

1 HB163
2 197448-4
3 By Representative McMillan
4 RFD: State Government
5 First Read: 19-MAR-19

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ENROLLED, An Act,

Relating to motor fuel taxes; to amend Section 40-2-11, Code of Alabama 1975, as amended by Act 2018-415, 2018 Regular Session, to authorize the Commissioner of the Department of Revenue to temporarily waive licensing requirements for importers, exporters, and transporters of motor fuels during a declared state of emergency or disaster.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-2-11, Code of Alabama 1975, as amended by Act 2018-415, 2018 Regular Session, is amended to read as follows:

"§40-2-11.

"It shall be the duty of the Department of Revenue, and it shall have the power and authority, in addition to the authority now in it vested by law:

"(1) To have and exercise general and complete supervision and control of the valuation, equalization, and assessment of property, privilege, or franchise and of the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties, and of the enforcement of the tax laws of the state, and of the several county tax assessors and county tax collectors, probate judges, and each and every state and county official, board, or commission charged with any duty in

1 the enforcement of tax laws, to the end that all taxable
2 property in the state shall be assessed and taxes shall be
3 imposed and collected thereon in compliance with the law and
4 that all assessments on property, privileges, intangibles, and
5 franchises in the state shall be made in exact proportion to
6 the fair and reasonable market value thereof in substantial
7 compliance with the law.

8 "(2) To equalize, value, and assess or cause to be
9 equalized, valued, and assessed any property subject to
10 taxation, and such valuations and assessments it shall enter
11 or cause to be entered in the proper assessment book, record,
12 or minutes of the proper official, board, or tribunal; to set
13 aside all assessments so entered in any assessment book,
14 record, or minutes within any time before the end of the
15 assessment year and, after 10 days' notice given the taxpayer,
16 which notice shall be given by certified or registered mail,
17 return receipt demanded, of the time and place of hearing,
18 revalue and reassess said property and cause such revaluation
19 and reassessment to be entered in the proper assessment book,
20 record, or minutes in lieu of the original valuation and
21 assessment; provided, that no reassessment or revaluation
22 shall be made of any particular assessment from which an
23 appeal is then pending, or if the valuation of the property
24 for that year has been fixed on appeal by the circuit court or
25 Supreme Court; provided further, that parties may appeal from

1 such revaluation and assessment to the circuit court within
2 like time and in like manner as from the valuation and
3 assessment as fixed by the board of equalization7.

4 "(3) To confer with, advise, and direct the several
5 county tax assessors, county tax collectors, probate judges,
6 boards, or commissions and each and every state and county
7 official charged with the assessment and collection of taxes
8 as to their duties under the laws of this state7.

9 "(4) To direct actions to be instituted by the
10 Attorney General, district attorneys, or attorneys especially
11 employed for such purposes, with the approval of the Attorney
12 General for the collection of any taxes or penalties due the
13 state or any county, or to compel any officer or taxpayer to
14 comply with the provisions of the tax laws; to direct actions,
15 prosecutions, and proceedings to be instituted to enforce the
16 laws of this state relating to taxes, penalties, forfeitures,
17 and liabilities, and for the punishment of any public officers
18 or any person or any officer or agent of any corporation,
19 company, or association, trustee, or receiver for failure or
20 neglect to comply with the provisions of the tax laws, and to
21 cause complaints, informations, actions, or prosecutions to be
22 made or instituted against any tax assessor, tax collector,
23 probate judge, or other public official for the removal of
24 such officers for official misconduct or neglect of duty and
25 to further direct actions as may become necessary to obtain an

1 order from a circuit court enjoining or restraining a taxpayer
2 from continuing in business in Alabama whenever such taxpayer
3 fails to collect, account for, and/or pay over any trust fund
4 tax imposed by Sections 40-17-220, 40-17-325, 40-18-71,
5 40-21-82, 40-21-102, 40-21-121, 40-23-2, 40-23-61, 40-23-193,
6 40-26-1, or any other local sales, use, and gross receipts
7 taxes collected by the department. Such actions and
8 proceedings may be instituted in the circuit court of any
9 county in which the taxpayer resides or does business, or in
10 the Circuit Court of Montgomery County, Alabama, and shall
11 remain in effect until such time as the taxpayer has come into
12 full compliance with the tax laws7.

13 "(5) To require district attorneys and the Attorney
14 General of the state to commence and prosecute, within the
15 respective jurisdictions or spheres of official duty of the
16 officers, actions, proceedings, and prosecutions for
17 penalties, forfeitures, impeachments, and punishments for
18 violations of the tax laws of the state, to enter into
19 agreements with district attorneys and the Attorney General of
20 the state to reimburse those offices for reasonable fees or
21 costs of actions, proceedings, and prosecutions, and to fund
22 the reimbursements, in whole or in part, from penalties
23 assessed and collected pursuant to Section 40-2A-117.

