

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

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8 SYNOPSIS: This bill would authorize the Commissioner
9 of the Department of Revenue to temporarily waive
10 licensing requirements for importers, exporters,
11 and transporters of motor fuels during a declared
12 state of emergency or disaster to help ensure the
13 free flow of motor fuel products to affected areas.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 Relating to motor fuel taxes; to amend Section
20 40-2-11, Code of Alabama 1975, as amended by Act 2018-415,
21 2018 Regular Session, to authorize the Commissioner of the
22 Department of Revenue to temporarily waive licensing
23 requirements for importers, exporters, and transporters of
24 motor fuels during a declared state of emergency or disaster.
25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§40-2-11.

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

8 "(1) To have and exercise general and complete
9 supervision and control of the valuation, equalization, and
10 assessment of property, privilege, or franchise and of the
11 collection of all property, privilege, license, excise,
12 intangible, franchise, or other taxes for the state and
13 counties, and of the enforcement of the tax laws of the state,
14 and of the several county tax assessors and county tax
15 collectors, probate judges, and each and every state and
16 county official, board, or commission charged with any duty in
17 the enforcement of tax laws, to the end that all taxable
18 property in the state shall be assessed and taxes shall be
19 imposed and collected thereon in compliance with the law and
20 that all assessments on property, privileges, intangibles, and
21 franchises in the state shall be made in exact proportion to
22 the fair and reasonable market value thereof in substantial
23 compliance with the law.

24 "(2) To equalize, value, and assess or cause to be
25 equalized, valued, and assessed any property subject to
26 taxation, and such valuations and assessments it shall enter
27 or cause to be entered in the proper assessment book, record,

1 or minutes of the proper official, board, or tribunal; to set
2 aside all assessments so entered in any assessment book,
3 record, or minutes within any time before the end of the
4 assessment year and, after 10 days' notice given the taxpayer,
5 which notice shall be given by certified or registered mail,
6 return receipt demanded, of the time and place of hearing,
7 revalue and reassess said property and cause such revaluation
8 and reassessment to be entered in the proper assessment book,
9 record, or minutes in lieu of the original valuation and
10 assessment; provided, that no reassessment or revaluation
11 shall be made of any particular assessment from which an
12 appeal is then pending, or if the valuation of the property
13 for that year has been fixed on appeal by the circuit court or
14 Supreme Court; provided further, that parties may appeal from
15 such revaluation and assessment to the circuit court within
16 like time and in like manner as from the valuation and
17 assessment as fixed by the board of equalization7.

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

23 "(4) To direct actions to be instituted by the
24 Attorney General, district attorneys, or attorneys especially
25 employed for such purposes, with the approval of the Attorney
26 General for the collection of any taxes or penalties due the
27 state or any county, or to compel any officer or taxpayer to

1 comply with the provisions of the tax laws; to direct actions,
2 prosecutions, and proceedings to be instituted to enforce the
3 laws of this state relating to taxes, penalties, forfeitures,
4 and liabilities, and for the punishment of any public officers
5 or any person or any officer or agent of any corporation,
6 company, or association, trustee, or receiver for failure or
7 neglect to comply with the provisions of the tax laws, and to
8 cause complaints, informations, actions, or prosecutions to be
9 made or instituted against any tax assessor, tax collector,
10 probate judge, or other public official for the removal of
11 such officers for official misconduct or neglect of duty and
12 to further direct actions as may become necessary to obtain an
13 order from a circuit court enjoining or restraining a taxpayer
14 from continuing in business in Alabama whenever such taxpayer
15 fails to collect, account for, and/or pay over any trust fund
16 tax imposed by Sections 40-17-220, 40-17-325, 40-18-71,
17 40-21-82, 40-21-102, 40-21-121, 40-23-2, 40-23-61, 40-23-193,
18 40-26-1, or any other local sales, use, and gross receipts
19 taxes collected by the department. Such actions and
20 proceedings may be instituted in the circuit court of any
21 county in which the taxpayer resides or does business, or in
22 the Circuit Court of Montgomery County, Alabama, and shall
23 remain in effect until such time as the taxpayer has come into
24 full compliance with the tax laws⁷.

