

1 SB300
2 198938-2
3 By Senator Beasley
4 RFD: Governmental Affairs
5 First Read: 16-APR-19

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to sales, use, and lodgings taxes; to
12 provide for additional filing frequency options and amount
13 limits for the filing of sales, use, and lodgings tax reports.
14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 40-23-7, 40-23-68, 40-26-3, Code
16 of Alabama 1975, are amended to read as follows:

17 "§40-23-7.

18 "(a) The taxes levied under the provisions of this
19 division, except as otherwise provided in subsection (d),
20 shall be due and payable in monthly installments on or before
21 the 20th day of the month next succeeding the month in which
22 the tax accrues.

23 "(b) Except as otherwise provided in subsection (d)
24 on or before the 20th day of each month, every person on whom
25 the taxes levied by this division are imposed shall report to
26 the department, on a form prescribed by the department, a true
27 and correct statement showing such information as the

1 department may require, and shall pay to the department the
2 amount of taxes shown to be due.

3 "(c) Any taxpayer liable for taxes under the
4 provisions of this division whose average monthly state sales
5 tax liability was two thousand five hundred dollars (\$2,500)
6 or greater during the preceding calendar year shall make
7 estimated payments to the department on or before the 20th day
8 of the month in which the liability occurs as follows:

9 "(1) The amount of the first estimated payment shall
10 be 66 2/3 percent of the taxpayer's actual tax liability for
11 the month of October 1983; thereafter the amounts of the
12 payment shall be the lesser of 66 2/3 percent of the
13 taxpayer's actual tax liability for the same calendar month of
14 the preceding year or 66 2/3 percent of the current month's
15 estimated liability.

16 "(2) Any outstanding credit or deficit arising from
17 the taxpayer's overpayment or underpayment of his final
18 liability shall be applied to either increase or reduce, as
19 the case may be, that month's final tax liability which shall
20 be reported and paid not later than the 20th day of the month
21 next succeeding the month in which the tax accrues.

22 "(3) The provisions of this subsection shall not
23 apply to the provisions of Sections 11-51-180, 11-51-200,
24 40-12-4, nor to any municipal or county taxes levied by past
25 or future special or local acts of the Legislature.

26 "~~(d) When the total state sales tax for which any~~
27 ~~person is liable under this division averages less than two~~

1 ~~hundred dollars (\$200) per month during the preceding calendar~~
2 ~~year, a quarterly return and remittance in lieu of the monthly~~
3 ~~returns may be made, by election of the taxpayer to the~~
4 ~~department, on or before the 20th day of the month next~~
5 ~~succeeding the end of the quarter for which the tax is due~~
6 ~~under any rules and regulations as may be prescribed. The~~
7 ~~election to file quarterly shall be made in writing no later~~
8 ~~than February 20 of each year and shall be filed with the~~
9 ~~department. Notwithstanding the above, no state sales tax~~
10 ~~return shall be due until January 20 of each year unless the~~
11 ~~total state sales tax for which any person is liable under~~
12 ~~this division during the preceding calendar year exceeds ten~~
13 ~~dollars (\$10). Taxpayers meeting the criteria set forth in the~~
14 ~~subdivisions of this subsection may elect to file quarterly,~~
15 ~~semi-annually, or annually. Any election to file quarterly,~~
16 ~~semi-annually, or annually shall be made in writing no later~~
17 ~~than February 20 of each year and shall be filed with the~~
18 ~~department in the manner prescribed by the department.~~
19 ~~Qualifying taxpayers electing to file quarterly,~~
20 ~~semi-annually, or annually, shall report to the department, on~~
21 ~~a form prescribed by the department, a true and correct~~
22 ~~statement showing such information as the department may~~
23 ~~require. Qualifying taxpayers shall pay to the department the~~
24 ~~amount of tax shown to be due on or before the applicable~~
25 ~~deadlines, under any rules and regulations as may be~~
26 ~~prescribed, as follows:~~

1 "(1) When the total state sales tax for which any
2 person is liable under this division is less than \$2,400
3 during the preceding calendar year, the person may elect to
4 file quarterly returns. Quarterly returns and payments of the
5 amount of tax shown to be due shall be due on or before the
6 20th day of the month next succeeding the end of the quarter
7 for which the tax is due.

8 "(2) When the total state sales tax for which any
9 person is liable under this division is less than \$1,200
10 during the preceding calendar year, or the person liable for
11 the tax has made retail sales in this state during no more
12 than two, thirty consecutive day periods during the preceding
13 calendar year, the person may file semi-annual returns. The
14 semi-annual returns and payment of the amount of the tax shown
15 to be due shall be due on or before July 20 and January 20
16 following the end of the six-month period for which the tax is
17 due.

