

1 HB10
2 214446-1
3 By Representative Brown (C)
4 RFD: Ways and Means General Fund
5 First Read: 11-JAN-22
6 PFD: 06/28/2021

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8 SYNOPSIS: Under existing law, all vessels and
9 equipment thereon, used predominantly in the
10 business of commercial shrimping, are exempt from
11 ad valorem tax. This bill would exempt all business
12 of commercial fishing from ad valorem tax.

13 Under existing law, the sale of commercial
14 fishing vessels and machinery and the materials and
15 equipment used by commercial fishermen to capture
16 or attempt to capture fish or other seafood are not
17 exempt from sales and use tax. This bill would
18 create a sales and use tax rate differential of one
19 and one-half percent for the purchase and storage
20 of all vessels and machinery used in the process of
21 commercial fishing. This bill would also exempt
22 bait and all materials and equipment used in the
23 process of commercial fishing from sales and use
24 tax.

25 This bill would also define commercial
26 fishing and commercial fishing vessels for the

1 purpose of ad valorem taxation and sale and use
2 taxation.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to ad valorem tax; to amend Section 40-9-1
9 of the Code of Alabama 1975, to exempt all commercial fishing
10 vessels and equipment from ad valorem taxation; relating to
11 sales and use tax; to amend Sections 40-23-1, 40-23-4, as last
12 amended by Act 2019-444, 2019 Regular Session, 40-23-37,
13 40-23-60, and 40-23-63 of the Code of Alabama 1975, to provide
14 for an exemption for bait and all materials and equipment used
15 by commercial fishermen; and to levy a rate differential of
16 one and one-half percent on the purchase and storage of
17 vessels and machinery used for commercial fishing.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 40-9-1, 40-23-1, 40-23-4, as
20 last amended by Act 2019-444, 2019 Regular Session, 40-23-37,
21 40-23-60, and 40-23-63 of the Code of Alabama 1975, are
22 amended to read as follows:

23 "§40-9-1.

24 "The following property and persons shall be exempt
25 from ad valorem taxation and none other:

26 "(1) All bonds of the United States and this state
27 and all county and municipal bonds issued by counties and

1 municipalities in this state, all property, real and personal,
2 of the United States and this state and of county and
3 municipal corporations in this state; all cemeteries, all
4 property, real and personal, used exclusively for religious
5 worship, for schools or for purposes purely charitable;
6 provided, that property, real or personal, owned by any
7 educational, religious, or charitable institution, society or
8 corporation let for rent or hire or for use for business
9 purposes shall not be exempt from taxation, notwithstanding
10 that the income from such property shall be used exclusively
11 for education, religious, or charitable purposes; all
12 mortgages, together with the notes, debts, and credits secured
13 thereby on real and personal property situated in this state,
14 which mortgages have been filed for record and the privilege
15 tax paid thereon; all security agreements and security
16 interests under the Uniform Commercial Code, together with the
17 notes, debts, and credits secured thereby; all money on
18 deposit in any bank or banking institution and all other
19 solvent credits; all warrants issued by county boards of
20 education and city boards of education for the purpose of
21 erecting, repairing, furnishing school buildings, or for other
22 school purposes;

23 "(2) All property, real or personal, used
24 exclusively for hospital purposes, to the amount of
25 seventy-five thousand dollars (\$75,000), where such hospitals
26 maintain wards for charity patients or give treatment to such
27 patients; provided, that the treatment of charity patients

1 constitutes at least 15 percent of the business of such
2 hospitals; provided further, that such hospital need not be
3 assessed for taxation if the owner or manager shall file with
4 the county tax assessor wherein such hospital is located
5 within the time allowed for assessing such property for
6 taxation a certificate that such hospital has done 15 percent
7 charity work in the preceding tax year; and further provided,
8 that such hospital through its owner or manager shall have
9 until the expiration of the preceding tax year to class its
10 work and ascertain whether or not such hospital has done 15
11 percent of its treatment of patients as charity work;

12 "(3) The shares of the capital stock of any
13 corporation owning and operating a hospital, to the extent of
14 seventy-five thousand dollars (\$75,000) in value; provided,
15 that said corporation maintains wards for charity patients and
16 gives treatment to such patients, which treatment constitutes
17 at least 15 percent of the business of the hospital of said
18 corporation; provided, that the total exemption granted to any
19 such corporation shall not exceed seventy-five thousand
20 dollars (\$75,000), taking into consideration its real and
21 personal property and the value of its shares of capital
22 stock;

23 "(4) All property owned by the American Legion or by
24 Veterans of Foreign Wars or by the Disabled American Veterans,
25 or any post thereof; provided, that such property is used and
26 occupied exclusively by said organization;

1 "(5) All the property of literary and scientific
2 institutions and literary societies, when employed or used in
3 the regular business of such institutions;

4 "(6) The libraries of ministers of the gospel, all
5 libraries other than those of a professional character and all
6 religious books kept for sale by ministers of the gospel and
7 colporteurs;

8 "(7) The property of deaf mutes and insane persons
9 to the extent of three thousand dollars (\$3,000) and the
10 property of blind persons to the extent of twelve thousand
11 dollars (\$12,000);

12 "(8) All family portraits;

13 "(9) All cotton, livestock, or agricultural products
14 which have been raised or grown in the State of Alabama and
15 which shall remain in the hands of the producer thereof, or
16 his landlord, or in the hands of a cooperative association for
17 all time, and for a period of one year in the hands of the
18 purchaser or the manufacturer;

19 "(10) All cotton, wherever grown, stored in licensed
20 warehouses in the State of Alabama for a period not exceeding
21 12 months;

22 "(11) Provisions and supplies on hand for the
23 current year for the use of the family and the making of
24 crops; all wearing apparel; farming tools; tools and
25 implements of mechanics to the value of two hundred dollars
26 (\$200); all livestock, including mules, studs, jacks and

1 jennets, cattle, horses, cows, calves, hogs, sheep, and goats;
2 household and kitchen furniture and one sewing machine;

3 "(12) No license or taxation of any character,
4 except franchise taxes provided by Section 229 of the
5 Constitution of the State of Alabama, shall be collected or
6 required to be paid to the state or any county or municipality
7 therein by any state or county fair, agricultural association,
8 stock, kennel, or poultry show. Athletic stadiums owned and
9 controlled by universities, schools, or colleges and which are
10 used exclusively for the purpose of promoting intercollegiate
11 or interschool athletics; provided, that the revenue received
12 from athletic stadiums, when admission is charged, shall be
13 used for the benefit of athletic associations of such
14 universities, colleges, or schools. Nothing contained in this
15 subdivision shall be construed to prohibit any municipality,
16 county, or state from imposing any license tax upon or for the
17 privilege of engaging in the business of supplying services
18 for hire or reward or selling commodities other than
19 livestock, farm products, or farm implements or conducting or
20 operating devices or games of skill or amusements or other
21 games or devices, or conducting or operating shows, displays
22 or exhibits other than shows, displays or exhibits of
23 agricultural implements, farm products, livestock and athletic
24 prowess;

25 "(13) All material, including without limitation
26 coke, to be compounded or further manufactured, when stocked
27 at any plant or furnace for manufacturing purposes in Alabama;

1 "(14) All articles manufactured in Alabama,
2 including pig iron, in the hands of the producer or
3 manufacturer thereof, for 12 months after its production or
4 manufacture;

5 "(15) All property, both real and personal, owned by
6 any unit or organization of the Alabama National Guard
7 officially recognized as such by the federal government and
8 organized and maintained by the state, and all property owned
9 by shares and used exclusively by and kept exclusively in the
10 possession of any such unit or organization of the Alabama
11 National Guard, the annual rent or hire of which is not in
12 excess of the annual state, county and municipal taxes on said
13 property shall be exempt from taxation by the state, and the
14 county and municipality in which the same may be situated;

15 "(16) All poultry;

16 "(17) The property of all incompetent veterans to
17 the value of three thousand dollars (\$3,000);

18 "(18) The following items of personal property when
19 owned by individuals for personal use in the home or usually
20 kept at the home of the owner and not carried as stocks of
21 merchandise, namely: Libraries; phonographs; pianos and other
22 musical instruments; paintings; precious stones, jewelry,
23 plate silverware, ornaments, and articles of taste; watches
24 and clocks; wagons, buggies, bicycles, guns, pistols, canes,
25 golf sticks, golf bags, and sporting goods; money hoarded;
26 radios; mechanical and electrical refrigerators; electrical
27 appliances;

1 "(19) All property owned by the Benevolent and
2 Protective Order of Elks, Fraternal Order of Police, Fraternal
3 Order of Eagles, or Loyal Order of Moose, or lodge thereof;
4 provided, that such property is used and occupied exclusively
5 by such organization;

6 "(20) All devices, facilities or structures, and all
7 identifiable components thereof or materials for use therein,
8 acquired or constructed primarily for the control, reduction, or
9 elimination of air or water pollution;

10 "(21) Tobacco leaf stored in hogsheads;

11 "(22) All farm tractors, as that term is defined in
12 subdivision (19) of Section 32-1-1.1; and all farming
13 implements, as that term is used in subdivision (b) (5) of
14 Section 40-11-1, as amended, when used exclusively in
15 connection with agricultural property as defined in
16 subdivision (b) (3) of Section 40-8-1, as amended;

17 "(23) All stocks of goods, wares, and merchandise
18 described in subdivision (b) (4) of Section 40-11-1, as
19 amended; and

20 "(24) All aircraft, replacement parts, components,
21 systems, supplies and sundries affixed or used on said
22 aircraft, and ground support equipment and vehicles used by or
23 for the aircraft, when used by a certificated or licensed air
24 carrier with a hub operation within this state, for use in
25 conducting intrastate, interstate, or foreign commerce for
26 transporting people or property by air. For the purpose of

1 this subdivision, the words "hub operation within this state"
2 shall be construed to have all of the following criteria:

3 "a. There originates from the location 15 or more
4 flight departures and five or more different first-stop
5 destinations five days per week for six or more months during
6 the calendar year; and

7 "b. Passengers and/or property are regularly
8 exchanged at the location between flights of the same or a
9 different certificated or licensed air carrier.

