

1 HB321
2 217278-1
3 By Representative Blackshear
4 RFD: Ways and Means Education
5 First Read: 09-FEB-22

8 SYNOPSIS: Under current law, sales of automobiles,
9 motorcycles, trucks, truck trailers, or
10 semitrailers, excluding travel trailers or
11 housecars, that will be registered or titled
12 outside Alabama, that are exported or removed from
13 Alabama within 72 hours by the purchaser or the
14 purchaser's agent for first use outside Alabama are
15 not subject to Alabama sales tax provided the state
16 sales tax laws of the state in which the purchaser
17 will title or register the vehicle allows an
18 Alabama resident to purchase a motor vehicle for
19 first titling and registering in Alabama without
20 the payment of tax.

21 This bill would remove the exclusion of
22 travel trailers and housecars from the 72-hour
23 drive out provisions and provide that sales of
24 travel trailers and housecars that meet those
25 requirements are not subject to sales tax.

26 This bill would also require a nonresident
27 purchaser to provide documentation to a seller for

1 a motor vehicle to qualify as a vehicle that will
2 be registered or titled outside Alabama.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Section 40-23-2, Code of Alabama 1975;
9 relating to the taxation of sales of automobiles, motorcycles,
10 trucks, truck trailers, or semitrailers that will be
11 registered or titled outside of Alabama and are exported or
12 removed from Alabama within 72 hours by the purchaser or
13 purchaser's agent for first use outside Alabama.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§40-23-2.

18 "There is levied, in addition to all other taxes of
19 every kind now imposed by law, and shall be collected as
20 herein provided, a privilege or license tax against the person
21 on account of the business activities and in the amount to be
22 determined by the application of rates against gross sales, or
23 gross receipts, as the case may be, as follows:

24 "(1) Upon every person, firm, or corporation,
25 (including the State of Alabama and its Alcoholic Beverage
26 Control Board in the sale of alcoholic beverages of all kinds,
27 the University of Alabama, Auburn University, and all other

1 institutions of higher learning in the state, whether the
2 institutions be denominational, state, county, or municipal
3 institutions, any association or other agency or
4 instrumentality of the institutions) engaged or continuing
5 within this state, in the business of selling at retail any
6 tangible personal property whatsoever, including merchandise
7 and commodities of every kind and character, (not including,
8 however, bonds or other evidences of debts or stocks, nor
9 sales of material and supplies to any person for use in
10 fulfilling a contract for the painting, repair, or
11 reconditioning of vessels, barges, ships, other watercraft,
12 and commercial fishing vessels of over five tons load
13 displacement as registered with the U.S. Coast Guard and
14 licensed by the State of Alabama Department of Conservation
15 and Natural Resources), an amount equal to four percent of the
16 gross proceeds of sales of the business except where a
17 different amount is expressly provided herein. Provided,
18 however, that any person engaging or continuing in business as
19 a retailer and wholesaler or jobber shall pay the tax required
20 on the gross proceeds of retail sales of the business at the
21 rates specified, when his or her books are kept so as to show
22 separately the gross proceeds of sales of each business, and
23 when his or her books are not kept he or she shall pay the tax
24 as a retailer, on the gross sales of the business.

25 "Where any used part including tires of an
26 automotive vehicle or a truck trailer, semitrailer, or house
27 trailer is taken in trade, or in a series of trades, as a

1 credit or part payment on the sale of a new or rebuilt part or
2 tire, the tax levied herein shall be paid on the net
3 difference, that is, the price of the new or used part or tire
4 sold less the credit for the used part or tire taken in trade,
5 provided, however, this provision shall not be construed to
6 include batteries.

7 "(2) Upon every person, firm, or corporation engaged
8 or continuing within this state in the business of conducting
9 or operating places of amusement or entertainment, billiard
10 and pool rooms, bowling alleys, amusement devices, musical
11 devices, theaters, opera houses, moving picture shows,
12 vaudevilles, amusement parks, athletic contests, including
13 wrestling matches, prize fights, boxing and wrestling
14 exhibitions, football and baseball games, (including athletic
15 contests, conducted by or under the auspices of any
16 educational institution within this state, or any athletic
17 association thereof, or other association whether the
18 institution or association be a denominational, a state, or
19 county, or a municipal institution, or association or a state,
20 county, or city school, or other institution, association or
21 school), skating rinks, race tracks, golf courses, or any
22 other place at which any exhibition, display, amusement, or
23 entertainment is offered to the public or place or places
24 where an admission fee is charged, including public bathing
25 places, public dance halls of every kind and description
26 within the State of Alabama, an amount equal to four percent
27 of the gross receipts of any such business. Provided, however,

1 notwithstanding any language to the contrary in the prior
2 portion of this subdivision, the tax provisions so specified
3 shall not apply to any athletic event conducted by a public or
4 nonpublic primary or secondary school or any athletic event
5 conducted by or under the auspices of the Alabama High School
6 Athletic Association. The tax amount which would have been
7 collected pursuant to this subdivision shall continue to be
8 collected by the public or nonpublic primary or secondary
9 school, but shall be retained by the school which collected it
10 and shall be used by the school for school purposes.

