

1 SB112
2 210695-3
3 By Senators Orr and Elliott
4 RFD: Governmental Affairs
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

1 SB112

2
3
4 ENROLLED, An Act,

5 Relating to taxation and fees; to amend Section
6 40-2-11, Code of Alabama 1975, to authorize the Commissioner
7 of the Department of Revenue to temporarily waive requirements
8 for the International Fuel Tax Agreement and the International
9 Registration Plan during a declared state of emergency or
10 disaster; to amend Act 2019-2, 2019 First Special Session, now
11 appearing as Section 23-8-6, Code of Alabama 1975, to clarify
12 that bidding procedures approved by the Department of
13 Examiners of Public Accounts may be used for certain county
14 road and bridge projects; to amend Act 2019-305, 2019 Regular
15 Session, now appearing as Section 40-12-242.1, Code of Alabama
16 1975, to provide for clarification on the distributor of
17 certain license taxes and fees; to amend Section 40-17-335,
18 Code of Alabama 1975, to clarify a reference to motor fuel
19 excise taxes with regard to surety bonds; and to provide a
20 reduced additional annual license tax and registration fee for
21 electric low-speed vehicles.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 40-2-11, Code of Alabama 1975, is
24 amended to read as follows:

25 "§40-2-11.

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

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

20 "(2) To equalize, value, and assess or cause to be
21 equalized, valued, and assessed any property subject to
22 taxation, and such valuations and assessments it shall enter
23 or cause to be entered in the proper assessment book, record,
24 or minutes of the proper official, board, or tribunal; to set
25 aside all assessments so entered in any assessment book,

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

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

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

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

1 "(5) To require district attorneys and the Attorney
2 General of the state to commence and prosecute, within the
3 respective jurisdictions or spheres of official duty of the
4 officers, actions, proceedings, and prosecutions for
5 penalties, forfeitures, impeachments, and punishments for
6 violations of the tax laws of the state, to enter into
7 agreements with district attorneys and the Attorney General of
8 the state to reimburse those offices for reasonable fees or
9 costs of actions, proceedings, and prosecutions, and to fund
10 the reimbursements, in whole or in part, from penalties
11 assessed and collected pursuant to Section 40-2A-11.

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

21 "(7)a. To require individuals, partnerships,
22 associations, corporations, trustees, and receivers, and the
23 agents, officers, and employees thereof, to furnish
24 information concerning their capital, funded or otherwise,
25 gross receipts, net profits or income, excess profits, current

1 assets and liabilities, values of franchises, intangibles,
2 value of property, earnings, operating and other expenses,
3 bonds, deeds, conduct of business, and all other facts,
4 records, books, papers, documents, and other information of
5 any kind demanded which may be needful in order to enable the
6 department to ascertain the value and relative burden to be
7 borne by every kind of property in this state and to ascertain
8 the proper amount of license, privilege, excise, corporation,
9 franchise, income, or ad valorem taxes.

10 "b. To require reporting of retail sales and
11 customer notification, within constitutional limitations, when
12 the seller does not collect sales, use, or simplified sellers
13 use tax on Alabama sales transactions, and to provide for
14 penalties pursuant to Section 40-2A-11.

15 "c. To require reporting of rental transactions of
16 tangible personal property as defined in Section 40-12-220,
17 when the property is classified as Class II or Class IV
18 property under Section 40-8-1, by persons facilitating the
19 transactions and to require notifications to the lessor when
20 the lessor has not furnished evidence that it has acquired a
21 license as required under Section 40-12-221, and to provide
22 for penalties pursuant to Section 40-2A-11.

23 "(8) To cause the deposition of witnesses residing
24 within or without the state to be taken upon such notice to
25 the interested party, if any, as the department may prescribe,

1 in like manner as depositions of witnesses are taken in
2 actions pending in circuit court, in any matter which the
3 department has authority to investigate and determine. The
4 depositions shall be taken upon a commission issued by the
5 Department of Revenue, or the secretary thereof, in the name
6 of the department, and returnable to the department.

7 "(9) To visit, by the commissioner or by duly
8 authorized agents, the several counties in the state for the
9 purpose of investigating the work and methods of county tax
10 assessors, tax collectors, ~~probate judges~~ judges of probate,
11 or other officers or boards charged with the duty of
12 administering the tax laws of the state; to examine carefully
13 into all cases where evasions or violations of the tax laws
14 are alleged, complained of, or discovered, and to ascertain
15 wherein existing laws are defective or are improperly or
16 negligently administered and to report the result of the
17 investigation and the facts ascertained to the Governor from
18 time to time when required by the Governor.

19 "(10) To investigate the tax system of other states;
20 to thoroughly inform itself upon the subject of taxation and
21 of the progress made in other states and counties in improving
22 their tax system, to formulate and recommend such legislation
23 as may be deemed expedient to prevent evasion of existing tax
24 laws and to secure just and equal taxation and improvements in
25 the system of taxation in this state.

1 "(11) To consult and confer with the Governor upon
2 the subject of taxation and the administration of the laws and
3 progress of the work of the department, and to furnish to the
4 Governor from time to time such information as the Governor
5 may require.

