

HB396 INTRODUCED



1 AIETSQ-1
2 By Representative Mooney
3 RFD: Ways and Means Education
4 First Read: 27-Apr-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, the state imposes sales or use taxes upon certain persons, firms, or corporations. Sales of certain items are taxed at a reduced rate. Food is not a defined term and is taxed at the general rate. Sales of other items are exempt from the taxes.

This bill would define food for purposes of sales and use taxes and exempt sales of food from state sales and use taxes beginning September 1, 2024.

This bill would also establish the sales tax rate on food for purposes of county and municipal sales and use taxes as the existing general or retail local sales tax rate on the effective date of this act and allow the local governing body to reduce the local sales tax rate or exempt food from local sales and use taxes.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 40-23-1 and 40-23-4, as last amended



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29 by Act 2022-291, Act 2022-293, Act 2022-373, and Act 2022-199,
30 2022 Regular Session, Code of Alabama 1975, related to sales
31 taxes; to define food and exempt sales of food from state
32 sales and use taxes; to establish the local sales tax rate on
33 food for purposes of county and municipal sales and use taxes
34 as the existing general or retail local sales tax rate; and to
35 allow a local governing body to reduce the local sales tax
36 rate or exempt food from local sales and use taxes.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA

38 Section 1. Section 40-23-1, and Section 40-23-4, as
39 last amended by Act 2022-291, Act 2022-293, Act 2022-373, and
40 Act 2022-199, 2022 Regular Session, Code of Alabama 1975, are
41 amended to read as follows:

42 "§40-23-1

43 (a) For the purpose of this division, the following
44 terms shall have the respective meanings ascribed by this
45 section:

46 (1) PERSON or COMPANY. Used interchangeably, includes
47 any individual, firm, copartnership, association, corporation,
48 receiver, trustee, or any other group or combination acting as
49 a unit and the plural as well as the singular number, unless
50 the intention to give a more limited meaning is disclosed by
51 the context.

52 (2) DEPARTMENT. The Department of Revenue of the State
53 of Alabama.

54 (3) COMMISSIONER. The Commissioner of Revenue of the
55 State of Alabama.

56 (4) TAX YEAR or TAXABLE YEAR. The calendar year.



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57 (5) SALE or SALES. Installment and credit sales and the
58 exchange of properties as well as the sale thereof for money,
59 every closed transaction constituting a sale. Provided,
60 however, a transaction shall not be closed or a sale completed
61 until the time and place when and where title is transferred
62 by the seller or seller's agent to the purchaser or
63 purchaser's agent, and for the purpose of determining transfer
64 of title, a common carrier or the U.S. Postal Service shall be
65 deemed to be the agent of the seller, regardless of any F.O.B.
66 point and regardless of who selects the method of
67 transportation, and regardless of by whom or the method by
68 which freight, postage, or other transportation charge is
69 paid. Provided further that, where billed as a separate item
70 to and paid by the purchaser, the freight, postage, or other
71 transportation charge paid to a common carrier or the U.S.
72 Postal Service is not a part of the selling price.

73 (6) GROSS PROCEEDS OF SALES. The value proceeding or
74 accruing from the sale of tangible personal property, and
75 including the proceeds from the sale of any property handled
76 on consignment by the taxpayer, including merchandise of any
77 kind and character without any deduction on account of the
78 cost of the property sold, the cost of the materials used,
79 labor or service cost, interest paid, any consumer excise
80 taxes that may be included within the sales price of the
81 property sold, or any other expenses whatsoever, and without
82 any deductions on account of losses; provided, that cash
83 discounts allowed and taken on sales shall not be included,
84 and "gross proceeds of sales" shall not include the sale price