18 "(3) When the total state sales tax for which any
19 person is liable under this division during the preceding
20 calendar year is less than six hundred dollars (\$600), or the
21 person liable for the tax has made retail sales in this state
22 during no more than one, thirty consecutive day period during
23 the preceding calendar year, the person may elect to file an
24 annual return. The annual return and payment of the tax shown
25 to be due shall be due on or before January 20 following the
26 end of the annual period for which the tax is due.

1 "(e) The department, for good cause, may extend the
2 time for making any state or state-administered return
3 required under the provisions of this division, but the time
4 for filing any such return shall not be extended for a period
5 greater than 30 days from the date such return is due to be
6 made.

7 "§40-23-68.

8 "(a) Except as otherwise provided in subsection (f),
9 the tax imposed by this article shall be due and payable to
10 the department monthly on or before the 20th day of the month
11 next succeeding each month during which the storage, use or
12 other consumption of tangible personal property became taxable
13 hereunder.

14 "(b) Every seller or person engaged in making retail
15 sales of tangible personal property for storage, use or other
16 consumption in this state, who alternatively:

17 "(1) Maintains, occupies, or uses, permanently or
18 temporarily, directly or indirectly, or through a subsidiary,
19 or agent by whatever name called, an office, place of
20 distribution, sales or sample room or place, warehouse or
21 storage place or other place of business;

22 "(2) Qualifies to do business or registers with the
23 state to collect the tax levied by this chapter;

24 "(3) Employs or retains under contract any
25 representative, agent, salesman, canvasser, solicitor or
26 installer operating in this state under the authority of the
27 person or its subsidiary for the purpose of selling,

1 delivering, or the taking of orders for the sale of tangible
2 personal property or any services taxable under this chapter
3 or otherwise solicits and receives purchases or orders by any
4 agent or salesman;

5 "(4) Solicits, pursuant to a contract with a
6 broadcaster or publisher located in this state, orders for
7 tangible personal property by means of advertising which is
8 disseminated primarily to consumers located in this state and
9 only secondarily to bordering jurisdiction;

10 "(5) Solicits orders for tangible personal property
11 by mail if the solicitations are substantial and recurring and
12 if the retailer benefits from any banking, financing, debt
13 collection, telecommunication, or marketing activities
14 occurring in this state or benefits from the location in this
15 state of authorized installation, servicing, or repair
16 facilities. Notwithstanding the previous sentence, a seller
17 who contracts with a provider of call center services shall
18 not be deemed to benefit from telecommunication activities
19 occurring in this state or from the location in this state of
20 authorized installation, servicing, or repair facilities
21 merely as a result of contracting for and receiving only call
22 center services from a call center located in this state. The
23 preceding sentence shall only apply for call centers, as
24 authorized or specified in Division 3 of Article 17 of Chapter
25 10 of Title 41, and placed in service in this state on or
26 before October 1, 2003;

1 "(6) Has, under a franchise or licensing arrangement
2 or contract, a franchisee or licensee operating under its
3 trade name;

4 "(7) Solicits, pursuant to a contract with a cable
5 television operator located in this state, orders for tangible
6 personal property by means of advertising which is transmitted
7 or distributed over a cable television system in this state;

8 "(8) Solicits orders for tangible personal property
9 by means of a telecommunication or television shopping system
10 which is intended by the person to be broadcast by cable
11 television or other means of broadcasting, to consumers
12 located in this state;

13 "(9) Maintains any other contact with this state
14 that would allow this state to require the seller to collect
15 and remit the tax due under the provisions of the Constitution
16 and laws of the United States; or

17 "(10) Distributes catalogs or other advertising
18 matter and by reason thereof receives and accepts orders from
19 residents, within the State of Alabama,
20 shall be subject to all the provisions of this chapter and
21 shall, except as otherwise provided in subsection (f), on or
22 before the 20th day of the month following the close of each
23 month file with the department a return for the preceding
24 month in such form as may be prescribed by the department
25 showing the total sales price of the tangible personal
26 property sold by such seller, the storage, use, or consumption
27 of which became subject to the tax imposed by this article

1 during the preceding month and such other information as the
2 department may deem necessary for the proper administration of
3 this article.

4 "(c) The return shall be accompanied by a remittance
5 of the amount of tax herein required to be collected by the
6 seller during the period covered by the return. Returns shall
7 be signed by the seller or his duly authorized agent but need
8 not be verified by oath.