11 "(3) Upon every person, firm, or corporation engaged
12 or continuing within this state in the business of selling at
13 retail machines used in mining, quarrying, compounding,
14 processing, and manufacturing of tangible personal property an
15 amount equal to one and one-half percent of the gross proceeds
16 of the sale of the machines. The term "machine," as herein
17 used, shall include machinery which is used for mining,
18 quarrying, compounding, processing, or manufacturing tangible
19 personal property, and the parts of the machines, attachments,
20 and replacements therefor, which are made or manufactured for
21 use on or in the operation of the machines and which are
22 necessary to the operation of the machines and are customarily
23 so used.

24 "(4) Upon every person, firm, or corporation engaged
25 or continuing within this state in the business of selling at
26 retail any automotive vehicle or truck trailer, semitrailer,
27 or house trailer, or mobile home set-up materials and supplies

1 including but not limited to steps, blocks, anchoring, cable
2 pipes, and any other materials pertaining thereto an amount
3 equal to two percent of the gross proceeds of sale of the
4 automotive vehicle or truck trailer, semitrailer, or house
5 trailer, or mobile home set-up materials and supplies
6 provided, however, where a person subject to the tax provided
7 for in this subdivision withdraws from his or her stock in
8 trade any automotive vehicle or truck trailer, semitrailer, or
9 house trailer for use by him or her or by his or her employee
10 or agent in the operation of the business, there shall be
11 paid, in lieu of the tax levied herein, a fee of five dollars
12 (\$5) per year or part thereof during which the automotive
13 vehicle, truck trailer, semitrailer, or house trailer shall
14 remain the property of the person. Each year or part thereof
15 shall begin with the day or anniversary date, as the case may
16 be, of such withdrawal and shall run for the 12 succeeding
17 months or part thereof during which the automotive vehicle,
18 truck trailer, semitrailer, or house trailer shall remain the
19 property of the person.

20 "Where any used automotive vehicle or truck trailer,
21 semitrailer, or house trailer is taken in trade or in a series
22 of trades, as a credit or part payment on the sale of a new or
23 used vehicle, the tax levied herein shall be paid on the net
24 difference, that is, the price of the new or used vehicle sold
25 less the credit for the used vehicle taken in trade.

26 "Sales of automobiles, motorcycles, trucks, truck
27 trailers, or semitrailers, ~~excluding travel trailers or~~

1 ~~housecars as defined in Section 40-12-240,~~ that will be
2 registered or titled outside Alabama, that are exported or
3 removed from Alabama within 72 hours by the purchaser or his
4 or her agent for first use outside Alabama are subject to
5 Alabama sales tax in an amount equal to only the state
6 automotive sales tax rate, unless the sales tax laws of the
7 state in which the purchaser will title or register the
8 vehicle allows an Alabama resident to purchase a motor vehicle
9 for first titling and registering in Alabama without the
10 payment of tax to that state. However, in no case shall the
11 amount of Alabama state sales tax due on a motor vehicle that
12 will be registered or titled for use in another state exceed
13 the amount of sales tax that would otherwise have been due in
14 the state where the vehicle will be registered or titled for
15 first use. In order to qualify as a motor vehicle that will be
16 registered or titled for use in another state, the nonresident
17 purchaser must provide documentation to the seller as required
18 by the Alabama Department of Revenue. The tax collected under
19 this export provision shall be Alabama sales tax and shall
20 exclude county and municipal sales tax. On January 1, 2016,
21 and each January 1 thereafter, the Alabama Department of
22 Revenue shall publish to the state's website a list of states
23 that do not allow drive out provisions to Alabama residents.
24 Should the list, required by this subsection and relied upon
25 by the taxpayer, be incorrect, the taxpayer shall be relieved
26 from the liability concerning the miscollection of the state
27 automotive sales tax. Sales of all other vehicles such as

1 mobile homes, motor bikes, all terrain vehicles, and boats do
2 not qualify for the export exemption provision and are taxable
3 unless the dealer can provide factual evidence that the
4 vehicle was delivered outside of Alabama or to a common
5 carrier for transportation outside Alabama. In order for the
6 sale to be exempt from Alabama tax, the information relative
7 to the exempt sale shall be documented on forms approved by
8 the Revenue Department.

9 "Of the total \$.02 tax on each dollar of sale
10 provided hereunder, 58 percent of the total tax generated by
11 this subdivision (4) shall be deposited to the credit of the
12 Education Trust Fund; and 42 percent of the total tax
13 generated by this subdivision (4) shall be deposited to the
14 credit of the State General Fund.

15 "(5) Upon every person, firm, or corporation engaged
16 or continuing within this state in the business of selling
17 through coin-operated dispensing machines, food and food
18 products for human consumption, not including beverages other
19 than coffee, milk, milk products, and substitutes therefor,
20 there is levied a tax equal to three percent of the cost of
21 the food, food products, and beverages sold through the
22 machines, which cost for the purpose of this subdivision shall
23 be the gross proceeds of sales of the business."

24 Section 2. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.