

1 SB244
2 182573-1
3 By Senators Albritton, Stutts, Glover, Allen, Holtzclaw,
4 Livingston, Shelnuttt, Chambliss, Williams, Melson, Holley,
5 Ward, Beasley, Smith, Orr, McClendon, Scofield, Sanford,
6 Whatley, Brewbaker and Reed
7 RFD: Agriculture, Conservation, and Forestry
8 First Read: 23-FEB-17

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8 SYNOPSIS: Under existing law the state levies a forest
9 products severance tax on various forest products
10 to provide for conservation of the states' natural
11 resources.

12 This bill further defines the types of
13 forest products subject to the forest products
14 severance tax, and the manufacturer's forest
15 product tax liability, and makes additional
16 technical changes.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to forest products severance tax; to amend
23 sections 9-13-80, 9-13-81, 9-13-82, 9-13-84, 9-13-85, 9-13-86,
24 9-13-87, 9-13-88, 6-13-93, 9-13-103, 9-13-104, and 9-13-108,
25 Code of Alabama 1975; to update definitions, to further define
26 the types of forest products subject to the severance tax, and
27 to streamline language to provide dual options for taxpayers

1 to calculate severance taxes on all forest products; eliminate
2 double taxation of any forest product and the levy of the
3 manufacturers taxation of out of state companies; and clarify
4 that timber or manufacturing byproducts used as fuel are not
5 taxed.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 9-13-80, 9-13-81, 9-13-82,
8 9-13-84, 9-13-85, 9-13-86, 9-13-87, 9-13-88, 6-13-93,
9 9-13-103, 9-13-104, and 9-13-108, Code of Alabama 1975 are
10 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) PERSON. Such term includes any individual,
17 firm, copartnership, association, corporation, receiver,
18 trustee or any other group or combination acting as a unit.

19 "(2) DEPARTMENT. The Department of Revenue of the
20 State of Alabama.

21 "(3) TAXPAYER. Any person liable for taxes under
22 this article.

23 "(4) PRODUCER. Any person engaging or continuing to
24 engage in this state in the business of severing timber or any
25 other forest products from the soil, whether as owner, lessee,
26 concessionaire or contractor. Such definition shall also
27 include any person who assembles or causes to be assembled any

1 forest product for shipment out of the State of Alabama in an
2 unmanufactured condition.

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

8 "(6) SEVER. To fell, cut or otherwise separate from
9 the soil; provided, that for the purpose of this article, any
10 person who is the owner or lessee of timber and is also the
11 ~~processor~~ Processor thereof or a ~~manufacturer~~ Manufacturer of
12 products derived therefrom shall be deemed the person 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 "(7) COMMISSIONER. The Commissioner of Revenue of
17 the State of Alabama.

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

1 ~~turpentine, the person who processes or cooks the crude gum,~~
2 as applied to stumpwood, the person who operates the plant or
3 retort in which such product is processed.

4 "(9) CONCENTRATION YARD. A place where ~~lumber is~~
5 logs or pulpwood, severed in Alabama, are brought or received
6 within the State of Alabama in a green or rough form or
7 condition ~~for manufacturing or for processing or for resale~~
8 for resale to Processors or Manufacturers or for shipment out
9 of state.

10 "(10) PROCESSOR. A chip mill or other facility that
11 receives forest products from the Producer and further
12 processes those forest products before delivery to a
13 Manufacturer."

14 "§9-13-81.

15 "To provide further for conservation of the natural
16 resources of the state by protection of the state's forests
17 ~~forest products~~ 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 or continuing to engage in the
21 state in the business of severing timber or any other forest
22 products from the soil for sale, profit or commercial use
23 whether as owner, lessee, concessionaire or contractor. The
24 privilege tax imposed by this article is in addition to other
25 taxes now levied and shall be known as the forest products
26 severance tax. Said tax, together with interest and penalties
27 imposed by this article, shall be a lien upon the forest

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

9 "§9-13-82.

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

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

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

17 "~~(3) On pulpwood, chemical wood, and bolts, \$0.25,~~
18 per standard cord of 128 cubic feet, or, at the election of
19 the taxpayer, \$0.10 per ton (2,000 pounds) on pulpwood severed
20 in Alabama and delivered to the Manufacturer, Concentration
21 Yard or Processor. On pulpwood transported out of the state,
22 \$0.10 per ton (2,000 pounds) for pulpwood severed in Alabama.