10 "(25) All property described in Title 12 U.S.C. §
11 1701(Q), commonly known as HUD 202 property, is hereby exempt
12 from any and all ad valorem taxes.

13 "(26) All vessels and equipment thereon, used
14 predominantly in the business of commercial ~~shrimping~~ fishing,
15 as defined in Section 40-23-1, by the owners thereof.

16 "§40-23-1.

17 "(a) For the purpose of this division, the following
18 terms shall have the respective meanings ascribed by this
19 section:

20 "(1) PERSON or COMPANY. Used interchangeably,
21 includes any individual, firm, copartnership, association,
22 corporation, receiver, trustee, or any other group or
23 combination acting as a unit and the plural as well as the
24 singular number, unless the intention to give a more limited
25 meaning is disclosed by the context.

26 "(2) DEPARTMENT. The Department of Revenue of the
27 State of Alabama.

1 "(3) COMMISSIONER. The Commissioner of Revenue of
2 the State of Alabama.

3 "(4) TAX YEAR or TAXABLE YEAR. The calendar year.

4 "(5) SALE or SALES. Installment and credit sales and
5 the exchange of properties as well as the sale thereof for
6 money, every closed transaction constituting a sale. Provided,
7 however, a transaction shall not be closed or a sale completed
8 until the time and place when and where title is transferred
9 by the seller or seller's agent to the purchaser or
10 purchaser's agent, and for the purpose of determining transfer
11 of title, a common carrier or the ~~U. S.~~ U.S. Postal Service
12 shall be deemed to be the agent of the seller, regardless of
13 any F.O.B. point and regardless of who selects the method of
14 transportation, and regardless of by whom or the method by
15 which freight, postage, or other transportation charge is
16 paid. Provided further that, where billed as a separate item
17 to and paid by the purchaser, the freight, postage, or other
18 transportation charge paid to a common carrier or the U.S.
19 Postal Service is not a part of the selling price.

20 "(6) GROSS PROCEEDS OF SALES. The value proceeding
21 or accruing from the sale of tangible personal property, and
22 including the proceeds from the sale of any property handled
23 on consignment by the taxpayer, including merchandise of any
24 kind and character without any deduction on account of the
25 cost of the property sold, the cost of the materials used,
26 labor or service cost, interest paid, any consumer excise
27 taxes that may be included within the sales price of the

1 property sold, or any other expenses whatsoever, and without
2 any deductions on account of losses; provided, that cash
3 discounts allowed and taken on sales shall not be included,
4 and "gross proceeds of sales" shall not include the sale price
5 of property returned by customers when the full sales price
6 thereof is refunded either in cash or by credit. The term
7 "gross proceeds of sale" shall also mean and include the
8 reasonable and fair market value of any tangible personal
9 property previously purchased at wholesale which is withdrawn
10 or used from the business or stock and used or consumed in
11 connection with a business, and shall also mean and include
12 the reasonable and fair market value of any tangible personal
13 property previously purchased at wholesale which is withdrawn
14 from the business or stock and used or consumed by any person
15 so withdrawing the same, except property which has been
16 previously withdrawn from business or stock and so used or
17 consumed with respect to which property the tax has been paid
18 because of previous withdrawal, use, or consumption, except
19 property which enters into and becomes an ingredient or
20 component part of tangible personal property or products
21 manufactured or compounded for sale and not for the personal
22 and private use or consumption of any person so withdrawing,
23 using, or consuming the same, and except refinery, residue, or
24 fuel gas, whether in a liquid or gaseous state, that has been
25 generated by, or is otherwise a by-product of, a
26 petroleum-refining process, which gas is then utilized in the

1 process to generate heat or is otherwise utilized in the
2 distillation or refining of petroleum products.

3 "In the case of the retail sale of equipment,
4 accessories, fixtures, and other similar tangible personal
5 property used in connection with the sale of commercial mobile
6 services as defined herein, or in connection with satellite
7 television services, at a price below cost, "gross proceeds of
8 sale" shall only include the stated sales price thereof and
9 shall not include any sales commission or rebate received by
10 the seller as a result of the sale. As used herein, the term
11 "commercial mobile services" shall have the same meaning as
12 that term has in 47 U.S.C. Sections 153(n) and 332(d), as in
13 effect from time to time.

14 "(7) TAXPAYER. Any person liable for taxes
15 hereunder.

16 "(8) GROSS RECEIPTS. The value proceeding or
17 accruing from the sale of tangible personal property,
18 including merchandise and commodities of any kind and
19 character, all receipts actual and accrued, by reason of any
20 business engaged in, not including, however, interest,
21 discounts, rentals of real estate or royalties, and without
22 any deduction on account of the cost of the property sold, the
23 cost of the materials used, labor or service cost, interest
24 paid, any consumer excise taxes that may be included in the
25 sales price of the property sold, or any other expenses
26 whatsoever and without any deductions on account of losses.
27 The term "gross receipts" shall also mean and include the

1 reasonable and fair market value of any tangible personal
2 property previously purchased at wholesale which is withdrawn
3 or used from the business or stock and used or consumed in
4 connection with a business, and shall also mean and include
5 the reasonable and fair market value of any tangible personal
6 property previously purchased at wholesale which is withdrawn
7 from the business or stock and used or consumed by any person
8 so withdrawing the same, except property which has been
9 previously withdrawn from business or stock and so used or
10 consumed and with respect to which property the tax has been
11 paid because of previous withdrawal, use, or consumption,
12 except property which enters into and becomes an ingredient or
13 component part of tangible personal property or products
14 manufactured or compounded for sale as provided in subdivision
15 (9) and not for the personal and private use or consumption of
16 any person so withdrawing, using, or consuming the same, and
17 except refinery, residue, or fuel gas, whether in a liquid or
18 gaseous state, that has been generated by, or is otherwise a
19 by-product of, a petroleum-refining process, which gas is then
20 utilized in the process to generate heat or is otherwise
21 utilized in the distillation or refining of petroleum
22 products.

23 "(9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
24 the following:

25 "a. A sale of tangible personal property by
26 wholesalers to licensed retail merchants, jobbers, dealers, or

1 other wholesalers for resale and does not include a sale by
2 wholesalers to users or consumers, not for resale.

3 "b. A sale of tangible personal property or
4 products, including iron ore, and including the furnished
5 container and label of such property or products, to a
6 manufacturer or compounder which enter into and become an
7 ingredient or component part of the tangible personal property
8 or products which the manufacturer or compounder manufactures
9 or compounds for sale, whether or not such tangible personal
10 property or product used in manufacturing or compounding a
11 finished product is used with the intent that it becomes a
12 component of the finished product; provided, however, that it
13 is the intent of this section that no sale of capital
14 equipment, machinery, tools, or product shall be included in
15 the term "wholesale sale." The term "capital equipment,
16 machinery, tools, or product" shall mean property that is
17 subject to depreciation allowances for Alabama income tax
18 purposes.

19 "c. A sale of containers intended for one-time use
20 only, and the labels thereof, when containers are sold without
21 contents to persons who sell or furnish containers along with
22 the contents placed therein for sale by persons.

23 "d. A sale of pallets intended for one-time use only
24 when pallets are sold without contents to persons who sell or
25 furnish pallets along with the contents placed thereon for
26 sale by persons.

1 "e. A sale to a manufacturer or compounder, of
2 crowns, caps, and tops intended for one-time use employed and
3 used upon the containers in which a manufacturer or compounder
4 markets his products.

5 "f. A sale of containers to persons engaged in
6 selling or otherwise supplying or furnishing baby chicks to
7 growers thereof where containers are used for the delivery of
8 chicks or a sale of containers for use in the delivery of eggs
9 by the producer thereof to the distributor or packer of eggs
10 even though containers used for delivery of baby chicks or
11 eggs may be recovered for reuse.