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85 of property returned by customers when the full sales price
86 thereof is refunded either in cash or by credit. The term
87 "gross proceeds of sale" shall also mean and include the
88 reasonable and fair market value of any tangible personal
89 property previously purchased at wholesale which is withdrawn
90 or used from the business or stock and used or consumed in
91 connection with a business, and shall also mean and include
92 the reasonable and fair market value of any tangible personal
93 property previously purchased at wholesale which is withdrawn
94 from the business or stock and used or consumed by any person
95 so withdrawing the same, except property that has been
96 previously withdrawn from business or stock and so used or
97 consumed with respect to which property the tax has been paid
98 because of previous withdrawal, use, or consumption, except
99 property that enters into and becomes an ingredient or
100 component part of tangible personal property or products
101 manufactured or compounded for sale and not for the personal
102 and private use or consumption of any person so withdrawing,
103 using, or consuming the same, and except refinery, residue, or
104 fuel gas, whether in a liquid or gaseous state, that has been
105 generated by, or is otherwise a by-product of, a
106 petroleum-refining process, which gas is then utilized in the
107 process to generate heat or is otherwise utilized in the
108 distillation or refining of petroleum products.

109 In the case of the retail sale of equipment,
110 accessories, fixtures, and other similar tangible personal
111 property used in connection with the sale of commercial mobile
112 services as defined herein, or in connection with satellite



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113 television services, at a price below cost, "gross proceeds of
114 sale" shall only include the stated sales price thereof and
115 shall not include any sales commission or rebate received by
116 the seller as a result of the sale. As used herein, the term
117 "commercial mobile services" shall have the same meaning as
118 that term has in 47 U.S.C. §§ 153(n) and 332(d), as in effect
119 from time to time.

120 (7) TAXPAYER. Any person liable for taxes hereunder.

121 (8) GROSS RECEIPTS. The value proceeding or accruing
122 from the sale of tangible personal property, including
123 merchandise and commodities of any kind and character, all
124 receipts actual and accrued, by reason of any business engaged
125 in, not including, however, interest, discounts, rentals of
126 real estate, or royalties, and without any deduction on
127 account of the cost of the property sold, the cost of the
128 materials used, labor or service cost, interest paid, any
129 consumer excise taxes that may be included in the sales price
130 of the property sold, or any other expenses whatsoever and
131 without any deductions on account of losses. The term "gross
132 receipts" shall also mean and include the reasonable and fair
133 market value of any tangible personal property previously
134 purchased at wholesale which is withdrawn or used from the
135 business or stock and used or consumed in connection with a
136 business, and shall also mean and include the reasonable and
137 fair market value of any tangible personal property previously
138 purchased at wholesale which is withdrawn from the business or
139 stock and used or consumed by any person so withdrawing the
140 same, except property which has been previously withdrawn from



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141 business or stock and so used or consumed and with respect to
142 which property the tax has been paid because of previous
143 withdrawal, use, or consumption, except property which enters
144 into and becomes an ingredient or component part of tangible
145 personal property or products manufactured or compounded for
146 sale as provided in subdivision (9) and not for the personal
147 and private use or consumption of any person so withdrawing,
148 using, or consuming the same, and except refinery, residue, or
149 fuel gas, whether in a liquid or gaseous state, that has been
150 generated by, or is otherwise a by-product of, a
151 petroleum-refining process, which gas is then utilized in the
152 process to generate heat or is otherwise utilized in the
153 distillation or refining of petroleum products.

154 (9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of the
155 following:

156 a. A sale of tangible personal property by wholesalers
157 to licensed retail merchants, jobbers, dealers, or other
158 wholesalers for resale and does not include a sale by
159 wholesalers to users or consumers, not for resale.

160 b. A sale of tangible personal property or products,
161 including iron ore, and including the furnished container and
162 label of the property or products, to a manufacturer or
163 compounder which enter into and become an ingredient or
164 component part of the tangible personal property or products
165 that the manufacturer or compounder manufactures or compounds
166 for sale, whether or not the tangible personal property or
167 product used in manufacturing or compounding a finished
168 product is used with the intent that it becomes a component of



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169 the finished product; provided, however, that it is the intent
170 of this section that no sale of capital equipment, machinery,
171 tools, or product shall be included in the term "wholesale
172 sale." The term "capital equipment, machinery, tools, or
173 product" shall mean property that is subject to depreciation
174 allowances for Alabama income tax purposes.

