

1 SB162  
2 197448-3  
3 By Senators Figures, Singleton, Chesteen, Allen, Smitherman,  
4 Sessions, Chambliss, Coleman-Madison, Williams, Burkette,  
5 Sanders-Fortier and Beasley  
6 RFD: Governmental Affairs  
7 First Read: 21-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 laws<sup>7</sup>.

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.