Alabama Wholesale Beer Association.

12                  e. One representative of the tobacco industry  
13 community, appointed by the Alabama Wholesale Distributors  
14 Association.

15                  f. One representative of the retail community,  
16 appointed by the Alabama Retail Association.

17                  g. One representative from the Alabama Alcoholic  
18 Beverage Control Board as designated by the Administrator.

19                  h. One representative of the industry community,  
20 appointed by the Alabama Beer Association.

21                  i. One representative of the industry community,  
22 appointed by the Alabama Grocers Association.

23                  j. One representative of the industry community,  
24 appointed by the Petroleum and Convenience Marketers of  
25 Alabama.

1                   (3) a. The advisory group shall receive no  
2 compensation or reimbursement of expense from the state for  
3 serving on the committee.

4                   b. The advisory group shall meet with the Designee  
5 of the Commissioner of Revenue and with other employees of the  
6 department as the commissioner deems appropriate. The meeting  
7 times and place will be determined by the designee of the  
8 commissioner.

9                   c. The role of the advisory group shall be limited  
10 to providing industry input and recommendations towards the  
11 filing of required informational reports. The group shall make  
12 no review of any other department matter beyond the  
13 recommendation of required reporting by this act.

14                   Section 2. (a) The Department is authorized to  
15 require that every payment settlement entity, third party  
16 settlement organization, electronic payment facilitator, or  
17 other third party acting on behalf of a payment settlement  
18 entity, all as defined in Section 6050W of the Internal  
19 Revenue Code and referred to herein as a reporting entity,  
20 required to file information reports pursuant to that section  
21 shall, within thirty (30) days of the filing due date, file  
22 with the department in such form and manner as prescribed by  
23 the department either a duplicate of all such information  
24 returns or a duplicate of such information returns related to  
25 taxpayers or participating payees, as defined in Section 6050W  
26 of the Internal Revenue Code, with an Alabama address. The

1 department may require that such duplicate information returns  
2 be filed electronically.

3 (b) The information received by the department on a  
4 duplicate information return filed pursuant to this section  
5 shall be used only for taxes administered by the department.

6 (c) Any reporting entity failing to file a duplicate  
7 information return with the department on or before the  
8 prescribed date shall be subject to the following  
9 penalties:

10 (1) The first violation shall result in a written  
11 notice from the department. The notice shall advise the  
12 reporting entity of the non-compliance and the penalty for  
13 future non-compliance if the required duplicate information  
14 return is not filed within 30 days from the written notice as  
15 provided herein.

16 (2) The subsequent violation(s) shall result in a  
17 penalty not to exceed one-thousand dollars (\$1000) for each  
18 month or fraction of a month during which each failure  
19 continues.

20 Section 3. (a) Information on all municipal business  
21 privilege license applications for new licenses and renewals  
22 issued on or after October 1, 2018, shall be electronically  
23 transmitted to the department by the licensing official or  
24 agent in the same manner as privilege licenses issued pursuant  
25 to Chapter 12 of Title 40, Code of Alabama 1975.

26 (b) The department may adopt rules to administer and  
27 implement this section.

1                   Section 4. All laws or parts of laws which conflict  
2 with this act are repealed.

3                   Section 5. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.