9 "(d) Except as otherwise provided in subsection (f),
10 every person purchasing tangible personal property, the
11 storage, use, or other consumption of which is subject to the
12 tax imposed by this article, and who has not paid the tax due
13 with respect thereto to a seller required or authorized
14 hereunder to collect the tax, shall on or before the 20th day
15 of the month following the close of each month file with the
16 department a return for the preceding month in such form as
17 may be prescribed by the department showing the total sales
18 price of the tangible personal property purchased by such
19 person, the storage, use, or other consumption of which became
20 subject to the tax imposed by this article during the
21 preceding month and with respect to which the tax was not paid
22 to a seller required or authorized hereunder to collect the
23 tax, and such other information as the department may deem
24 necessary for the proper administration of this article. The
25 return shall be accompanied by a remittance of the amount of
26 tax herein imposed and not paid to a seller required or
27 authorized hereunder to collect the tax during the period

1 covered by the return. Returns shall be signed by the person
2 liable for the tax or his duly authorized agent, but need not
3 be verified by oath.

4 "(e) For the purpose of the proper administration of
5 this article and to prevent evasion of the tax and the duty to
6 collect the same herein imposed, it shall be presumed that
7 tangible personal property sold by any person for delivery in
8 this state is sold for storage, use, or other consumption in
9 this state unless the person selling such property has taken
10 from the purchaser a certificate signed by and bearing the
11 name and address of the purchaser to the effect that the
12 property was purchased for resale, and it shall be further
13 presumed that tangible personal property shipped to this state
14 by the purchaser thereof was purchased from a retailer on and
15 after March 1, 1939, for storage, use, or other consumption in
16 this state. Except as otherwise provided in subsection (f),
17 any seller making cash and credit sales for storage, use, or
18 other consumption in Alabama may report such cash sales and
19 shall thereafter include in each monthly report all credit
20 collections made during the preceding month, and shall pay the
21 taxes due thereon at the time of filing such report, but in no
22 event shall the gross proceeds of credit sales be included in
23 the measure of the tax to be paid until collections of such
24 credit sales shall have been made.

25 ~~"(f) When the total state use tax for which any~~
26 ~~person is liable under this division averages less than two~~
27 ~~hundred dollars (\$200) per month during the preceding calendar~~

1 ~~year, a quarterly return and remittance in lieu of the monthly~~
2 ~~returns may be made, by election of the taxpayer to the~~
3 ~~department, on or before the 20th day of the month next~~
4 ~~succeeding the end of the quarter for which the tax is due~~
5 ~~under such rules and regulations as may be prescribed by the~~
6 ~~department. The election Taxpayers meeting the criteria set~~
7 ~~forth in the subdivisions of this subsection may elect to file~~
8 ~~quarterly, semi-annually, or annually. Any election to file~~
9 ~~quarterly, semi-annually, or annually shall be made in writing~~
10 ~~no later than February 20 of each year and shall be filed with~~
11 ~~the department in the manner prescribed by the department. The~~
12 ~~department, for good cause, may extend the time for making any~~
13 ~~return required under the provisions of this chapter, but the~~
14 ~~time for filing any such return shall not be extended for a~~
15 ~~period greater than 30 days from the date such return is due~~
16 ~~to be made. Qualifying taxpayers electing to file quarterly,~~
17 ~~semi-annually, or annually, shall report to the department, on~~
18 ~~a form prescribed by the department, a true and correct~~
19 ~~statement showing such information as the department may~~
20 ~~require. Qualifying taxpayers shall pay to the department the~~
21 ~~amount of tax shown to be due on or before the applicable~~
22 ~~deadlines, under any rules and regulations as may be~~
23 ~~prescribed, as follows:. Notwithstanding the above, no state~~
24 ~~use tax return shall be due until January 20 of each year~~
25 ~~unless the total state use tax for which any person is liable~~
26 ~~under this division during the preceding calendar year exceeds~~
27 ~~ten dollars (\$10).~~

1 "(1) When the total state use tax for which any
2 person is liable under this article is less than \$2,400 during
3 the preceding calendar year, the person may elect to file
4 quarterly returns. Quarterly returns and payment of the amount
5 of tax shown to be due shall be due on or before the 20th day
6 of the month next succeeding the end of the quarter for which
7 the tax is due under such rules and regulations as may be
8 prescribed by the department.

9 "(2) When the total state use tax for which any
10 person is liable under this article is less than \$1,200 for
11 the preceding calendar year or the person liable for the tax
12 has made no more than two transactions subject to use tax
13 during the preceding calendar year, the person may elect to
14 file semi-annual returns. The semi-annual returns and payment
15 of the tax shown to be due shall be due on or before July 20
16 and January 20 following the end of the six-month period for
17 which the tax is due.