12 "g. A sale of bagging and ties used in preparing
13 cotton for market.

14 "h. A sale to meat packers, manufacturers,
15 compounders, or processors of meat products of all casings
16 used in molding or forming wieners and Vienna sausages even
17 though casings may be recovered for reuse.

18 "i. A sale of commercial fish feed including
19 concentrates, supplements, and other feed ingredients when
20 substances are used as ingredients in mixing and preparing
21 feed for fish raised to be sold on a commercial basis.

22 "j. A sale of bait used to capture or attempt to
23 capture fish or other seafood in the process of commercial
24 fishing.

25 "~~j.~~ k. A sale of tangible personal property to any
26 person engaging in the business of leasing or renting tangible
27 personal property to others, if tangible personal property is

1 purchased for the purpose of leasing or renting it to others
2 under a transaction subject to the privilege or license tax
3 levied in Article 4 of Chapter 12 of this title against any
4 person engaging in the business of leasing or renting tangible
5 personal property to others.

6 ~~"k.~~ 1. A purchase or withdrawal of parts or
7 materials from stock by any person licensed under this
8 division where parts or materials are used in repairing or
9 reconditioning the tangible personal property of a licensed
10 person, which tangible personal property is a part of the
11 stock of goods of a licensed person, offered for sale by him,
12 and not for use or consumption of a licensed person.

13 "(10) SALE AT RETAIL or RETAIL SALE. All sales of
14 tangible personal property except those above defined as
15 wholesale sales. The quantities of goods sold or prices at
16 which sold are immaterial in determining whether or not a sale
17 is at retail. Sales of building materials to contractors,
18 builders, or landowners for resale or use in the form of real
19 estate are retail sales in whatever quantity sold. Sales of
20 building materials, fixtures, or other equipment to a
21 manufacturer or builder of modular buildings for use in
22 manufacturing, building, or equipping a modular building
23 ultimately becoming a part of real estate situated in the
24 State of Alabama are retail sales, and the use, sale, or
25 resale of building shall not be subject to the tax. Sales of
26 tangible personal property to undertakers and morticians are
27 retail sales and subject to the tax at the time of purchase,

1 but are not subject to the tax on resale to the consumer.
2 Sales of tangible personal property or products to
3 manufacturers, quarry operators, mine operators, or
4 compounders, which are used or consumed by them in
5 manufacturing, mining, quarrying, or compounding and do not
6 become an ingredient or component part of the tangible
7 personal property manufactured or compounded as provided in
8 subdivision (9) are retail sales. The term "sale at retail" or
9 "retail sale" shall also mean and include the withdrawal, use,
10 or consumption of any tangible personal property by any one
11 who purchases same at wholesale, except property which has
12 been previously withdrawn from the business or stock and so
13 used or consumed and with respect to which property tax has
14 been paid because of previous withdrawal, use, or consumption,
15 except property which enters into and becomes an ingredient or
16 component part of tangible personal property or products
17 manufactured or compounded for sale as provided in subdivision
18 (9) and not for the personal and private use or consumption of
19 any person so withdrawing, using, or consuming the same; and
20 wholesale purchaser shall report and pay the taxes thereon. In
21 the case of the sale of equipment, accessories, fixtures, and
22 other similar tangible personal property used in connection
23 with the sale of commercial mobile services as defined in
24 subdivision (6) above, or in connection with satellite
25 television services, at a price below cost, the term "sale at
26 retail" and "retail sale" shall include those sales, and those

1 sales shall not also be taxable as a withdrawal, use, or
2 consumption of such tangible personal property.

3 "(11) BUSINESS. All activities engaged in, or caused
4 to be engaged in, with the object of gain, profit, benefit, or
5 advantage, either direct or indirect, and not excepting
6 subactivities producing marketable commodities used or
7 consumed in the main business activity, each of which
8 subactivities shall be considered business engaged in, taxable
9 in the class in which it falls.

10 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
11 crawler, crawler crane, ditcher, or any similar machine which
12 is self-propelled, in addition to self-propelled machines
13 which are used primarily as instruments of conveyance.

14 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a
15 prepaid telephone calling card or a prepaid authorization
16 number, or both, shall be deemed the sale of tangible personal
17 property subject to the tax imposed on the sale of tangible
18 personal property pursuant to this chapter. For purposes of
19 this subdivision, the sale of prepaid wireless service that is
20 evidenced by a physical card constitutes the sale of a prepaid
21 telephone calling card, and the sale of prepaid wireless
22 service that is not evidenced by a physical card constitutes
23 the sale of a prepaid authorization number.

24 "(14) PREPAID WIRELESS SERVICE. The right to use
25 mobile telecommunications service, which must be paid for in
26 advance and that is sold in predetermined units or dollars of
27 which the number declines with use in a known amount, and

1 which may include rights to use non-telecommunications
2 services or to download digital products or digital content.
3 For purposes of this subdivision, mobile telecommunications
4 service has the meaning ascribed by Section 40-21-120.

5 "(15) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid
6 solution or other material containing nicotine that is
7 depleted when used as a vapor product.

8 "(16) VAPOR PRODUCTS. Any non-lighted,
9 noncombustible product that employs a mechanical heating
10 element, battery, or electronic circuit regardless of shape or
11 size and that can be used to produce vapor from nicotine in a
12 solution. The term includes any vapor cartridge or other
13 container of nicotine in a solution or other form that is
14 intended to be used with or in an electronic cigarette,
15 electronic cigar, electronic cigarillo, electronic pipe, or
16 similar product or device. The term does not include any
17 product regulated by the United States Food and Drug
18 Administration under Chapter V of the Federal Food, Drug, and
19 Cosmetic Act.

20 "(17) COMMERCIAL FISHING. The activity of catching
21 or processing fish or other seafood regularly and exclusively
22 as a means of livelihood. The term includes shrimpers,
23 oysterers, lobsterers, and crabbers.

24 "(18) COMMERCIAL FISHING VESSEL. Any vessel whose
25 masters and owners are regularly and exclusively engaged in
26 commercial fishing as their means of livelihood.

1 "(b) The use within this state of tangible personal
2 property by the manufacturer thereof, as building materials in
3 the performance of a construction contract, shall, for the
4 purposes of this division, be considered as a retail sale
5 thereof by manufacturer, who shall also be construed as the
6 ultimate consumer of materials or property, and who shall be
7 required to report transaction and pay the sales tax thereon,
8 based upon the reasonable and fair market price thereof at the
9 time and place where same are used or consumed by him or it.
10 Where the contractor is the manufacturer or compounder of
11 ready-mix concrete or asphalt plant mix used in the
12 performance of a contract, whether the ready-mix concrete or
13 asphalt plant mix is manufactured or compounded at the job
14 site or at a fixed or permanent plant location, the tax
15 applies only to the cost of the ingredients that become a
16 component part of the ready-mix concrete or the asphalt plant
17 mix. The provisions of this subsection shall not apply to any
18 tangible personal property which is specifically exempted from
19 the tax levied in this division.

20 "(c) The sale of lumber by a lumber manufacturer to
21 a trucker for resale is a sale at wholesale as sales are
22 defined herein where the trucker is either a licensed dealer
23 in lumber or, if a resident of Alabama, has registered with
24 the Department of Revenue, and has received therefrom a
25 certificate of registration or, if a nonresident of this state
26 purchasing lumber for resale outside the State of Alabama, has
27 furnished to the lumber manufacturer his name, address and the

1 vehicle license number of the truck in which the lumber is to
2 be transported, which name, address, and vehicle license
3 number shall be shown on the sales invoice rendered by the
4 lumber manufacturer. The certificate provided for herein shall
5 be valid for the calendar year of its issuance and may be
6 renewed from year to year on application to the Department of
7 Revenue on or before January 31 of each succeeding year;
8 provided, that if not renewed the certificate shall become
9 invalid for the purpose of this division on February 1.

10 "(d) The dispensing or transferring of ophthalmic
11 materials, including lenses, frames, eyeglasses, contact
12 lenses, and other therapeutic optic devices, to a patient by a
13 licensed ophthalmologist, as a part of his or her professional
14 service, shall, for purposes of this division, constitute a
15 sale, subject to the state sales tax. The licensed
16 ophthalmologist or licensed optometrist shall collect the
17 state sales tax. In no event shall the providing of
18 professional services in connection with the dispensing or
19 transferring of ophthalmic materials, including dispensing
20 fees or fitting fees, by a licensed ophthalmologist or
21 licensed optometrist be considered a sale subject to the state
22 sales tax. When the ophthalmic materials are purchased by a
23 consumer covered by a third party benefit plan, including
24 Medicare, the sales tax shall be applicable to the amount that
25 the ophthalmologist, optometrist, or optician is reimbursed by
26 the third party benefit plan plus the amount that the consumer
27 pays to the ophthalmologist, optometrist, or optician at the

1 time of the sale. All transfers of ophthalmic materials by
2 opticians or optometrists shall be considered retail sales
3 subject to the state sales tax. The term supplier shall
4 include but not be limited to optical laboratories, ophthalmic
5 material wholesalers, or anyone selling ophthalmic materials
6 to ophthalmologists.