175 c. A sale of containers intended for one-time use only,
176 and the labels thereof, when containers are sold without
177 contents to persons who sell or furnish containers along with
178 the contents placed therein for sale by persons.

179 d. A sale of pallets intended for one-time use only
180 when pallets are sold without contents to persons who sell or
181 furnish pallets along with the contents placed thereon for
182 sale by persons.

183 e. A sale to a manufacturer or compounder, of crowns,
184 caps, and tops intended for one-time use employed and used
185 upon the containers in which a manufacturer or compounder
186 markets his products.

187 f. A sale of containers to persons engaged in selling
188 or otherwise supplying or furnishing baby chicks to growers
189 thereof where containers are used for the delivery of chicks
190 or a sale of containers for use in the delivery of eggs by the
191 producer thereof to the distributor or packer of eggs even
192 though containers used for delivery of baby chicks or eggs may
193 be recovered for reuse.

194 g. A sale of bagging and ties used in preparing cotton
195 for market.

196 h. A sale to meat packers, manufacturers, compounders,



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197 or processors of meat products of all casings used in molding
198 or forming wieners and Vienna sausages even though casings may
199 be recovered for reuse.

200 i. A sale of commercial fish feed including
201 concentrates, supplements, and other feed ingredients when
202 substances are used as ingredients in mixing and preparing
203 feed for fish raised to be sold on a commercial basis.

204 j. A sale of bait used to capture or attempt to capture
205 fish or other seafood in the process of commercial fishing by
206 a holder of a commercial license issued pursuant to Chapter 12
207 of Title 9.

208 k. A sale of tangible personal property to any person
209 engaging in the business of leasing or renting tangible
210 personal property to others, if tangible personal property is
211 purchased for the purpose of leasing or renting it to others
212 under a transaction subject to the privilege or license tax
213 levied in Article 4 of Chapter 12 of this title against any
214 person engaging in the business of leasing or renting tangible
215 personal property to others.

216 l. A purchase or withdrawal of parts or materials from
217 stock by any person licensed under this division where parts
218 or materials are used in repairing or reconditioning the
219 tangible personal property of a licensed person, which
220 tangible personal property is a part of the stock of goods of
221 a licensed person, offered for sale by him or her, and not for
222 use or consumption of a licensed person.

223 (10) SALE AT RETAIL or RETAIL SALE. All sales of
224 tangible personal property except those defined as wholesale



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225 sales. The quantities of goods sold or prices at which sold
226 are immaterial in determining whether or not a sale is at
227 retail. Sales of building materials to contractors, builders,
228 or landowners for resale or use in the form of real estate are
229 retail sales in whatever quantity sold. Sales of building
230 materials, fixtures, or other equipment to a manufacturer or
231 builder of modular buildings for use in manufacturing,
232 building, or equipping a modular building ultimately becoming
233 a part of real estate situated in the State of Alabama are
234 retail sales, and the use, sale, or resale of building shall
235 not be subject to the tax. Sales of tangible personal property
236 to undertakers and morticians are retail sales and subject to
237 the tax at the time of purchase, but are not subject to the
238 tax on resale to the consumer. Sales of tangible personal
239 property or products to manufacturers, quarry operators, mine
240 operators, or compounders, which are used or consumed by them
241 in manufacturing, mining, quarrying, or compounding and do not
242 become an ingredient or component part of the tangible
243 personal property manufactured or compounded as provided in
244 subdivision (9) are retail sales. The term "sale at retail" or
245 "retail sale" shall also mean and include the withdrawal, use,
246 or consumption of any tangible personal property by any one
247 who purchases same at wholesale, except property that has been
248 previously withdrawn from the business or stock and so used or
249 consumed and with respect to which property tax has been paid
250 because of previous withdrawal, use, or consumption, except
251 property that enters into and becomes an ingredient or
252 component part of tangible personal property or products