23 "~~(4) On crossties, \$0.015 per piece, or, at the~~
24 election of the taxpayer, \$0.15 per ton (2,000 pounds), and on
25 switch ties, \$0.025 per piece, or, at the election of the
26 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 ~~"(7) (4) 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 ~~"(9) (5) 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 ~~"(10) (6) On in-woods 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~~
27 ~~severed in Alabama and delivered to the Manufacturer or~~

1 Concentration Yard. On in-woods pulpwood chips, produced from
2 pulpwood severed in Alabama and transported out of the state,
3 \$0.10 per ton (2,000 pounds).

4 "(7) On residual pulpwood chips, \$0.10 per ton
5 (2,000 pounds) on chips produced from residues by a
6 Manufacturer from logs severed in Alabama and re-sold to
7 another Manufacturer or transported out of state.

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

26 "(c) ~~Round wood pulpwood~~ Pulpwood on which the
27 forest products severance tax has been paid shall not be

1 subject to an additional tax when converted into pulpwood
2 chips, but the additional forest products manufacturers tax
3 levied by subsection (b) of this section shall be paid by the
4 Manufacturer. ~~person, firm, or corporation utilizing the chips~~
5 ~~in a manufacturing process.~~

6 "(d) Manufacturers that pay the forest products
7 severance tax on logs that elect to utilize the per ton rate
8 shall be deemed to have paid the total forest products
9 severance tax due and no additional forest products severance
10 tax shall be due on the parts of the log that are converted to
11 residual pulpwood chips. Manufacturers that pay the forest
12 products severance tax on logs that elect to utilize the
13 lumber tally rate or Doyle's Rule shall be responsible for
14 paying the forest products severance tax for the parts of the
15 log that are converted into residual pulpwood chips.

16 Regardless of the method used to pay the forest products
17 severance tax, the additional forest products manufacturers
18 tax levied by subsection (b) of this section shall be paid by
19 the Manufacturer utilizing the residual pulpwood chips in a
20 manufacturing process.

21 "(e) A Manufacturer may establish its entitlement to
22 the exemption from forest products severance tax provided by
23 subsections (c) or (d) of this section by obtaining a
24 certificate from the seller providing that such seller is a
25 Manufacturer or Processor that is registered with the
26 Department to remit forest products severance taxes, and any
27 Manufacturer who obtains such certificate shall not be held

1 liable for any forest products severance tax on the pulpwood
2 chips or residual pulpwood chips purchased from the seller.

3 "(f) It is the intent of the Legislature to
4 encourage the use of forest based renewable energy. To the
5 extent a Manufacturer utilizes or sells wood residue to be
6 used as a form of energy in conjunction with a forest product
7 manufacturing process, the Manufacturer may deduct the amount
8 of forest products severance tax and the forest products
9 manufacturers tax attributable to the volume of wood consumed
10 as energy from the amount due as imposed in this article."

11 "§9-13-84.

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

1 fiscal year, and any surplus shall be allowed to accumulate
2 from year to year and be disbursed as exigencies of the
3 statewide forestry program may require.

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

22 "§9-13-85.

23 "The ~~percentage of the funds expended under this~~
24 ~~article for forest protection for the protection of farm~~
25 ~~forest lands shall not be less than the percentage that the~~
26 ~~area of the farm forest lands of the state is of the total~~
27 ~~area of the forest lands of the state.~~ The percentage of the

1 funds expended under this article for each four-year period
2 for the forest protection in any county shall not be less than
3 50 percent of the amount of the tax collected on forest
4 products severed from the soil in such county together with
5 the equal portion of any available matching funds."

6 "§9-13-86.

7 "~~Every manufacturer of forest products~~ Manufacturer
8 and Processor shall, within 30 days after the expiration of
9 each quarter annual period expiring, respectively, on the last
10 day of March, June, September and December of each year, file
11 with the Department ~~Department of Revenue of the State of~~
12 ~~Alabama~~ a statement under oath, on forms prescribed by the
13 Department ~~said Department of Revenue~~, showing the kinds of
14 forest products and the gross quantity of each manufactured
15 during the preceding quarter annual period by the Manufacturer
16 or Processor ~~such manufacturer of forest products~~, showing the
17 county or counties in which such products were severed from
18 the soil and showing the gross quantity, if any, of such
19 forest products severed from soil outside the State of Alabama
20 and such other reasonable and necessary information pertaining
21 thereto as the Department ~~Department of Revenue~~ may require
22 for the proper enforcement of the provisions of this article.
23 At the time of rendering such quarter annual reports, the
24 Manufacturer or Processor ~~manufacturer of forest products~~
25 shall pay to the Department ~~Department of Revenue~~ the taxes
26 imposed by this article with respect to all forest products
27 severed from the soil in the State of Alabama and embraced in