7 "(e) Notwithstanding the above, the withdrawal, use,
8 or consumption of a manufactured product by the manufacturer
9 thereof in quality control testing performed by employees or
10 independent contractors of the taxpayer, for purposes of this
11 division, shall not be deemed or considered to constitute a
12 transaction subject to sales tax, nor shall a gift by the
13 manufacturer of a manufactured product, withdrawn from the
14 manufacturer's inventory, to an entity listed in 26 U.S.C.
15 Sections 170(b) or (c), be considered a transaction subject to
16 sales tax.

17 (f) Notwithstanding the foregoing, a gift by a
18 retailer of a product or products where the aggregate retail
19 value of any single gift is equal to or less than ten thousand
20 dollars (\$10,000), withdrawn from the retailer's inventory, to
21 an entity listed in 26 U.S.C. Sections 170(b) or (c) shall not
22 be deemed or considered to constitute a transaction subject to
23 sales and use tax.

24 "§40-23-4.

25 "(a) There are exempted from the provisions of this
26 division and from the computation of the amount of the tax

1 levied, assessed, or payable under this division the
2 following:

3 "(1) The gross proceeds of the sales of lubricating
4 oil and gasoline as defined in Sections 40-17-30 and 40-17-170
5 and the gross proceeds from those sales of lubricating oil
6 destined for out-of-state use which are transacted in a manner
7 whereby an out-of-state purchaser takes delivery of such oil
8 at a distributor's plant within this state and transports it
9 out-of-state, which are otherwise taxed.

10 "(2) The gross proceeds of the sale, or sales, of
11 fertilizer when used for agricultural purposes. The word
12 "fertilizer" shall not be construed to include cottonseed
13 meal, when not in combination with other materials.

14 "(3) The gross proceeds of the sale, or sales, of
15 seeds for planting purposes and baby chicks and poults.
16 Nothing herein shall be construed to exempt or exclude from
17 the computation of the tax levied, assessed, or payable, the
18 gross proceeds of the sale or sales of plants, seedlings,
19 nursery stock, or floral products.

20 "(4) The gross proceeds of sales of insecticides and
21 fungicides when used for agricultural purposes or when used by
22 persons properly permitted by the Department of Agriculture
23 and Industries or any applicable local or state governmental
24 authority for structural pest control work and feed for
25 livestock and poultry, but not including prepared food for
26 dogs and cats.

1 "(5) The gross proceeds of sales of all livestock by
2 whomsoever sold, and also the gross proceeds of poultry and
3 other products of the farm, dairy, grove, or garden, when in
4 the original state of production or condition of preparation
5 for sale, when such sale or sales are made by the producer or
6 members of his immediate family or for him by those employed
7 by him to assist in the production thereof. Nothing herein
8 shall be construed to exempt or exclude from the measure or
9 computation of the tax levied, assessed, or payable hereunder,
10 the gross proceeds of sales of poultry or poultry products
11 when not products of the farm.

12 "(6) Cottonseed meal exchanged for cottonseed at or
13 by cotton gins.

14 "(7) The gross receipts from the business on which,
15 or for engaging in which, a license or privilege tax is levied
16 by or under the provisions of Sections 40-21-50, 40-21-53, and
17 40-21-56 through 40-21-60; provided, that nothing contained in
18 this subdivision shall be construed to exempt or relieve the
19 person or persons operating the business enumerated in said
20 sections from the payments of the tax levied by this division
21 upon or measured by the gross proceeds of sales of any
22 tangible personal property, except gas and water, the gross
23 receipts from the sale of which are the measure of the tax
24 levied by said Section 40-21-50, merchandise or other tangible
25 commodities sold at retail by said persons, unless the gross
26 proceeds of sale thereof are otherwise specifically exempted
27 by the provisions of this division.

1 "(8) The gross proceeds of sales or gross receipts
2 of or by any person, firm, or corporation, from the sale of
3 transportation, gas, water, or electricity, of the kinds and
4 natures, the rates and charges for which, when sold by public
5 utilities, are customarily fixed and determined by the Public
6 Service Commission of Alabama or like regulatory bodies.

7 "(9) The gross proceeds of the sale, or sales of
8 wood residue, coal, or coke to manufacturers, electric power
9 companies, and transportation companies for use or consumption
10 in the production of by-products, or the generation of heat or
11 power used in manufacturing tangible personal property for
12 sale, for the generation of electric power or energy for use
13 in manufacturing tangible personal property for sale or for
14 resale, or for the generation of motive power for
15 transportation.

16 "(10) The gross proceeds from the sale or sales of
17 fuel and supplies for use or consumption aboard ships,
18 vessels, towing vessels, or barges, or drilling ships, rigs or
19 barges, or seismic or geophysical vessels, or other watercraft
20 (herein for purposes of this exemption being referred to as
21 "vessels") engaged in foreign or international commerce or in
22 interstate commerce; provided, that nothing in this division
23 shall be construed to exempt or exclude from the measure of
24 the tax herein levied the gross proceeds of sale or sales of
25 material and supplies to any person for use in fulfilling a
26 contract for the painting, repair, or reconditioning of
27 vessels, barges, ships, other watercraft, and commercial

1 fishing vessels of over five tons load displacement as
2 registered with the U.S. Coast Guard and licensed by the State
3 of Alabama Department of Conservation and Natural Resources.

4 "For purposes of this subdivision, it shall be
5 presumed that vessels engaged in the transportation of cargo
6 between ports in the State of Alabama and ports in foreign
7 countries or possessions or territories of the United States
8 or between ports in the State of Alabama and ports in other
9 states are engaged in foreign or international commerce or
10 interstate commerce, as the case may be. For the purposes of
11 this subdivision, the engaging in foreign or international
12 commerce or interstate commerce shall not require that the
13 vessel involved deliver cargo to or receive cargo from a port
14 in the State of Alabama. For purposes of this subdivision,
15 vessels carrying passengers for hire, and no cargo, between
16 ports in the State of Alabama and ports in foreign countries
17 or possessions or territories of the United States or between
18 ports in the State of Alabama and ports in other states shall
19 be engaged in foreign or international commerce or interstate
20 commerce, as the case may be, if, and only if, both of the
21 following conditions are met: (i) The vessel in question is a
22 vessel of at least 100 gross tons; and (ii) the vessel in
23 question has an unexpired certificate of inspection issued by
24 the United States Coast Guard or by the proper authority of a
25 foreign country for a foreign vessel, which certificate is
26 recognized as acceptable under the laws of the United States.
27 Vessels that are engaged in foreign or international commerce

1 or interstate commerce shall be deemed for the purposes of
2 this subdivision to remain in such commerce while awaiting or
3 under repair in a port of the State of Alabama if such vessel
4 returns after such repairs are completed to engaging in
5 foreign or international commerce or interstate commerce. For
6 purposes of this subdivision, seismic or geophysical vessels
7 which are engaged either in seismic or geophysical tests or
8 evaluations exclusively in offshore federal waters or in
9 traveling to or from conducting such tests or evaluations
10 shall be deemed to be engaged in international or foreign
11 commerce. For purposes of this subdivision, proof that fuel
12 and supplies purchased are for use or consumption aboard
13 vessels engaged in foreign or international commerce or in
14 interstate commerce may be accomplished by the merchant or
15 seller securing the duly signed certificate of the vessel
16 owner, operator, or captain or their respective agent, on a
17 form prescribed by the department, that the fuel and supplies
18 purchased are for use or consumption aboard vessels engaged in
19 foreign or international commerce or in interstate commerce.
20 Any person filing a false certificate shall be guilty of a
21 misdemeanor and upon conviction shall be fined not less than
22 twenty-five dollars (\$25) nor more than five hundred dollars
23 (\$500) for each offense. Each false certificate filed shall
24 constitute a separate offense. Any person filing a false
25 certificate shall be liable to the department for all taxes
26 imposed by this division upon the merchant or seller, together
27 with any interest or penalties thereon, by reason of the sale

1 or sales of fuel and supplies applicable to ~~such~~ the false
2 certificate. If a merchant or seller of fuel and supplies
3 secures the certificate herein mentioned, properly completed,
4 ~~such~~ the merchant or seller shall not be liable for the taxes
5 imposed by this division, if ~~such~~ the merchant or seller had
6 no knowledge that ~~such~~ the certificate was false when it was
7 filed with ~~such~~ the merchant or seller.

8 "(11) The gross proceeds of sales of tangible
9 personal property to the State of Alabama, to the counties
10 within the state and to incorporated municipalities of the
11 State of Alabama.

12 "(12) The gross proceeds of the sale or sales of
13 railroad cars, vessels, barges, and commercial fishing vessels
14 of over five tons load displacement as registered with the
15 U.S. Coast Guard and licensed by the State of Alabama
16 Department of Conservation and Natural Resources, when sold by
17 the manufacturers or builders thereof.