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253 manufactured or compounded for sale as provided in subdivision
254 (9) and not for the personal and private use or consumption of
255 any person so withdrawing, using, or consuming the same; and
256 wholesale purchaser shall report and pay the taxes thereon. In
257 the case of the sale of equipment, accessories, fixtures, and
258 other similar tangible personal property used in connection
259 with the sale of commercial mobile services as defined in
260 subdivision (6), or in connection with satellite television
261 services, at a price below cost, the term "sale at retail" and
262 "retail sale" shall include those sales, and those sales shall
263 not also be taxable as a withdrawal, use, or consumption of
264 such tangible personal property.

265 (11) BUSINESS. All activities engaged in, or caused to
266 be engaged in, with the object of gain, profit, benefit, or
267 advantage, either direct or indirect, and not excepting
268 subactivities producing marketable commodities used or
269 consumed in the main business activity, each of which
270 subactivities shall be considered business engaged in, taxable
271 in the class in which it falls.

272 (12) AUTOMOTIVE VEHICLE. A power shovel, dragline,
273 crawler, crawler crane, ditcher, or any similar machine that
274 is self-propelled, in addition to self-propelled machines that
275 are used primarily as instruments of conveyance.

276 (13) FOOD. Food as defined in 7 U.S.C § 2011, et seq.,
277 for the purposes of the federal Supplemental Nutrition
278 Assistance Program regardless of where or by what means food
279 is sold. In the event that the federal Supplemental Nutrition
280 Assistance Program definition no longer exists, the



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281 Legislature shall provide a new definition of food by general
282 law.

283 ~~(13)~~ (14) PREPAID TELEPHONE CALLING CARD. A sale of a
284 prepaid telephone calling card or a prepaid authorization
285 number, or both, shall be deemed the sale of tangible personal
286 property subject to the tax imposed on the sale of tangible
287 personal property pursuant to this chapter. For purposes of
288 this subdivision, the sale of prepaid wireless service that is
289 evidenced by a physical card constitutes the sale of a prepaid
290 telephone calling card, and the sale of prepaid wireless
291 service that is not evidenced by a physical card constitutes
292 the sale of a prepaid authorization number.

293 ~~(14)~~ (15) PREPAID WIRELESS SERVICE. The right to use
294 mobile telecommunications service, which must be paid for in
295 advance and that is sold in predetermined units or dollars of
296 which the number declines with use in a known amount, and
297 which may include rights to use non-telecommunications
298 services or to download digital products or digital content.
299 For purposes of this subdivision, mobile telecommunications
300 service has the meaning ascribed by Section 40-21-120.

301 ~~(15)~~ (16) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid
302 solution or other material containing nicotine that is
303 depleted when used as a vapor product.

304 ~~(16)~~ (17) VAPOR PRODUCTS. Any non-lighted,
305 noncombustible product that employs a mechanical heating
306 element, battery, or electronic circuit regardless of shape or
307 size and that can be used to produce vapor from nicotine in a
308 solution. The term includes any vapor cartridge or other



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309 container of nicotine in a solution or other form that is
310 intended to be used with or in an electronic cigarette,
311 electronic cigar, electronic cigarillo, electronic pipe, or
312 similar product or device. The term does not include any
313 product regulated by the United States Food and Drug
314 Administration under Chapter V of the Federal Food, Drug, and
315 Cosmetic Act.

316 ~~(17)~~ (18) PRODUCER VALUE ADDED AGRICULTURAL PRODUCTS.
317 Fruits or other agricultural products that have undergone some
318 degree of further processing by the original producer of the
319 agricultural product, including, but not limited to, whole
320 cuts of meat, bound cut flowers, jams, jellies, or boiled or
321 roasted peanuts.

