

1 SB313
2 204441-4
3 By Senator Chambliss (N & P)
4 RFD: Local Legislation
5 First Read: 12-MAR-20

1 SB313

2
3
4 With Notice and Proof

5
6 ENGROSSED

7
8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to Elmore County; authorizing the levy of a
14 lodging tax and providing for the distribution of the proceeds
15 from the tax.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. In Elmore County, in addition to all
18 other taxes imposed by law, the Elmore County Commission may
19 levy a privilege or license tax in the amount prescribed in
20 this section against every person within the county engaging
21 in the business of renting or furnishing a room or rooms,
22 lodging or accommodations, to a transient in a hotel, motel,
23 inn, condominium, house, tourist court, or another place in
24 which rooms, lodgings, or accommodations are regularly
25 furnished to transients for a consideration. The amount of the
26 tax shall be equal to a percent of the charge for the rooms,
27 lodgings, or accommodations, including the charge for use of

1 rental or personal property and services furnished in the room
2 or rooms within Elmore County equal to a percent in the
3 corporate limits of each municipality levying a lodging tax
4 and a percent in the remainder of the county outside of the
5 corporate limits of any municipality levying a lodging tax so
6 that the total lodging tax levied in each municipality levying
7 a lodging tax on January 1, 2020, and in the remainder of the
8 county outside of the corporate limits of any municipality
9 levying a lodging tax is equal to 15.5 percent, based on the
10 lodging tax levied by any municipality on January 1, 2020,
11 except in any municipality levying a lodging tax on January 1,
12 2020, equal to or exceeding 15.5 percent, no additional
13 lodging tax shall be levied. In any municipality where the
14 municipality levies both a lodging tax and a cooperative
15 district assessment for lodging, the lodging tax and the
16 cooperative district assessment fee on lodging at any lodging
17 establishment shall be added together and the total tax and
18 fees on lodging at the establishments shall not exceed the
19 15.5% considering the combined lodging tax and cooperative
20 district assessment fee that was in effect as of January 1,
21 2020. In the event that a lodging tax and a cooperative
22 district assessment fee on lodging is required to be added
23 together, the county shall receive a minimum of two percent of
24 the lodging tax levied by this act prior to distribution to a
25 municipality as provided in this act. In addition, the Elmore
26 County Commission may levy an additional room fee on the
27 rental of a room subject to the lodging tax in the amount of

1 two dollars (\$2) in order to equalize the room fee in Elmore
2 County with the present rate in the City of Prattville in
3 Autauga County.

4 Section 2. (a) There are exempted from the
5 provisions of the tax levied by this act and from the
6 computation of the amount of the tax levied or payable all of
7 the following: Charges for property sold or services furnished
8 which are required to be included in the tax levied by the
9 state sales tax act; charges for the rental of rooms,
10 lodgings, or accommodations to a person for a period of 30
11 continuous days or more pursuant to the exemption provision of
12 Alabama's Transient Occupancy Tax, Section 40-26-1 of the Code
13 of Alabama 1975. A subsequent amendment or change to the
14 Alabama Transient Occupancy Tax shall also have the effect of
15 similarly changing the exemption provision of this act.

16 (b) Notwithstanding the provisions of this section,
17 the tax shall not apply to the rental of living accommodations
18 which are intended primarily for rental to persons as their
19 principal or permanent place of residence.

20 Section 3. (a) The tax levied by this act, except as
21 otherwise provided, shall be due and payable to Elmore County
22 on or before the 20th day of the month next succeeding the
23 month in which the tax accrues. Notwithstanding any provision
24 of this act providing for the responsibility of the county to
25 collect and administer the tax provided in this act, the
26 county may contract with an agent to perform all or any part
27 of its duties pursuant to this act. On or before the 20th day

1 of each month, every person on whom the tax is levied by this
2 act shall render to the county on a form prescribed by the
3 department, a true and correct statement showing the gross
4 proceeds of the business subject to the tax for the then
5 preceding month, together with other information as the county
6 requires. At the time of making the monthly report, the
7 taxpayer shall compute and pay to the county the amount of tax
8 shown due. A person subject to the tax who conducts business
9 on a credit basis may defer reporting and paying the tax until
10 after the person has received payment of the items, articles,
11 or accommodations furnished. In the event the taxpayer defers
12 reporting and paying the taxes, he or she shall thereafter
13 include in each monthly report all credit collections made
14 during the then preceding month and shall pay the amount of
15 taxes computed thereon at the time of filing the report.