18 "(13) The gross proceeds of the sale or sales of
19 materials, equipment, and machinery that, at any time, enter
20 into and become a component part of ships, vessels, towing
21 vessels or barges, or drilling ships, rigs or barges, or
22 seismic or geophysical vessels, other watercraft and
23 commercial fishing vessels of over five tons load displacement
24 as registered with the U.S. Coast Guard and licensed by the
25 State of Alabama Department of Conservation and Natural
26 Resources. Additionally, the gross proceeds from the sale or
27 sales of lifeboats, personal flotation devices, ring life

1 buoys, survival craft equipment, distress signals, EPIRB's,
2 fire extinguishers, injury placards, waste management plans
3 and logs, marine sanitation devices, navigation rulebooks,
4 navigation lights, sound signals, navigation day shapes, oil
5 placard cards, garbage placards, FCC SSL, stability
6 instructions, first aid equipment, compasses, anchor and radar
7 reflectors, general alarm systems, bilge pumps, piping, and
8 discharge and electronic position fixing devices which are
9 used on the aforementioned watercraft.

10 "(14) The gross proceeds of the sale or sales of
11 fuel oil purchased as fuel for kiln use in manufacturing
12 establishments.

13 "(15) The gross proceeds of the sale or sales of
14 tangible personal property to county and city school boards
15 within the State of Alabama, independent school boards within
16 the State of Alabama, all educational institutions and
17 agencies of the State of Alabama, the counties within the
18 state, or any incorporated municipalities of the State of
19 Alabama, and private educational institutions operating within
20 the State of Alabama offering conventional and traditional
21 courses of study, such as those offered by public schools,
22 colleges, or universities within the State of Alabama; but not
23 including nurseries, day care centers, and home schools.

24 "(16) The gross proceeds from the sale of all
25 devices or facilities, and all identifiable components
26 thereof, or materials for use therein, acquired primarily for
27 the control, reduction, or elimination of air or water

1 pollution and the gross proceeds from the sale of all
2 identifiable components of, or materials used or intended for
3 use in, structures built primarily for the control, reduction,
4 or elimination of air and water pollution.

5 "(17) The gross proceeds of sales of tangible
6 personal property or the gross receipts of any business which
7 the state is prohibited from taxing under the Constitution or
8 laws of the United States or under the Constitution of this
9 state.

10 "(18) When dealers or distributors use parts taken
11 from stocks owned by them in making repairs without charge for
12 such parts to the owner of the property repaired pursuant to
13 warranty agreements entered into by manufacturers, such use
14 shall not constitute taxable sales to the manufacturers,
15 distributors, or to the dealers, under this division or under
16 any county sales tax law.

17 "(19) The gross proceeds received from the sale or
18 furnishing of food, including potato chips, candy, fruit and
19 similar items, soft drinks, tobacco products, and stationery
20 and other similar or related articles by hospital canteens
21 operated by Alabama state hospitals at Bryce Hospital and
22 Partlow State School for Mental Deficients at Tuscaloosa,
23 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
24 benefit of the patients therein.

25 "(20) The gross proceeds of the sale, or sales, of
26 wrapping paper and other wrapping materials when used in
27 preparing poultry or poultry products for delivery, shipment,

1 or sale by the producer, processor, packer, or seller of such
2 poultry or poultry products, including pallets used in
3 shipping poultry and egg products, paper or other materials
4 used for lining boxes or other containers in which poultry or
5 poultry products are packed together with any other materials
6 placed in such containers for the delivery, shipment, or sale
7 of poultry or poultry products.

8 "(21) The gross proceeds of the sales of all
9 antibiotics, hormones and hormone preparations, drugs,
10 medicines or medications, vitamins, minerals or other
11 nutrients, and all other feed ingredients including
12 concentrates, supplements, and other feed ingredients when
13 such substances are used as ingredients in mixing and
14 preparing feed for fish raised to be sold on a commercial
15 basis, livestock, and poultry. Such exemption herein granted
16 shall be in addition to exemptions now provided by law for
17 feed for fish raised to be sold on a commercial basis,
18 livestock, and poultry, but not including prepared foods for
19 dogs or cats.

20 "(22) The gross proceeds of the sale, or sales, of
21 seedlings, plants, shoots, and slips which are to be used for
22 planting vegetable gardens or truck farms and other
23 agricultural purposes. Nothing herein shall be construed to
24 exempt, or exclude from the computation of the tax levied,
25 assessed, or payable, the gross proceeds of the sale, or the
26 use of plants, seedlings, shoots, slips, nursery stock, and
27 floral products, except as hereinabove exempted.

1 "(23) The gross proceeds of the sale, or sales, of
2 fabricated steel tube sections, when produced and fabricated
3 in this state by any person, firm, or corporation for any
4 vehicular tunnel for highway vehicular traffic, when sold by
5 the manufacturer or fabricator thereof, and also the gross
6 proceeds of the sale, or sales, of steel which enters into and
7 becomes a component part of such fabricated steel tube
8 sections of said tunnel.

9 "(24) The gross proceeds from sales of admissions to
10 any theatrical production, symphonic or other orchestral
11 concert, ballet, or opera production when such concert or
12 production is presented by any society, association, guild, or
13 workshop group, organized within this state, whose members or
14 some of whose members regularly and actively participate in
15 such concerts or productions for the purposes of providing a
16 creative outlet for the cultural and educational interests of
17 such members, and of promoting such interests for the
18 betterment of the community by presenting such productions to
19 the general public for an admission charge. The employment of
20 a paid director or conductor to assist in any such
21 presentation described in this subdivision shall not be
22 construed to prohibit the exemptions herein provided.

23 "(25) The gross proceeds of sales of herbicides for
24 agricultural uses by whomsoever sold. The term herbicides, as
25 used in this subdivision, means any substance or mixture of
26 substances intended to prevent, destroy, repel, or retard the
27 growth of weeds or plants. It shall include preemergence

1 herbicides, postemergence herbicides, lay-by herbicides,
2 pasture herbicides, defoliant herbicides, and desiccant
3 herbicides.

4 "(26) The Alabama Chapter of the Cystic Fibrosis
5 Research Foundation and the Jefferson Tuberculosis Sanatorium
6 and any of their departments or agencies, heretofore or
7 hereafter organized and existing in good faith in the State of
8 Alabama for purposes other than for pecuniary gain and not for
9 individual profit, shall be exempted from the computation of
10 the tax on the gross proceeds of all sales levied, assessed,
11 or payable.

12 "(27) The gross proceeds from the sale or sales of
13 fuel for use or consumption aboard commercial fishing vessels
14 are hereby exempt from the computation of all sales taxes
15 levied, assessed, or payable under the provisions of this
16 division or levied under any county or municipal sales tax
17 law.

18 ~~"The words commercial fishing vessels shall mean~~
19 ~~vessels whose masters and owners are regularly and exclusively~~
20 ~~engaged in fishing as their means of livelihood.~~

21 "(28) The gross proceeds from the sales of rope,
22 fishing nets, tools, or any substitute used directly in the
23 process of commercial fishing.

24 ~~"(28)~~ (29) The gross proceeds of sales of sawdust,
25 wood shavings, wood chips, and other like materials sold for
26 use as chicken litter by poultry producers and poultry
27 processors.

1 "~~(29)~~ (30) The gross proceeds of the sales of all
2 antibiotics, hormones and hormone preparations, drugs,
3 medicines, and other medications including serums and
4 vaccines, vitamins, minerals, or other nutrients for use in
5 the production and growing of fish, livestock, and poultry by
6 whomsoever sold. Such exemption as herein granted shall be in
7 addition to the exemption provided by law for feed for fish,
8 livestock, and poultry, and in addition to the exemptions
9 provided by law for the above-enumerated substances and
10 products when mixed and used as ingredients in fish,
11 livestock, and poultry feed.

12 "~~(30)~~ (31) The gross proceeds of the sale or sales
13 of all medicines prescribed by physicians for persons who are
14 65 years of age or older, and when said prescriptions are
15 filled by licensed pharmacists, shall be exempted under this
16 division or under any county or municipal sales tax law. The
17 exemption provided in this section shall not apply to any
18 medicine purchased in any manner other than as is herein
19 provided.

20 "For the purposes of this subdivision, proof of age
21 may be accomplished by filing with the dispensing pharmacist
22 any one or more of the following documents:

23 "a. The name and claim number as shown on a Medicare
24 card issued by the United States Social Security
25 Administration.

1 "b. A certificate executed by any adult person
2 having knowledge of the fact that the person for whom the
3 medicine was prescribed is not less than 65 years of age.

4 "c. An affidavit executed by any adult person having
5 knowledge of the fact that the person for whom the medicine
6 was prescribed is not less than 65 years of age.

7 "For the purposes of this subdivision, any person
8 filing a false proof of age shall be guilty of a misdemeanor
9 and upon conviction thereof shall be punished by a fine of one
10 hundred dollars (\$100).