25 "(5) To require district attorneys and the Attorney
26 General of the state to commence and prosecute, within the
27 respective jurisdictions or spheres of official duty of the

1 officers, actions, proceedings, and prosecutions for
2 penalties, forfeitures, impeachments, and punishments for
3 violations of the tax laws of the state, to enter into
4 agreements with district attorneys and the Attorney General of
5 the state to reimburse those offices for reasonable fees or
6 costs of actions, proceedings, and prosecutions, and to fund
7 the reimbursements, in whole or in part, from penalties
8 assessed and collected pursuant to Section 40-2A-117.

9 "(6) To require any public official in the state to
10 report information as to valuation, equalization, and
11 assessment of property, privileges, franchises or intangibles,
12 gross receipts, collections of taxes, receipts from licenses
13 and other sources, methods of taxation, values or franchises,
14 or intangible property, or assets subject to taxation, and
15 such other information as may be needful in the work of the
16 Department of Revenue in such forms and upon such blanks as
17 the department may prescribe and furnish7.

18 "(7)a. To require individuals, partnerships,
19 associations, corporations, trustees, and receivers, and the
20 agents, officers, and employees thereof, to furnish
21 information concerning their capital, funded or otherwise,
22 gross receipts, net profits or income, excess profits, current
23 assets and liabilities, values of franchises, intangibles,
24 value of property, earnings, operating and other expenses,
25 bonds, deeds, conduct of business, and all other facts,
26 records, books, papers, documents, and other information of
27 any kind demanded which may be needful in order to enable the

1 department to ascertain the value and relative burden to be
2 borne by every kind of property in this state and to ascertain
3 the proper amount of license, privilege, excise, corporation,
4 franchise, income, or ad valorem taxes7.

5 "b. To require reporting of retail sales and
6 customer notification, within constitutional limitations, when
7 the seller does not collect sales, use, or simplified sellers
8 use tax on Alabama sales transactions, and to provide for
9 penalties pursuant to Section 40-2A-117.

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

19 "(9) To visit, by the commissioner or by duly
20 authorized agents, the several counties in the state for the
21 purpose of investigating the work and methods of county tax
22 assessors, tax collectors, probate judges, or other officers
23 or boards charged with the duty of administering the tax laws
24 of the state; to examine carefully into all cases where
25 evasions or violations of the tax laws are alleged, complained
26 of, or discovered, and to ascertain wherein existing laws are
27 defective or are improperly or negligently administered and to

1 report the result of the investigation and the facts
2 ascertained to the Governor from time to time when required by
3 the Governor~~7.~~

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

11 "(11) To consult and confer with the Governor upon
12 the subject of taxation and the administration of the laws and
13 progress of the work of the department, and to furnish to the
14 Governor from time to time such information as the Governor
15 may require~~7.~~

16 "(12) To transmit to the Governor, 30 days before
17 the meeting of the Legislature, a written report showing all
18 the taxable property in the state and the value of the same,
19 in tabulated form, with recommendations for improvements in
20 the system of taxation in the state, together with suggestions
21 of such measures as the department may formulate for the
22 consideration of the Legislature in regard thereto~~7.~~

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

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

1 "b. Temporarily waive the motor fuel importer,
2 exporter, or transporter licensing requirements under Section
3 40-17-332, during a state of emergency or disaster. A waiver
4 authorized by this subdivision shall be effective only for
5 persons importing, exporting, or transporting motor fuel to
6 areas within a state or territory of the United States for
7 which the President of the United States or the governor of
8 that state or territory has declared a state of emergency or
9 disaster, and only where the import, export, or transport
10 takes place during the time the declaration is in effect. A
11 temporary waiver of the motor fuel importer, exporter, or
12 transporter licensing requirements under this subdivision
13 shall not be construed to permit any waiver of any additional
14 requirements or payment of any taxes due under the Alabama
15 Terminal Excise Tax.

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

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

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

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

3 Section 2. This act shall become effective
4 immediately upon its passage and approval by the Governor, or
5 its otherwise becoming law.