6 "(12) To transmit to the Governor, 30 days before
7 the meeting of the Legislature, a written report showing all
8 the taxable property in the state and the value of the same,
9 in tabulated form, with recommendations for improvements in
10 the system of taxation in the state, together with suggestions
11 of such measures as the department may formulate for the
12 consideration of the Legislature in regard thereto.

13 "(13) To, for good reason shown and entered on the
14 minutes of the department, do either of the following:

15 "a. Extend the time for filing any report or written
16 statement required to be filed with the department.

17 "b. Temporarily waive the motor fuel importer,
18 exporter, or transporter licensing requirements under Section
19 40-17-332, during a state of emergency or disaster. A waiver
20 authorized by this subdivision shall be effective only for
21 persons importing, exporting, or transporting motor fuel to
22 areas within a state or territory of the United States for
23 which the President of the United States or the governor of
24 that state or territory has declared a state of emergency or
25 disaster, and only where the import, export, or transport

1 takes place during the time the declaration is in effect. A
2 temporary waiver of the motor fuel importer, exporter, or
3 transporter licensing requirements under this subdivision
4 shall not be construed to permit any waiver of any additional
5 requirements or payment of any taxes due under the Alabama
6 Terminal Excise Tax.

7 "c. Temporarily waive the requirements associated
8 with the International Registration Plan under Section 32-6-56
9 and the International Fuel Tax Agreement under Section
10 40-17-272, during a state of emergency or disaster. A waiver
11 authorized by this subdivision shall be effective only for
12 motor vehicles engaged in interstate disaster relief efforts
13 traveling to areas within a state or territory of the United
14 States for which the President of the United States or
15 governor of that state or territory has declared a state of
16 emergency or disaster, and only when the travel takes place
17 during the time the declaration is in effect. A temporary
18 waiver of the requirements under the International
19 Registration Plan or International Fuel Tax Agreement under
20 this subdivision shall not be construed to allow a motor
21 vehicle to operate in the State of Alabama without valid
22 registration and insurance from its base state, nor allow any
23 motor vehicle to exceed weight limits posted for bridges and
24 like structures, or relieve any vehicle or the carrier, owner,

1 or driver of any vehicle from compliance with any other
2 restrictions, statutes, orders, or other legal requirements.

3 "(14) To inspect and examine at all reasonable
4 business hours any books, documents, records, or papers kept
5 by any person, firm, corporation, trustee, or receiver.

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

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

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

17 Section 2. Act 2019-2, 2019 First Special Session,
18 now appearing as Section 23-8-6, Code of Alabama 1975, and Act
19 2019-305, 2019 Regular Session, now appearing as Section
20 40-12-242.1, Code of Alabama 1975, are amended to read as
21 follows:

22 "§23-8-6.

23 "(a) All county and municipal projects let to
24 contract shall utilize contractors and material suppliers
25 listed on the ALDOT's list of approved contractors and

1 suppliers. ALDOT's list of approved contractors and material
2 suppliers shall include the ALDOT's Certified Disadvantaged
3 Business Enterprise List. Beginning October 1, 2020, and
4 October 1 of every other year, each county and municipality
5 shall provide a list of all contractors who have been awarded
6 projects under this section to the President Pro Tempore of
7 the Senate, the Speaker of the House, and the Chair of the
8 Joint Transportation Committee. Notwithstanding any provision
9 of law to the contrary, no bidding shall be required by the
10 county for asphalt or other road construction or repair
11 materials if the county has an annual contract for providing
12 such materials.

13 "(b) For all municipal projects, the appropriate
14 plans and bid opening date shall be published in electronic
15 form no later than the tenth day of the month preceding the
16 bid opening on a website maintained for that purpose by the
17 Alabama League of Municipalities.

18 "(c) The bidding procedures approved by the
19 Department of Examiners of Public Accounts, as authorized in
20 Section 40-17-371(c)(2)d., may be used for any county road and
21 bridge project otherwise subject to Chapter 2 of Title 39.

22 "~~(c)~~ (d) Bids for county and municipal contracts
23 awarded under this section shall only be awarded in accordance
24 with Section 39-2-6 during a regularly-scheduled meeting of
25 the governmental body of the county or municipality, as the

1 case may be. Immediately after the completion of each project,
2 the publication notifications required by subsection (f) of
3 Section 39-1-1, shall be satisfied by posting on the same
4 website utilized for the posting of specifications and notice
5 of bid openings.

6 "§40-12-242.1.

7 "The Legislature finds and declares the following
8 regarding the distribution and use of the proceeds from
9 certain annual license taxes and registration fees on
10 vehicles: All proceeds of the annual license taxes and
11 registration fees to be distributed to counties and
12 municipalities pursuant to subsection (f) of Section 40-12-242
13 shall be allocated in the same manner and used for the same
14 purposes as provided in subdivisions (2) and (3) of subsection
15 (c) of Section 40-17-371, and effective October 1, 2021, shall
16 be distributed by the entity responsible for the distribution
17 of funds under these subdivisions, which shall be the Alabama
18 Department of Revenue."