11 "~~(31)~~ (32) There shall be exempted from the tax
12 levied by this division the gross receipts of sales of grass
13 sod of all kinds and character when in the original state of
14 production or condition of preparation for sale, when such
15 sales are made by the producer or members of his family or for
16 him by those employed by him to assist in the production
17 thereof; provided, that nothing herein shall be construed to
18 exempt sales of sod by a person engaged in the business of
19 selling plants, seedlings, nursery stock, or floral products.

20 "~~(32)~~ (33) The gross receipts of sales of the
21 following items or materials which are necessary in the
22 farm-to-market production of tomatoes when such items or
23 materials are used by the producer or members of his family or
24 for him by those employed by him to assist in the production
25 thereof: Twine for tying tomatoes, tomato stakes, field boxes
26 (wooden boxes used to take tomatoes from the fields to shed),
27 and tomato boxes used in shipments to customers.

1 "~~(33)~~ (34) The gross proceeds from the sale of
2 liquefied petroleum gas or natural gas sold to be used for
3 agricultural purposes.

4 "~~(34)~~ (35) The gross receipts of sales from state
5 nurseries of forest tree seedlings.

6 "~~(35)~~ (36) The gross receipts of sales of forest
7 tree seed by the state.

8 "~~(36)~~ (37) The gross receipts of sales of Lespedeza
9 bicolor and other species of perennial plant seed and
10 seedlings sold for wildlife and game food production purposes
11 by the state.

12 "~~(37)~~ (38) The gross receipts of any aircraft
13 manufactured, sold, and delivered in this state if said
14 aircraft are not permanently domiciled in Alabama and are
15 removed to another state.

16 "~~(38)~~ (39) The gross proceeds from the sale or sales
17 of all diesel fuel used for off-highway agricultural purposes.

18 "~~(39)~~ (40) The gross proceeds from sales of
19 admissions to any sporting event which:

20 "a. Takes place in the State of Alabama on or after
21 January 1, 1984, regardless of when such sales occur; and

22 "b. Is hosted by a not-for-profit corporation
23 organized and existing under the laws of the State of Alabama;
24 and

25 "c. Determines a national championship of a national
26 organization, including, but not limited to, the Professional
27 Golfers Association of America, the Tournament Players

1 Association, the United States Golf Association, the United
2 States Tennis Association, and the National Collegiate
3 Athletic Association; and

4 "d. Has not been held in the State of Alabama on
5 more than one prior occasion, provided, however, that for such
6 purpose the Professional Golfers Association Championship, the
7 United States Open Golf Championship, the United States
8 Amateur Golf Championship of the United States Golf
9 Association, and the United States Open Tennis Championship
10 shall each be treated as a separate event.

11 "~~(40)~~ (41) The gross receipts from the sale of any
12 aircraft and replacement parts, components, systems, supplies,
13 and sundries affixed or used on said aircraft and ground
14 support equipment and vehicles used by or for the aircraft to
15 or by a certificated or licensed air carrier with a hub
16 operation within this state, for use in conducting intrastate,
17 interstate, or foreign commerce for transporting people or
18 property by air. For the purpose of this subdivision, the
19 words "hub operation within this state" shall be construed to
20 have all of the following criteria:

21 "a. There originates from the location 15 or more
22 flight departures and five or more different first-stop
23 destinations five days per week for six or more months during
24 the calendar year; and

25 "b. Passengers and/or property are regularly
26 exchanged at the location between flights of the same or a
27 different certificated or licensed air carrier.

1 "~~(41)~~ (42) The gross receipts from the sale of hot
2 or cold food and beverage products sold to or by a
3 certificated or licensed air carrier with a hub operation
4 within this state, for use in conducting intrastate,
5 interstate, or foreign commerce for transporting people or
6 property by air. For the purpose of this subdivision, the
7 words "hub operation within this state" shall be construed to
8 have all of the following criteria:

9 "a. There originates from the location 15 or more
10 flight departures and five or more different first-stop
11 destinations five days per week for six or more months during
12 the calendar year; and

13 "b. Passengers and/or property are regularly
14 exchanged at the location between flights of the same or a
15 different certificated or licensed air carrier.

16 "~~(42)~~ (43) The gross receipts from the sale of any
17 aviation jet fuel to a certificated or licensed air carrier
18 purchased for use in scheduled all-cargo operations being
19 conducted on international flights or in international
20 commerce. For purposes of this subdivision, the following
21 words or terms shall be defined and interpreted as follows:

22 "a. Air Carrier. Any person, firm, corporation, or
23 entity undertaking by any means, directly or indirectly, to
24 provide air transportation.

25 "b. All-Cargo Operations. Any flight conducted by an
26 air carrier for compensation or hire other than a passenger

1 carrying flight, except passengers as specified in 14 C.F.R.
2 §121.583(a) or 14 C.F.R. §135.85, as amended.

3 "c. International Commerce. Any air carrier engaged
4 in all-cargo operations transporting goods for compensation or
5 hire on international flights.

6 "d. International Flights. Any air carrier
7 conducting scheduled all-cargo operations between any point
8 within the 50 states of the United States and the District of
9 Columbia and any point outside the 50 states of the United
10 States and the District of Columbia, including any interim
11 stops within the United States so long as the ultimate origin
12 or destination of the aircraft is outside the United States
13 and the District of Columbia.

14 "~~(43)~~ (44) The gross proceeds of the sale or sales
15 of the following:

16 "a. Drill pipe, casing, tubing, and other pipe used
17 for the exploration for or production of oil, gas, sulphur, or
18 other minerals in offshore federal waters.

19 "b. Tangible personal property exclusively used for
20 the exploration for or production of oil, gas, sulphur, or
21 other minerals in offshore federal waters.

22 "c. Fuel and supplies for use or consumption aboard
23 boats, ships, aircraft, and towing vessels when used
24 exclusively in transporting persons or property between a
25 point in Alabama and a point or points in offshore federal
26 waters for the exploration for or production of oil, gas,
27 sulphur, or other minerals in offshore federal waters.

1 "d. Drilling equipment that is used for the
2 exploration for or production of oil, gas, sulphur, or other
3 minerals, that is built for exclusive use outside this state
4 and that is, on completion, removed forthwith from this state.

5 "The delivery of items exempted by this subdivision
6 to the purchaser or lessee in this state does not disqualify
7 the purchaser or lessee from the exemption if the property is
8 removed from the state by any means, including by the use of
9 the purchaser's or lessee's own facilities.

10 "The shipment to a place in this state of equipment
11 exempted by this subdivision for further assembly or
12 fabrication does not disqualify the purchaser or lessee from
13 the exemption if on completion of the further assembly or
14 fabrication the equipment is removed forthwith from this
15 state. This subdivision applies to a sale that may occur when
16 the equipment exempted is further assembled or fabricated if
17 on completion the equipment is removed forthwith from this
18 state.

19 "~~(44)~~ (45) The gross receipts derived from all bingo
20 games and operations which are conducted in compliance with
21 validly enacted legislation authorizing the conduct of such
22 games and operations, and which comply with the distribution
23 requirements of the applicable local laws; provided that the
24 exemption from sales taxation granted by this subdivision
25 shall apply only to gross receipts taxable under subdivision
26 (2) of Section 40-23-2. It is further provided that this
27 exemption shall not apply to any gross receipts from the sale

1 of tangible personal property, such as concessions, novelties,
2 food, beverages, etc. The exemption provided for in this
3 section shall be limited to those games and operations by
4 organizations which have qualified for exemption under the
5 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
6 (19), or which are defined in 26 U.S.C. § 501(d).

7 ~~"(45)~~ (46) The gross receipts derived from the sale
8 or sales of fruit or other agricultural products by the person
9 or company, as defined in Section 40-23-1, that planted or
10 cultivated and harvested the fruit or agricultural product,
11 when the land is owned or leased by the seller.

12 ~~"(46)~~ (47) The gross receipts derived from the sale
13 or sales of all domestically mined or produced coal, coke, and
14 coke by-products used in cogeneration plants.

15 ~~"(47)~~ (48) The gross receipts from the sale or sales
16 of metal, other than gold or silver, when such metal is
17 purchased for the purpose of transferring such metal to an
18 investment trust in exchange for shares or other units, each
19 of which are both publicly traded and represent fractional
20 undivided beneficial interests in the trust's net assets,
21 including metal stored in warehouses located in this state, as
22 well as the gross proceeds from the sale or other transfer of
23 such metal to or from such investment trust in exchange for
24 shares or other units that are publicly traded and represent
25 fractional undivided beneficial interests in the trust's net
26 assets but not to the extent that metal is transferred to or
27 from the investment trust in exchange for consideration other

1 than such publicly traded shares or other units. For purposes
2 of this subdivision, the term metals includes, but is not
3 limited to, copper, aluminum, nickel, zinc, tin, lead, and
4 other similar metals typically used in commercial and
5 industrial applications.