322 ~~(18)~~ (19) COMMERCIAL FISHING. The activity of catching
323 or processing fish or other seafood regularly and exclusively
324 as a means of livelihood by a holder of a commercial license
325 issued pursuant to Chapter 12 of Title 9. The term includes
326 shellfish farmers, shrimpers, oysterers, lobsterers, and
327 crabbers.

328 ~~(19)~~ (20) COMMERCIAL FISHING VESSEL. Any vessel whose
329 masters and owners are regularly and exclusively engaged in
330 commercial fishing as their means of livelihood.

331 (b) The use within this state of tangible personal
332 property by the manufacturer thereof, as building materials in
333 the performance of a construction contract, for the purposes
334 of this division, shall be considered as a retail sale thereof
335 by the manufacturer, who shall also be construed as the
336 ultimate consumer of materials or property, and who shall be



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337 required to report transaction and pay the sales tax thereon,
338 based upon the reasonable and fair market price thereof at the
339 time and place where same are used or consumed by the
340 manufacturer. Where the contractor is the manufacturer or
341 compounder of ready-mix concrete or asphalt plant mix used in
342 the performance of a contract, whether the ready-mix concrete
343 or asphalt plant mix is manufactured or compounded at the job
344 site or at a fixed or permanent plant location, the tax
345 applies only to the cost of the ingredients that become a
346 component part of the ready-mix concrete or the asphalt plant
347 mix. The provisions of this subsection shall not apply to any
348 tangible personal property that is specifically exempted from
349 the tax levied in this division.

350 (c) The sale of lumber by a lumber manufacturer to a
351 trucker for resale is a sale at wholesale as sales are defined
352 herein where the trucker is either a licensed dealer in lumber
353 or, if a resident of Alabama, has registered with the
354 Department of Revenue, and has received therefrom a
355 certificate of registration or, if a nonresident of this state
356 purchasing lumber for resale outside the State of Alabama, has
357 furnished to the lumber manufacturer his or her name, address,
358 and the vehicle license number of the truck in which the
359 lumber is to be transported, which name, address, and vehicle
360 license number shall be shown on the sales invoice rendered by
361 the lumber manufacturer. The certificate provided for herein
362 shall be valid for the calendar year of its issuance and may
363 be renewed from year to year on application to the Department
364 of Revenue on or before January 31 of each succeeding year;



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365 provided, that if not renewed the certificate shall become
366 invalid for the purpose of this division on February 1.

367 (d) The dispensing or transferring of ophthalmic
368 materials, including lenses, frames, eyeglasses, contact
369 lenses, and other therapeutic optic devices, to a patient by a
370 licensed ophthalmologist, as a part of his or her professional
371 service, for purposes of this division, shall constitute a
372 sale, subject to the state sales tax. The licensed
373 ophthalmologist or licensed optometrist shall collect the
374 state sales tax. In no event shall the providing of
375 professional services in connection with the dispensing or
376 transferring of ophthalmic materials, including dispensing
377 fees or fitting fees, by a licensed ophthalmologist or
378 licensed optometrist be considered a sale subject to the state
379 sales tax. When the ophthalmic materials are purchased by a
380 consumer covered by a third party benefit plan, including
381 Medicare, the sales tax shall be applicable to the amount that
382 the ophthalmologist, optometrist, or optician is reimbursed by
383 the third party benefit plan plus the amount that the consumer
384 pays to the ophthalmologist, optometrist, or optician at the
385 time of the sale. All transfers of ophthalmic materials by
386 opticians or optometrists shall be considered retail sales
387 subject to the state sales tax. The term "supplier" shall
388 include but not be limited to optical laboratories, ophthalmic
389 material wholesalers, or anyone selling ophthalmic materials
390 to ophthalmologists.