18 "(3) When the total state use tax for which any
19 person is liable under this article during the preceding
20 calendar year is less than six hundred dollars (\$600) or the
21 person liable for the tax has made no more than one
22 transaction subject to use tax during the preceding calendar
23 year, the person may elect to file an annual return. The
24 annual return and payment of the tax shown to be due shall be
25 due on or before January 20 following the end of the annual
26 period for which the tax is due.

27 "§40-26-3.

1 "a) The taxes levied under the provisions of this
2 chapter, except as otherwise provided in paragraph (b), shall
3 be due and payable in monthly installments on or before the
4 twentieth day of the month next succeeding the month in which
5 the tax accrues. On or before the twentieth day of each month
6 after this chapter has taken effect, every person, firm or
7 corporation on whom the taxes levied by this chapter are
8 imposed shall render to the Department of Revenue, hereinafter
9 referred to as the department, on a form prescribed by the
10 department, a true and correct statement showing the gross
11 proceeds of the business for the next preceding month,
12 together with such other information as the department may
13 demand and require, and at the time of making such monthly
14 report the taxpayer shall compute the taxes due and shall pay
15 to the department the amount of taxes shown to be due. ~~The~~
16 ~~department, for good cause, may extend the time for making any~~
17 ~~return required under the provisions of this chapter, but the~~
18 ~~time for filing any such return shall not be extended for a~~
19 ~~period greater than 30 days from the date such return is due~~
20 ~~to be made.~~

21 "b) Taxpayers meeting the criteria set forth in the
22 subdivisions of this subsection may elect to file quarterly,
23 semi-annually, or annually. Any such election to file
24 quarterly, semi-annually, or annually shall be made in writing
25 no later than February 20 of each year and shall be filed with
26 the department in the manner prescribed by the department. The
27 department, for good cause, may extend the time for making any

1 return required under the provisions of this chapter, but the
2 time for filing any such return shall not be extended for a
3 period greater than 30 days from the date such return is due
4 to be made. Qualifying taxpayers electing to file quarterly,
5 semi-annually, or annually, shall report to the department, on
6 a form prescribed by the department, a true and correct
7 statement showing such information as the department may
8 require. Qualifying taxpayers shall pay to the department the
9 amount of tax shown to be due on or before the applicable
10 deadlines, under any rules and regulations as may be
11 prescribed, as follows:

12 "(1) When the total state transient occupancy tax
13 for which any person is liable under this chapter is less than
14 \$2,400 during the preceding calendar year, the person may
15 elect to file quarterly returns. Quarterly returns and the
16 amount of tax shown to be due shall be due on or before the
17 20th day of the month next succeeding the end of the quarter
18 for which the tax is due.

19 "(2) When the total state transient occupancy tax
20 for which any person is liable under this chapter is less than
21 \$1,200 during the preceding calendar year or the person liable
22 for the tax has provided accommodations during no more than
23 two, thirty consecutive day periods during the preceding
24 calendar year, the person may elect to file semi-annual
25 returns. The semi-annual returns and payment of the tax shown
26 to be due shall be due on or before July 20 and January 20
27 following the end of the six-month period for which the tax is

1 due. (3) When the total state transient occupancy tax for
2 which any person is liable under this chapter is less than six
3 hundred dollars (\$600) for the preceding calendar year or the
4 person liable for the tax provides accommodations during no
5 more than one, thirty consecutive day period during the
6 preceding calendar year, the person may elect to file an
7 annual return. The annual return and payment of the tax shown
8 to be due shall be due on or before January 20 following the
9 end of the annual period for which the tax is due.

10 Section 2. Section 40-23-6.1, is hereby added to the
11 Code of Alabama 1975, as follows:

12 §40-23-6.1

13 The commissioner may, subject to the appeal
14 provisions allowed in Chapter 2A of Title 40, suspend or
15 revoke a license, or deny a license application or renewal,
16 issued under Sections 40-12-221, 40-23-6, or 40-23-66 for
17 reasonable cause including the following:

18 (1) Fraud practiced or any material misstatement in
19 the license application.

20 (2) Changes of conditions in ownership or business
21 structure after a license is granted or the failure to engage
22 in or continue to engage in business for which the license is
23 issued.

24 (3) Failure to comply with the provisions of Chapter
25 12 and Chapter 23 of Title 40, or any rule promulgated
26 thereunder.

1 (4) Failure to provide or maintain a surety bond as
2 required in section 40-23-6.

3 (c) The Department of Revenue may adopt rules to
4 administer this section.

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

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 16-APR-19

Read for the second time and placed on the calen-
dar 1 amendment..... 07-MAY-19

Read for the third time and passed as amended 16-MAY-19

Yeas 25
Nays 0

Patrick Harris,
Secretary.