6 ~~"(48)~~ (49) For the period commencing on October 1,
7 2012, and ending May 30, 2022, unless extended by joint
8 resolution, the gross receipts from the sale of parts,
9 components, and systems that become a part of a fixed or
10 rotary wing military aircraft or certified transport category
11 aircraft that undergoes conversion, reconfiguration, or
12 general maintenance so long as the address of the aircraft for
13 FAA registration is not in the state; provided, however, that
14 this exemption shall not apply to a local sales tax unless
15 previously exempted by local law or approved by resolution of
16 the local governing body.

17 ~~"(49)~~ (50) The gross proceeds from the sale or sales
18 within school buildings of lunches to pupils of kindergarten,
19 grammar, and high schools, either public or private, that are
20 not sold for profit.

21 ~~"(50)~~ (51) The gross proceeds of services provided
22 by photographers, including, but not limited to, sitting fees
23 and consultation fees, even when provided as part of a
24 transaction ultimately involving the sale of one or more
25 photographs, so long as the exempt services are separately
26 stated to the customer on a bill of sale, invoice, or like
27 memorialization of the transaction. For transactions occurring

1 before October 1, 2017, neither the Department of Revenue nor
2 local tax officials may seek payment for sales tax not
3 collected. With regard to such transactions in which sales tax
4 was collected and remitted on services provided by
5 photographers, neither the taxpayer nor the entity remitting
6 sales tax shall have the right to seek refund of such tax.

7 ~~"(51)~~ (52) a. For the period commencing on June 1,
8 2018, and ending five years thereafter, unless extended by an
9 act of the Legislature, the gross proceeds of sales of bullion
10 or money, as defined in Section 40-1-1(7).

11 "b. For purposes of this subdivision, the following
12 words or terms shall be defined and interpreted as follows:

13 "1. Bullion. Gold, silver, platinum, palladium, or a
14 combination of each precious metal, that has gone through a
15 refining process and for which the item's value depends on its
16 mass and purity, and not on its form, numismatic value, or
17 other value. The term includes bullion in the form of bars,
18 ingots, or coins that meet the requirements set forth above.
19 Qualifying bullion may contain other metals or substances,
20 provided that the other substances are minimal in value
21 compared with the value of the gold, silver, platinum, or
22 palladium and the other substances do not add value to the
23 item. For purposes of this subparagraph, "gold, silver,
24 platinum, or palladium" does not include jewelry or works of
25 art.

1 "2. Mass Purity. An item's mass is its weight in
2 precious metal, and its purity is the amount of precious metal
3 contained within the item.

4 "3. Numismatic Value. An external value above and
5 beyond the base value of the underlying precious metal, due to
6 the item's rarity, condition, age, or other external factor.

7 "c. In order for bullion to qualify for the sales
8 tax exemption, gold, silver, platinum, and palladium items
9 must meet all of the following requirements:

10 "1. Must be refined.

11 "2. Must contain at least ninety percent gold,
12 silver, platinum, or palladium or some combination of these
13 metals.

14 "3. The sales price of the item must fluctuate with
15 and depend on the market price of the underlying precious
16 metal, and not on the item's rarity, condition, age, or other
17 external factor.

18 "~~(52)~~ (53) a. The gross proceeds of the initial
19 retail sales of adaptive equipment that is permanently affixed
20 to a motor vehicle.

21 "b. For the purposes of this subdivision, the
22 following words or terms shall be defined and interpreted as
23 follows:

24 "1. Adaptive Equipment. Equipment not generally used
25 by persons with normal mobility that is appropriate for use in
26 a motor vehicle and that is not normally provided by a motor
27 vehicle manufacturer.

1 "2. Motor Vehicle. A vehicle as defined in Section
2 40-12-240.

3 "3. Motor Vehicle Manufacturer. Every person engaged
4 in the business of constructing or assembling vehicles or
5 manufactured homes.

6 "c. In order to qualify for the exemption provided
7 for herein, the adaptive equipment must be separately stated
8 to the customer on a bill of sale, invoice, or like
9 memorialization of the transaction.

10 "(b) Any violation of any provision of this section
11 shall be punishable in a court of competent jurisdiction by a
12 fine of not less than five hundred dollars (\$500) and no more
13 than two thousand dollars (\$2,000) and imprisonment of not
14 less than six months nor more than one year in the county
15 jail.

16 "§40-23-37.

17 "There is hereby levied, in lieu of the state sales
18 tax levied by Section 40-23-2, a privilege or license tax
19 against the person on account of the business activities
20 engaged in and in the amount to be determined by the
21 application of rates against gross sales, or gross receipts,
22 as the case may be as follows:

23 "Upon every person, firm, or corporation engaged or
24 continuing within this state in the business of selling at
25 retail any machine, machinery, vessel, or equipment which is
26 used in planting, cultivating and harvesting farm products,
27 the capture, attempted capture, or processing of fish or other

1 seafood by means of commercial fishing, or used in connection
2 with the production of agricultural produce or products,
3 livestock or poultry on farms, and the parts of such machines,
4 machinery, vessel, or equipment, attachments and replacements
5 therefor which are made or manufactured for use on or in the
6 operation of such machine, machinery, vessel, or equipment,
7 and which are necessary to and customarily used in the
8 operation of such machine, machinery, vessel, or equipment, an
9 amount equal to one and one-half percent of the gross proceeds
10 of the sale thereof; provided, that the one and one-half
11 percent rate herein prescribed with respect to parts,
12 attachments and replacements shall not apply to any automotive
13 vehicle or trailer designed primarily for public highway use,
14 except farm trailers used primarily in the production and
15 harvesting of agricultural commodities.

16 "Where any used machine, machinery, vessel, or
17 equipment which is used in planting, cultivating and
18 harvesting farm products, or used in connection with the
19 production of agricultural produce or products, livestock, and
20 poultry on farms is taken in trade or in a series of trades as
21 a credit or part payment on a sale of a new or used machine,
22 machinery, vessel, or equipment, the tax levied herein shall
23 be paid on the net difference, that is, the price of the new
24 or used machine, machinery, vessel, or equipment sold, less
25 the credit for the used machine, machinery, vessel, or
26 equipment taken in trade.

27 "§40-23-60.

1 "For the purpose of this article, the following
2 terms shall have the respective meanings ascribed to them in
3 this section:

4 "(1) PERSON or COMPANY. Any individual, firm,
5 company, partnership, association, corporation, receiver or
6 trustee, or any other group or combination acting as a unit,
7 and the plural as well as the singular number, unless the
8 intention to give a more limited meaning is disclosed by the
9 context.

10 "(2) DEPARTMENT. The Department of Revenue of the
11 State of Alabama.

12 "(3) COMMISSIONER. The Commissioner of Revenue of
13 the State of Alabama.

14 "(4) WHOLESALE SALE or SALE AT WHOLESALE. Any one of
15 the following:

16 "a. A sale of tangible personal property by
17 wholesaler to licensed retail merchants, jobbers, dealers or
18 other wholesalers for resale and does not include a sale by
19 wholesalers to users or consumers, not for resale.

20 "b. A sale of tangible personal property or
21 products, including iron ore, and including the furnished
22 container and label of such property or products, to a
23 manufacturer or compounder which enter into and become an
24 ingredient or component part of the tangible personal property
25 or products which the manufacturer or compounder manufactures
26 or compounds for sale, whether or not such tangible personal
27 property or product used in manufacturing or compounding a

1 finished product is used with the intent that it become a
2 component of the finished product; provided, however, that it
3 is the intent of this section that no sale of capital
4 equipment, machinery, tools, or product shall be included in
5 the term "wholesale sale." The term "capital equipment,
6 machinery, tools, or product" shall mean property that is
7 subject to depreciation allowances for Alabama income tax
8 purposes.

9 "c. A sale of containers intended for one-time use
10 only, and the labels thereof, when such containers are sold
11 without contents to persons who sell or furnish such
12 containers along with the contents placed therein for sale by
13 such persons.

14 "d. A sale of pallets intended for one-time use only
15 when such pallets are sold without contents to persons who
16 sell or furnish such pallets along with the contents placed
17 thereon for sale by such persons.

18 "e. A sale to a manufacturer or compounder, of
19 crowns, caps and tops intended for one-time use employed and
20 used upon the containers in which such manufacturer or
21 compounder markets his products.

22 "f. A sale of containers to persons engaged in
23 selling or otherwise supplying or furnishing baby chicks to
24 growers thereof where such containers are used for the
25 delivery of such chicks or a sale of containers for use in the
26 delivery of eggs by the producer thereof to the distributor or

1 packer of such eggs even though such containers used for
2 delivery of baby chicks or eggs may be recovered for reuse.

3 "g. A sale of bagging and ties used in preparing
4 cotton for market.

5 "h. A sale of commercial fish feed including
6 concentrates, supplements and other feed ingredients when such
7 substances are used as ingredients in mixing and preparing
8 feed for fish raised to be sold on a commercial basis.

9 "i. A sale of bait used to capture or attempt to
10 capture fish or other seafood in the process of commercial
11 fishing.