391 (e) Notwithstanding the above, the withdrawal, use, or
392 consumption of a manufactured product by the manufacturer



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393 thereof in quality control testing performed by employees or
394 independent contractors of the taxpayer, for purposes of this
395 division, shall not be deemed or considered to constitute a
396 transaction subject to sales tax, nor shall a gift by the
397 manufacturer of a manufactured product, withdrawn from the
398 manufacturer's inventory, to an entity listed in 26 U.S.C. §§
399 170(b) or (c), be considered a transaction subject to sales
400 tax.

401 (f) Notwithstanding the foregoing, a gift by a retailer
402 of a product or products where the aggregate retail value of
403 any single gift is equal to or less than ten thousand dollars
404 (\$10,000), withdrawn from the retailer's inventory, to an
405 entity listed in 26 U.S.C. §§ 170(b) or (c) shall not be
406 deemed or considered to constitute a transaction subject to
407 sales and use tax."

408 "§40-23-4

409 (a) There are exempted from the provisions of this
410 division and from the computation of the amount of the tax
411 levied, assessed, or payable under this division the
412 following:

413 (1) The gross proceeds of the sales of lubricating oil
414 and gasoline as defined in Sections 40-17-30 and 40-17-170 and
415 the gross proceeds from those sales of lubricating oil
416 destined for out-of-state use which are transacted in a manner
417 whereby an out-of-state purchaser takes delivery of such oil
418 at a distributor's plant within this state and transports it
419 out-of-state, which are otherwise taxed.

420 (2) The gross proceeds of the sale, or sales, of



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421 fertilizer when used for agricultural purposes. The word
422 "fertilizer" shall not be construed to include cottonseed
423 meal, when not in combination with other materials.

424 (3) The gross proceeds of the sale, or sales, of seeds
425 for planting purposes and baby chicks and poults. Nothing
426 herein shall be construed to exempt or exclude from the
427 computation of the tax levied, assessed, or payable, the gross
428 proceeds of the sale or sales of plants, seedlings, nursery
429 stock, or floral products.

430 (4) The gross proceeds of sales of insecticides and
431 fungicides when used for agricultural purposes or when used by
432 persons properly permitted by the Department of Agriculture
433 and Industries or any applicable local or state governmental
434 authority for structural pest control work and feed for
435 livestock and poultry, but not including prepared food for
436 dogs and cats.

437 (5) The gross proceeds of sales of all livestock by
438 whomsoever sold, and also the gross proceeds of poultry and
439 other products of the farm, dairy, grove, or garden, when in
440 the original state of production or condition of preparation
441 for sale, when such sale or sales are made by the producer or
442 members of the producer's immediate family or for the producer
443 by those employed by the producer to assist in the production
444 thereof. Nothing herein shall be construed to exempt or
445 exclude from the measure or computation of the tax levied,
446 assessed, or payable hereunder, the gross proceeds of sales of
447 poultry or poultry products when not products of the farm.

448 (6) Cottonseed meal exchanged for cottonseed at or by



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449 cotton gins.

450 (7) The gross receipts from the business on which, or
451 for engaging in which, a license or privilege tax is levied by
452 or under Sections 40-21-50, 40-21-53, and 40-21-56 through
453 40-21-60; provided, that nothing contained in this subdivision
454 shall be construed to exempt or relieve the person or persons
455 operating the business enumerated in these sections from the
456 payments of the tax levied by this division upon or measured
457 by the gross proceeds of sales of any tangible personal
458 property, except gas and water, the gross receipts from the
459 sale of which are the measure of the tax levied by Section
460 40-21-50, merchandise or other tangible commodities sold at
461 retail by the persons, unless the gross proceeds of sale
462 thereof are otherwise specifically exempted by this division.

463 (8) The gross proceeds of sales or gross receipts of or
464 by any person, firm, or corporation, from the sale of
465 transportation, gas, water, or electricity, of the kinds and
466 natures, the rates and charges for which, when sold by public
467 utilities, are customarily fixed and determined by the Public
468 Service Commission of Alabama or like regulatory bodies.