1 such report; provided, that in the case that any ~~lumber is~~
2 logs or pulpwood are sold or delivered to a Concentration Yard
3 ~~concentration yard~~ as is defined in this article, then the
4 taxes provided for in this article shall be reported and paid
5 by the owner or owners of such Concentration Yard
6 ~~concentration yard to the state Department instead of the~~
7 ~~manufacturer, but it shall be the duty of the owner or owners~~
8 ~~of any such concentration yard to collect the tax in all cases~~
9 ~~from the seller.~~

10 "It shall be unlawful for the owner or owners of any
11 such concentration yard to fail or refuse to collect the tax
12 from the seller as aforesaid. It shall also be unlawful to
13 refund or offer to refund all or any part of the tax collected
14 by the owner of the concentration yard from a seller or to
15 absorb or advertise directly or indirectly that the
16 concentration yard will absorb or refund to the seller all or
17 part of said tax. Any persons, firms, associations,
18 corporations or copartnerships violating any of the provisions
19 of this section or this article in said respect shall be
20 guilty of a misdemeanor and, upon conviction, shall be
21 punished by a fine of not less than \$50.00 nor more than
22 \$100.00, or by imprisonment in the county jail for not more
23 than six months or by both such fine and imprisonment, and
24 each act in violation of the provisions of this article shall
25 constitute a separate offense."

26 "§9-13-87.

1 "Every ~~producer~~ Producer of forest products who
2 shall ship the same out of the State of Alabama in an
3 unmanufactured condition or who shall sell such product for
4 shipment outside the State of Alabama in an unmanufactured
5 condition shall, within 30 days after the expiration of each
6 quarter annual period expiring, respectively, on the last day
7 of March, June, September and December of each year, file with
8 the Department ~~Department of Revenue~~ a statement under oath,
9 on forms prescribed by the Department ~~Department of Revenue~~,
10 showing the kinds of forest products and the gross quantity
11 thereof severed from the soil in Alabama and shipped or sold
12 for shipment to points outside the State of Alabama in an
13 unmanufactured condition, the county or counties in which such
14 products were severed from the soil and such other reasonable
15 and necessary information pertaining thereto as the Department
16 ~~Department of Revenue~~ may require for the proper enforcement
17 of the provisions of this article. At the time of rendering
18 such quarter annual reports, such producer of forest products
19 shall pay to the Department ~~Department of Revenue~~ the taxes
20 herein imposed by this article upon the forest products
21 embraced in said report."

22 "§9-13-88.

23 "It shall be the duty of every Manufacturer and
24 Processor ~~manufacturer of forest products~~ in this state and of
25 every Producer ~~producer~~ who shall ship forest products out of
26 the State of Alabama in an unmanufactured condition and of
27 every Concentration Yard ~~concentration yard~~ as is defined in

1 this article where any ~~lumber is~~ logs or pulpwood are sold or
2 delivered to it to keep and preserve suitable records with the
3 items separated into the various items on which privilege
4 taxes are levied in this article, and such other books or
5 accounts as may be necessary to determine the amount of taxes
6 for which he is liable under the provisions of this article.
7 Said books and records shall be kept and preserved for a
8 period of three years, and all such records shall be open for
9 examination at any time by the Department ~~department~~ or its
10 duly authorized agent."

11 "§9-13-93.

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

16 "§9-13-103.

17 "If the Department ~~department~~ finds that a person
18 liable for taxes under any provisions of this article designs
19 quickly to depart from the state or to remove his property
20 therefrom, or to conceal himself or his property therein or to
21 do any other act tending to prejudice or to render wholly or
22 partly ineffectual proceedings to collect such tax unless such
23 proceedings are brought without delay, the Department
24 ~~department~~ shall cause notice of such finding to be given such
25 person together with a demand for an immediate return and
26 immediate payment of such taxes. Thereupon such taxes shall
27 become immediately due and payable. If such person is not in

1 default in making such return or paying any taxes prescribed
2 by this article and furnishes evidence satisfactory to the
3 Department ~~department~~ under regulations to be prescribed by
4 the Department ~~department~~ that he will duly return and pay the
5 taxes to which the Department's ~~department's~~ finding relates,
6 then such tax shall not be payable prior to the time otherwise
7 fixed for payment. If such person fails to appear and make
8 such showing, then the Department ~~department~~ shall make such
9 assessment final and execution may immediately issue as is
10 provided in this article."

11 "§9-13-104.

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

1 "§9-13-108.

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

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

19 Section 3. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or it's otherwise becoming law.