12 "~~i.~~ j. A sale of tangible personal property to any
13 person engaging in the business of leasing or renting such
14 tangible personal property to others, if such tangible
15 personal property is purchased for the purpose of leasing or
16 renting it to others under a transaction subject to the
17 privilege or license tax levied in Article 4 of Chapter 12 of
18 this title against any person engaging in the business of
19 leasing or renting tangible personal property to others.

20 "~~j.~~ k. A purchase or withdrawal of parts or
21 materials from stock by any person licensed under this article
22 where such parts or materials are used in repairing or
23 reconditioning the tangible personal property of such licensed
24 person which tangible personal property is a part of the stock
25 of goods of such licensed person, offered for sale by him and
26 not for use or consumption of such licensed person.

1 ~~"k.~~ 1. A sale to meat packers, manufacturers,
2 compounders or processors of meat products of all casings used
3 in moulding or forming wieners and Vienna sausages, even
4 though such casings may be recovered for reuse.

5 "(5) SALE AT RETAIL or RETAIL SALE. All sales of
6 tangible personal property except those above defined as
7 wholesale sales. The quantities of goods sold or prices at
8 which sold are immaterial in determining whether or not a sale
9 is at retail. Sales of building materials to contractors,
10 builders or landowners for resale or use in the form of real
11 estate are retail sales in whatever quantity sold. Sales of
12 building materials, fixtures or other equipment to a
13 manufacturer or builder of modular buildings for use in
14 manufacturing, building or equipping a modular building
15 ultimately becoming a part of real estate situated in the
16 State of Alabama are retail sales, and the use, sale or resale
17 of such building shall not be subject to the tax. Sales of
18 tangible personal property to undertakers and morticians are
19 retail sales and subject to the tax at the time of purchase,
20 but are not subject to the tax on resale to the consumer.
21 Sales of tangible personal property or products to
22 manufacturers, quarry operators, mine operators or
23 compounders, which are used or consumed by them in
24 manufacturing, mining, quarrying or compounding and do not
25 become an ingredient or component part of the tangible
26 personal property manufactured or compounded as provided in
27 subdivision (4) are retail sales. The term "sale at retail" or

1 "retail sale" shall also mean and include the withdrawal, use
2 or consumption of any tangible personal property by anyone who
3 purchases same at wholesale, except property which has been
4 previously withdrawn from the business or stock and so used or
5 consumed and with respect to which property the tax has been
6 paid because of such previous withdrawal, use or consumption,
7 except property which enters into and becomes an ingredient or
8 component part of tangible personal property or products
9 manufactured or compounded for sale as provided in subdivision
10 (4); and not for the personal and private use or consumption
11 of any person so withdrawing, using or consuming the same, and
12 such wholesale purchaser shall report and pay the taxes
13 thereon; and except refinery, residue, or fuel gas, whether in
14 a liquid or gaseous state, that has been generated by, or is
15 otherwise a by-product of, a petroleum-refining process, which
16 gas is then utilized in the process to generate heat or is
17 otherwise utilized in the distillation or refining of
18 petroleum products. The term "retail sale" or "sale at retail"
19 shall also mean and include the sale of tangible personal
20 property previously purchased at wholesale for the purpose of
21 leasing or renting under a transaction subject to the
22 privilege or license tax levied in Article 4 of Chapter 12 of
23 this title, regardless of whether such sale is to the person
24 who theretofore leased or rented the said tangible personal
25 property or to some other person.

26 "(6) BUSINESS. All activities engaged in, or caused
27 to be engaged in, with the object of gain, profit, benefit or

1 advantage, either direct or indirect, and not excepting
2 subactivities producing marketable commodities used or
3 consumed in the main business activity, each of which
4 subactivities shall be considered business engaged in, taxable
5 in the class in which it falls.

6 "(7) STORAGE. Any keeping or retention in this state
7 for any purpose except sale in the regular course of business
8 or subsequent use solely outside this state of tangible
9 personal property purchased at retail.

10 "(8) USE. The exercise of any right or power over
11 tangible personal property incident to the ownership of that
12 property, or by any transaction where possession is given,
13 except that it shall not include the sale of that property in
14 the regular course of business.

15 "(9) PURCHASE. Acquired for a consideration, whether
16 such acquisition was effected by a transfer of title, or of
17 possession or of both, or a license to use or consume; whether
18 such transfer shall have been absolute or conditional, and by
19 whatsoever means the same shall have been effected; and
20 whether such consideration be a price or rental in money, or
21 by way of exchange or barter.

22 "(10) SALES PRICE. The total amount for which
23 tangible personal property is sold, including any services,
24 including transportation, that are a part of the sale, valued
25 in money, whether paid in money or otherwise, and includes any
26 amount for which credit is given to the purchaser by the
27 seller, without any deduction therefrom on account of the cost

1 of the property sold, the cost of the materials used, labor or
2 service cost, interest charged, losses or any other expenses
3 whatsoever; provided, that cash discounts allowed and taken on
4 sales shall not be included and sales price shall not include
5 the amount charged for property returned by customers when the
6 entire amount charged therefor is refunded either in cash or
7 by credit.

8 "(11) IN THIS STATE or IN THE STATE. Within the
9 exterior limits of the State of Alabama, and includes all
10 territory within such limits owned by or ceded to the United
11 States of America.

12 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
13 crawler, crawler crane, ditcher or any similar machine which
14 is self-propelled, in addition to self-propelled machines
15 which are used primarily as instruments of conveyance.

16 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a
17 prepaid telephone calling card or a prepaid authorization
18 number, or both, shall be deemed the sale of tangible personal
19 property subject to the tax imposed pursuant to this chapter.
20 For purposes of this subdivision, the sale of prepaid wireless
21 service that is evidenced by a physical card constitutes the
22 sale of a prepaid telephone calling card, and the sale of
23 prepaid wireless service that is not evidenced by a physical
24 card constitutes the sale of a prepaid authorization number.

25 "(14) PREPAID WIRELESS SERVICE. The right to use
26 mobile telecommunications service, which must be paid for in
27 advance and that is sold in predetermined units or dollars of

1 which the number declines with use or the expiration of time
2 in a known amount, and which may include rights to use
3 non-telecommunications services or to download digital
4 products or digital content. For purposes of this subdivision,
5 mobile telecommunications service has the meaning ascribed by
6 Section 40-21-120.

7 "(15) REMOTE USE TAX. Amounts collected from out of
8 state vendors who, on October 1, 2012, were or would have been
9 remote sellers as defined in Section 40-23-171; and amounts
10 remitted by consumers on the individual tax return.

11 "§40-23-63.

12 "There is hereby levied and imposed an excise tax on
13 the storage, use or other consumption in this state of any
14 machine, machinery, vessel, or equipment which is used in
15 planting, cultivating and harvesting farm products, the
16 capture, attempted capture, or processing of fish or other
17 seafood by means of commercial fishing, or used in connection
18 with the production of agricultural produce or products,
19 livestock or poultry, ~~or~~ on farms, and the parts of such
20 machines, machinery, vessels, or equipment, attachments and
21 replacements therefor which are made or manufactured for use
22 on or in the operation of such machine, machinery, vessel, or
23 equipment, and which are necessary to and customarily used in
24 the operation of such machine, machinery, vessel, or
25 equipment, which is purchased at retail after October 1, 1966,
26 for storage, use, or other consumption in this state, at the
27 rate of one and one-half percent of the sales price of such

1 property or the amount of tax collected by the seller,
2 whichever is greater, provided, however, when the seller
3 follows the Department of Revenue's suggested use tax brackets
4 and his records prove that his following said brackets
5 resulted in a net undercollection of tax for the month, he may
6 report the tax due or tax collected whichever is less,
7 regardless of whether the retailer is or is not engaged in
8 business in this state. The tax herein levied and imposed
9 shall be in lieu of the excise tax levied and imposed by
10 Section 40-23-61; provided, that the one and one-half percent
11 rate herein prescribed with respect to parts, attachments and
12 replacements shall not apply to any automotive vehicle or
13 trailer designed primarily for public highway use except farm
14 trailers used primarily in the production and harvesting of
15 agricultural commodities.

16 "Every person storing, using, or otherwise consuming
17 in this state such tangible personal property purchased at
18 retail shall be liable for the tax imposed by this article,
19 and the liability shall not be extinguished until the tax has
20 been paid to this state; provided, that a receipt from a
21 retailer maintaining a place of business in this state or a
22 retailer authorized by the Department of Revenue under such
23 rules and regulations as the Commissioner of Revenue may
24 prescribe, to collect the tax imposed hereby and who shall for
25 the purpose of this article be regarded as a retailer
26 maintaining a place of business in this state, given to the
27 purchaser in accordance with the provisions of Section

1 40-23-67, shall be sufficient to relieve the purchaser from
2 further liability for a tax to which such receipt may refer."

3 Section 2. This act shall become effective on
4 January 1, 2023, following its passage and approval by the
5 Governor, or its otherwise becoming law.