469 (9) The gross proceeds of the sale, or sales of wood
470 residue, coal, or coke to manufacturers, electric power
471 companies, and transportation companies for use or consumption
472 in the production of by-products, or the generation of heat or
473 power used in manufacturing tangible personal property for
474 sale, for the generation of electric power or energy for use
475 in manufacturing tangible personal property for sale or for
476 resale, or for the generation of motive power for



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477 transportation.

478 (10) The gross proceeds from the sale or sales of fuel
479 and supplies for use or consumption aboard ships, vessels,
480 towing vessels, or barges, or drilling ships, rigs or barges,
481 or seismic or geophysical vessels, or other watercraft (herein
482 for purposes of this exemption being referred to as "vessels")
483 engaged in foreign or international commerce or in interstate
484 commerce; provided, that nothing in this division shall be
485 construed to exempt or exclude from the measure of the tax
486 herein levied the gross proceeds of sale or sales of material
487 and supplies to any person for use in fulfilling a contract
488 for the painting, repair, or reconditioning of vessels,
489 barges, ships, other watercraft, and commercial fishing
490 vessels of over five tons load displacement as registered with
491 the U.S. Coast Guard and licensed by the State of Alabama
492 Department of Conservation and Natural Resources.

493 For purposes of this subdivision, it shall be presumed
494 that vessels engaged in the transportation of cargo between
495 ports in the State of Alabama and ports in foreign countries
496 or possessions or territories of the United States or between
497 ports in the State of Alabama and ports in other states are
498 engaged in foreign or international commerce or interstate
499 commerce, as the case may be. For the purposes of this
500 subdivision, the engaging in foreign or international commerce
501 or interstate commerce shall not require that the vessel
502 involved deliver cargo to or receive cargo from a port in the
503 State of Alabama. For purposes of this subdivision, vessels
504 carrying passengers for hire, and no cargo, between ports in



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505 the State of Alabama and ports in foreign countries or
506 possessions or territories of the United States or between
507 ports in the State of Alabama and ports in other states shall
508 be engaged in foreign or international commerce or interstate
509 commerce, as the case may be, if, and only if, both of the
510 following conditions are met: (i) The vessel in question is a
511 vessel of at least 100 gross tons; and (ii) the vessel in
512 question has an unexpired certificate of inspection issued by
513 the United States Coast Guard or by the proper authority of a
514 foreign country for a foreign vessel, which certificate is
515 recognized as acceptable under the laws of the United States.
516 Vessels that are engaged in foreign or international commerce
517 or interstate commerce shall be deemed for the purposes of
518 this subdivision to remain in such commerce while awaiting or
519 under repair in a port of the State of Alabama if the vessel
520 returns after such repairs are completed to engaging in
521 foreign or international commerce or interstate commerce. For
522 purposes of this subdivision, seismic or geophysical vessels
523 which are engaged either in seismic or geophysical tests or
524 evaluations exclusively in offshore federal waters or in
525 traveling to or from conducting such tests or evaluations
526 shall be deemed to be engaged in international or foreign
527 commerce. For purposes of this subdivision, proof that fuel
528 and supplies purchased are for use or consumption aboard
529 vessels engaged in foreign or international commerce or in
530 interstate commerce may be accomplished by the merchant or
531 seller securing the duly signed certificate of the vessel
532 owner, operator, or captain or such person's respective agent,



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533 on a form prescribed by the department, that the fuel and
534 supplies purchased are for use or consumption aboard vessels
535 engaged in foreign or international commerce or in interstate
536 commerce. Any person filing a false certificate shall be
537 guilty of a misdemeanor and upon conviction shall be fined not
538 less than twenty-five dollars (\$25) nor more than five hundred
539 dollars (\$500) for each offense. Each false certificate filed
540 shall constitute a separate offense. Any person filing a false
541 certificate shall be liable to the department for all taxes
542 imposed by this division upon the merchant or seller, together
543 with any interest or penalties thereon, by reason of the sale
544 or sales of fuel and supplies applicable to the false
545 certificate. If a merchant or seller of fuel and supplies
546 secures the certificate herein mentioned, properly completed,
547 the merchant or seller shall not be liable for the taxes
548 imposed by this division, if the merchant or seller had no
549 knowledge that the certificate was false when it was filed
550 with the merchant or seller.