19 Section 3. Section 40-17-335, Code of Alabama 1975,
20 is amended to read as follows:

21 "§40-17-335.

22 "(a) Upon approval of the application by the
23 department, the applicant shall file with the department a
24 surety bond as herein provided:

1 "(1) Except as provided under subdivision (3), the
2 bond amount for an applicant for a license as a supplier,
3 permissive supplier, or terminal operator shall be in the
4 approximate amount of twice the average monthly tax liability,
5 not to exceed two million dollars (\$2,000,000).

6 "(2) Except as provided under subdivision (3), the
7 bond amount for an applicant for a license as an exporter,
8 blender, importer, or distributor shall be a minimum of two
9 thousand dollars (\$2,000) or the approximate amount of twice
10 the average monthly tax liability, whichever is greater.

11 "(3) The bond for distributors, suppliers, and
12 permissive suppliers who are licensed with the department on
13 October 1, 2012, shall remain at the amount that is filed with
14 the department on that date, except as provided under
15 subsection (b).

16 "(4) For an applicant for a license only as a motor
17 fuel transporter or aviation fuel purchaser, there shall be no
18 bond.

19 "(5) Only one bond shall be required of an applicant
20 for multiple licenses. Except as provided under subdivision
21 (3), the bond amount shall be based on the highest average
22 monthly tax liability of the separate licenses, but shall
23 cover all licenses.

24 "(b) The commissioner may require an additional
25 surety bond from any licensee if: (1) the commissioner

1 determines that the surety on an existing bond is
2 unsatisfactory; (2) a surety notifies the department that it
3 intends to cancel a bond as provided in subsection (d); or (3)
4 the commissioner, after reviewing the financial condition of
5 the licensee, determines that the existing bond of the
6 licensee is insufficient in an amount to insure the prompt
7 payment of all excise taxes that are due or may become due the
8 state by the licensee upon the sale or withdrawal of motor
9 fuel. However, in no case shall a new or additional bond be
10 more than two months of average excise tax owed by the
11 licensee.

12 "(c) The department shall notify a licensee at his
13 or her last known address by first class U.S. mail or, at the
14 option of the department, certified mail, return receipt
15 requested, that it is requiring such new or additional bond
16 for any reason as provided above, and the licensee, within 30
17 days from the date such notice is mailed by the department,
18 shall either (1) file the new or additional bond as requested
19 by the department, or (2) file a notice of appeal with the
20 Alabama Tax Tribunal as allowed in Chapter 2B of this title.
21 The department may immediately cancel the licensee's license
22 upon the expiration of the 30-day period set out above if the
23 licensee fails to either provide the new or additional bond
24 requested by the department or timely appeal to the Alabama
25 Tax Tribunal.

1 "(d) Any surety on an existing bond furnished by a
2 licensee may notify the department in writing of its intent to
3 cancel the bond. The department shall immediately notify the
4 licensee of the intent of the surety to cancel and the
5 licensee shall have 30 days from the date the notice is mailed
6 by the department to provide a sufficient replacement bond as
7 requested by the department. The department may immediately
8 cancel the licensee's license upon expiration of the 30-day
9 period set out above if the licensee fails to either provide a
10 new replacement bond as requested by the department or appeal
11 the proposed revocation to the Alabama Tax Tribunal within the
12 30 days as allowed by Chapter 2B of this title. The surety
13 requesting to be released shall remain liable for any
14 liability already accrued or which shall accrue during the
15 30-day period set out above, but shall not be responsible for
16 any liability which accrues after the 30-day period.

17 "(e) A surety providing a bond must be authorized to
18 engage in business within this state. The surety bonds are
19 conditioned upon faithful compliance with the provisions of
20 this article, including the filing of returns and the payment
21 of all tax prescribed herein. The surety bonds shall be
22 approved by the commissioner as to sufficiency and form, and
23 shall indemnify the state against any loss arising from the
24 failure of the licensee to pay, for any cause, the motor fuel

1 excise tax levied by this article and Article 12A, Chapter 17,
2 Title 40."

3 Section 4. (a) Notwithstanding Section
4 40-12-242(b)(1), effective January 1, 2022, the additional
5 annual license tax and registration fee shall be fifty dollars
6 (\$50) for each electric low-speed vehicle registered and
7 operated on the public highways of this state. The term
8 electric low-speed vehicle as used in this section shall be
9 defined in the same manner as in 49 C.F.R. § 571.3.

10 (b) The additional annual license tax and
11 registration fee provided in this section shall be distributed
12 pursuant to Section 40-12-242.1, Code of Alabama 1975.

13 (c) The Department of Revenue may adopt rules for
14 the implementation and administration of this act.

15 Section 5. Sections 1, 2, and 3 shall become
16 effective immediately following its passage and approval by
17 the Governor, or its otherwise becoming law, and Section 4
18 shall become effective January 1, 2022, following its passage
19 and approved by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB112

Senate 11-FEB-21

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 09-MAR-21

Senate concurred in House amendment 16-MAR-21

By: Senator Orr