24 "(6) To require any public official in the state to
25 report information as to valuation, equalization, and

1 assessment of property, privileges, franchises or intangibles,
2 gross receipts, collections of taxes, receipts from licenses
3 and other sources, methods of taxation, values or franchises,
4 or intangible property, or assets subject to taxation, and
5 such other information as may be needful in the work of the
6 Department of Revenue in such forms and upon such blanks as
7 the department may prescribe and furnish^{7.}

8 "(7)a. To require individuals, partnerships,
9 associations, corporations, trustees, and receivers, and the
10 agents, officers, and employees thereof, to furnish
11 information concerning their capital, funded or otherwise,
12 gross receipts, net profits or income, excess profits, current
13 assets and liabilities, values of franchises, intangibles,
14 value of property, earnings, operating and other expenses,
15 bonds, deeds, conduct of business, and all other facts,
16 records, books, papers, documents, and other information of
17 any kind demanded which may be needful in order to enable the
18 department to ascertain the value and relative burden to be
19 borne by every kind of property in this state and to ascertain
20 the proper amount of license, privilege, excise, corporation,
21 franchise, income, or ad valorem taxes^{7.}

22 "b. To require reporting of retail sales and
23 customer notification, within constitutional limitations, when
24 the seller does not collect sales, use, or simplified sellers

1 use tax on Alabama sales transactions, and to provide for
2 penalties pursuant to Section 40-2A-117.

3 "c. To require reporting of rental transactions of
4 tangible personal property as defined in Section 40-12-220,
5 when the property is classified as Class II or Class IV
6 property under Section 40-8-1, by persons facilitating the
7 transactions and to require notifications to the lessor when
8 the lessor has not furnished evidence that it has acquired a
9 license as required under Section 40-12-221, and to provide
10 for penalties pursuant to Section 40-2A-11."

11 "(8) To cause the deposition of witnesses residing
12 within or without the state to be taken upon such notice to
13 the interested party, if any, as the department may prescribe,
14 in like manner as depositions of witnesses are taken in
15 actions pending in circuit court, in any matter which the
16 department has authority to investigate and determine. The
17 depositions shall be taken upon a commission issued by the
18 Department of Revenue, or the secretary thereof, in the name
19 of the department, and returnable to the department7.

20 "(9) To visit, by the commissioner or by duly
21 authorized agents, the several counties in the state for the
22 purpose of investigating the work and methods of county tax
23 assessors, tax collectors, probate judges, or other officers
24 or boards charged with the duty of administering the tax laws
25 of the state; to examine carefully into all cases where

1 evasions or violations of the tax laws are alleged, complained
2 of, or discovered, and to ascertain wherein existing laws are
3 defective or are improperly or negligently administered and to
4 report the result of the investigation and the facts
5 ascertained to the Governor from time to time when required by
6 the Governor7.

7 "(10) To investigate the tax system of other states;
8 to thoroughly inform itself upon the subject of taxation and
9 of the progress made in other states and counties in improving
10 their tax system, to formulate and recommend such legislation
11 as may be deemed expedient to prevent evasion of existing tax
12 laws and to secure just and equal taxation and improvements in
13 the system of taxation in this state7.

14 "(11) To consult and confer with the Governor upon
15 the subject of taxation and the administration of the laws and
16 progress of the work of the department, and to furnish to the
17 Governor from time to time such information as the Governor
18 may require7.

19 "(12) To transmit to the Governor, 30 days before
20 the meeting of the Legislature, a written report showing all
21 the taxable property in the state and the value of the same,
22 in tabulated form, with recommendations for improvements in
23 the system of taxation in the state, together with suggestions
24 of such measures as the department may formulate for the
25 consideration of the Legislature in regard thereto7.

1 "(13) ~~For~~ To, for good reason shown and entered on
2 the minutes of the department, ~~to extend~~ do either of the
3 following:

4 "a. Extend the time for filing any report or written
5 statement required to be filed with the department~~7.~~

6 "b. Temporarily waive the motor fuel importer,
7 exporter, or transporter licensing requirements under Section
8 40-17-332, during a state of emergency or disaster. A waiver
9 authorized by this subdivision shall be effective only for
10 persons importing, exporting, or transporting motor fuel to
11 areas within a state or territory of the United States for
12 which the President of the United States or the governor of
13 that state or territory has declared a state of emergency or
14 disaster, and only where the import, export, or transport
15 takes place during the time the declaration is in effect. A
16 temporary waiver of the motor fuel importer, exporter, or
17 transporter licensing requirements under this subdivision
18 shall not be construed to permit any waiver of any additional
19 requirements or payment of any taxes due under the Alabama
20 Terminal Excise Tax.

21 "(14) To inspect and examine at all reasonable
22 business hours any books, documents, records, or papers kept
23 by any person, firm, corporation, trustee, or receiver~~7.~~

1 "(15) To make all assessments of taxes or penalties
2 which it is authorized to enforce or collect and report the
3 same to the Attorney General~~7~~.

4 "(16) To issue executions and writs of garnishment
5 directed to any sheriff of Alabama, on any final assessment or
6 judgment made or rendered by it, and upon such executions the
7 sheriff shall proceed as in cases issued out of the circuit
8 court and shall make return thereof to the Department of
9 Revenue within 60 days after the receipt thereof,~~and~~.

10 "(17) To perform such other duties as are or may be
11 imposed on it by law."

12 Section 2. This act shall become effective
13 immediately upon its passage and approval by the Governor, or
14 its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 16-APR-19.

Jeff Woodard
Clerk

Senate	30-APR-19	Amended and Passed
House	07-MAY-19	Concurred in Senate Amendment