

1 SB216
2 216426-3
3 By Senator Singleton
4 RFD: Governmental Affairs
5 First Read: 15-FEB-22

1 SB216

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4 ENROLLED, An Act,

5 Relating to the sale and transportation of tobacco
6 products; to amend Section 40-25-16.1, Code of Alabama 1975,
7 to require sellers making sales of tobacco products to
8 purchasers using sales tax numbers to obtain a tobacco account
9 and report the sales on the monthly tobacco sales for resale
10 report; to provide for penalties for non-registered tobacco
11 sellers who fail to obtain a tobacco account; to add Sections
12 40-25-8.1, 40-25-8.2, and 40-25-26.1 to the Code of Alabama
13 1975, to provide civil and criminal penalties for transporting
14 unstamped or untaxed tobacco products within the state without
15 an active tobacco permit or transporters permit; and in
16 connection therewith would have as its purpose or effect the
17 requirement of a new or increased expenditure of local funds
18 within the meaning of Amendment 621 of the Constitution of
19 Alabama of 1901, as amended by Amendment 890, now appearing as
20 Section 111.05 of the Official Recompilation of the
21 Constitution of Alabama of 1901 as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 40-25-16.1 Code of Alabama 1975,
24 is amended to read as follows:

25 "§40-25-16.1.

1 "a Each wholesaler, jobber, semijobber, registered
2 retailer, importer, or any other person selling, receiving, or
3 distributing tobacco products in this state for resale shall
4 file a report of its activity with the Department of Revenue
5 between the first and twentieth of each month. The information
6 shall include, but not be limited to, the customer's name,
7 address, invoice number, invoice date, a description of the
8 tobacco products, the itemized tax, and any other information
9 required by the department.

10 "(1) This subsection is enacted to aid the
11 Department of Revenue in the enforcement of Section 40-23-260,
12 which requires a seller of tobacco products selling or
13 distributing to retailers in this state to report the sale of
14 tobacco products if an exemption from the sales or use tax is
15 claimed at the time of sale.

16 "(2) Any sale of tobacco products to a purchaser
17 using a sales tax number to purchase the products is declared
18 to be a purchase for resale, and the seller is required to
19 obtain a tobacco account and report the sale on the monthly
20 tobacco sales for resale report.

21 "(3) If a non-registered seller fails to obtain a
22 tobacco account as required, the department may assess the
23 following penalties:

24 "a. On the first violation, the non-registered
25 seller shall be issued a written warning notice from the

1 department. The notice shall advise the non-registered seller
2 of the penalty due if the seller continues to fail to comply
3 with this section.

4 "b. On a second violation of this section, the
5 non-registered seller shall be assessed a civil penalty of one
6 hundred dollars (\$100).

7 "c. On a third or subsequent violation, the
8 non-registered seller shall be assessed a civil penalty of one
9 hundred dollars (\$100) multiplied by the total number of
10 violations that have been imposed under this section.

11 "(b) ~~No later than December 30, 2014, the~~ The
12 commissioner shall establish a web site for listing each
13 wholesaler, jobber, semijobber, retailer, importer, or
14 distributor of tobacco products that ~~have~~ has qualified or
15 registered with the Department of Revenue. Purchases of
16 tobacco products made from an entity other than the above
17 permitted or registered entities appearing on the department
18 ~~web site~~ website listing shall be subject to confiscation, as
19 provided for in this chapter."

20 Section 2. Sections 40-25-8.1, 40-25-8.2, and
21 40-25-26.1 are added to the Code of Alabama 1975, to read as
22 follows:

23 §40-25-8.1.

24 (a) Each person, firm, corporation, club, or
25 association that transports products required to be stamped as

1 provided in Section 40-25-8, which are not stamped or on which
2 tax has not been paid in accordance with Chapters 25 and 25A,
3 upon the public highways, roads, or streets of this state is
4 required to have an active tobacco permit or transporters
5 permit under Chapter 25. Failure to obtain a permit prior to
6 transporting the products is a violation of this section. A
7 violation of this section may result in the products being
8 declared contraband goods that may be seized without warrant
9 by any law enforcement officer in this state. The contraband
10 goods may be disposed of or destroyed by the law enforcement
11 officer in accordance with this chapter. In addition, a
12 vehicle used in the transportation of confiscated products may
13 be subject to confiscation by the law enforcement officer and
14 sold at public auction to the highest bidder after due
15 advertisement pursuant to Chapter 13 of Title 32.

16 (b) The owner or driver, or both, of a vehicle used
17 in a violation of this section is guilty of a Class A
18 misdemeanor unless the tobacco products being transported
19 exceeds any of the following quantities: 25,000 cigars, 50,000
20 filtered cigars, 50,000 little cigars, 50,000 cigarettes,
21 25,000 cigar wraps, or 2,500 individual containers of loose or
22 smokeless tobacco, in which case the owner or driver is guilty
23 of a Class C felony. Any person convicted of a second or
24 subsequent offense for a violation of this section is guilty

1 of a Class C felony, regardless of the amount of tobacco
2 products involved in the violation.

3 (c) This section shall not apply to individuals
4 transporting tobacco for personal consumption as provided in
5 Section 40-25-25.

6 §40-25-8.2.

7 (a) Proof of the destination of tobacco products
8 being transported shall be provided upon request of any law
9 enforcement officer in this state. The proof shall be
10 verifiable by the law enforcement officer.

11 (b) This section shall not apply to tobacco products
12 transported upon the public highways, roads, and streets of
13 this state if the tobacco products are being transported in
14 interstate commerce.

15 (c) A person failing to present documentation
16 required by this section may be subject to the following civil
17 penalties to be assessed by the department:

18 (1) On the first violation of this section, the
19 owner or driver shall be assessed a civil penalty of one
20 hundred dollars (\$100).

21 (2) On a second or subsequent violation within a
22 three-year period, a civil penalty of one hundred dollars
23 (\$100) multiplied by the total number of violations within the
24 three-year period shall be assessed.

1 (3) A person transporting tobacco products without
2 possession of proper documentation shall be guilty of a Class
3 A misdemeanor. Any person who has been convicted under this
4 section shall be guilty of a Class C felony for a second or
5 subsequent violation of this section, regardless of the amount
6 of tobacco products involved in the violation.

7 (d) This section shall not apply to individuals
8 transporting tobacco for personal consumption as provided in
9 Section 40-25-25.

10 §40-25-26.1

11 The Department of Revenue may adopt rules to
12 implement and administer this chapter.

13 Section 3. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, as amended
17 by Amendment 890, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of Alabama of 1901,
19 as amended, because the bill defines a new crime or amends the
20 definition of an existing crime.

21 Section 4. This act shall become effective January
22 1, 2023, following its passage and approval by the Governor,
23 or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB216

Senate 09-MAR-22

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

Patrick Harris,
Secretary.

House of Representatives
Passed: 31-MAR-22

By: Senator Singleton