16 (b) It shall be the duty of every person engaged or
17 continuing in a business subject to the tax levied by this act
18 to keep and preserve suitable records of the gross proceeds of
19 the business and other books or accounts necessary to
20 determine the amount of tax for which he or she is liable
21 pursuant to this act. The records shall be kept and preserved
22 for a period of two years and shall be open for examination at
23 all times by the county or by a duly authorized agent, deputy,
24 or employee of the county.

25 (c) A person who fails to pay the tax levied by this
26 act within the time required by this act shall pay in addition
27 to the tax a penalty of 10 percent of the amount of tax due,

1 together with interest from the date on which the tax became
2 due and payable at the rate due and payable on the state
3 lodging tax. The penalty and interest shall be assessed and
4 collected as a part of the tax. The county may, if good and
5 sufficient reason be shown, waive or remit the penalty or a
6 portion of the penalty.

7 Section 4. All provisions of the state lodging tax
8 statutes with respect to payment, assessment, and collection
9 of the state lodging tax, making of reports and keeping and
10 preserving records, interest after due date of tax, or
11 otherwise; the promulgation of rules with respect to the state
12 lodging tax; and the administration and enforcement of the
13 state lodging tax statutes, which are not inconsistent with
14 the provisions of this act when applied to the tax levied by
15 this act, shall apply to the levied tax. The county shall have
16 and exercise the same powers, duties, and obligations with
17 respect to the district taxes levied as imposed on the
18 Commissioner of the Department of Revenue and the department,
19 respectively, by the state lodging tax statutes. All
20 provisions of the state lodging tax statutes that are made
21 applicable to this act, to the taxes levied, and to the
22 administration of this act are incorporated herein by
23 reference and made a part as if fully set forth.

24 Section 5. The county shall contract with an agent
25 for collection of the tax and the agent may deduct from the
26 proceeds of the tax levied an amount equal to the contracted
27 amount for the collections, provided the charge does not

1 exceed five percent of the total amount of tax collected.
2 Following that deduction, the agent shall pay the remainder of
3 the tax proceeds to the county.

4 Section 6. Except as otherwise provided in this act,
5 the balance of the proceeds from the tax levied by this act
6 shall be deposited into the Elmore County Lodging Fund. The
7 net proceeds from the tax collected outside of the
8 municipalities shall be used by the county for economic
9 development purposes. Sixty-seven percent of the remaining
10 funds in the Lodging Fund shall be used by the county for
11 economic development purposes. Thirty-three percent of the
12 remaining funds in the Lodging Fund shall be distributed to
13 the municipalities on an equal basis where the lodging tax was
14 collected to be used by the municipality for economic
15 development purposes pursuant to an agreement with Elmore
16 County. If Elmore County and any municipality fail to agree on
17 the use of the funds by the municipality, that portion shall
18 revert to the Lodging Fund for appropriation by the county for
19 economic development purposes. All of the net proceeds from
20 any room fees shall be deposited in the Elmore County Lodging
21 Fund to be used by the county for economic development
22 purposes. All funds in the Elmore County Lodging Fund shall be
23 used for economic development purposes as determined by the
24 Elmore County Commission.

25 Section 7. The provisions of this act shall not be
26 applied in a manner to violate the Commerce Clause of the
27 United States Constitution. If a provision of this act is held

1 invalid, the invalidity shall not affect the remaining
2 provisions of this act.

3 Section 8. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17

Senate

Read for the first time and referred to the Senate
committee on Local Legislation..... 12-MAR-20

Read for the second time and placed on the calen-
dar..... 04-MAY-20

Read for the third time and passed as amended 05-MAY-20

Yeas 26
Nays 0

Patrick Harris,
Secretary.