551 (11) The gross proceeds of sales of tangible personal
552 property to the State of Alabama, to the counties within the
553 state and to incorporated municipalities of the State of
554 Alabama.

555 (12) The gross proceeds of the sale or sales of
556 railroad cars, vessels, barges, and commercial fishing vessels
557 of over five tons load displacement as registered with the
558 U.S. Coast Guard and licensed by the State of Alabama
559 Department of Conservation and Natural Resources, when sold by
560 the manufacturers or builders thereof.



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561 (13) The gross proceeds of the sale or sales of
562 materials, equipment, and machinery that, at any time, enter
563 into and become a component part of ships, vessels, towing
564 vessels or barges, or drilling ships, rigs or barges, or
565 seismic or geophysical vessels, other watercraft and
566 commercial fishing vessels of over five tons load displacement
567 as registered with the U.S. Coast Guard and licensed by the
568 State of Alabama Department of Conservation and Natural
569 Resources. Additionally, the gross proceeds from the sale or
570 sales of lifeboats, personal flotation devices, ring life
571 buoys, survival craft equipment, distress signals, EPIRB's,
572 fire extinguishers, injury placards, waste management plans
573 and logs, marine sanitation devices, navigation rulebooks,
574 navigation lights, sound signals, navigation day shapes, oil
575 placard cards, garbage placards, FCC SSL, stability
576 instructions, first aid equipment, compasses, anchor and radar
577 reflectors, general alarm systems, bilge pumps, piping, and
578 discharge and electronic position fixing devices which are
579 used on the aforementioned watercraft.

580 (14) The gross proceeds of the sale or sales of fuel
581 oil purchased as fuel for kiln use in manufacturing
582 establishments.

583 (15) The gross proceeds of the sale or sales of
584 tangible personal property to county and city school boards
585 within the State of Alabama, independent school boards within
586 the State of Alabama, all educational institutions and
587 agencies of the State of Alabama, the counties within the
588 state, or any incorporated municipalities of the State of



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589 Alabama, and private educational institutions operating within
590 the State of Alabama offering conventional and traditional
591 courses of study, such as those offered by public schools,
592 colleges, or universities within the State of Alabama; but not
593 including nurseries, day care centers, and home schools.

594 (16) The gross proceeds from the sale of all devices or
595 facilities, and all identifiable components thereof, or
596 materials for use therein, acquired primarily for the control,
597 reduction, or elimination of air or water pollution and the
598 gross proceeds from the sale of all identifiable components
599 of, or materials used or intended for use in, structures built
600 primarily for the control, reduction, or elimination of air
601 and water pollution.

602 (17) The gross proceeds of sales of tangible personal
603 property or the gross receipts of any business which the state
604 is prohibited from taxing under the Constitution or laws of
605 the United States or under the Constitution of this state.

606 (18) When dealers or distributors use parts taken from
607 stocks owned by them in making repairs without charge for the
608 parts to the owner of the property repaired pursuant to
609 warranty agreements entered into by manufacturers, such use
610 shall not constitute taxable sales to the manufacturers,
611 distributors, or to the dealers, under this division or under
612 any county sales tax law.

613 (19) The gross proceeds received from the sale or
614 furnishing of food, including potato chips, candy, fruit and
615 similar items, soft drinks, tobacco products, and stationery
616 and other similar or related articles by hospital canteens



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617 operated by Alabama state hospitals at Bryce Hospital and
618 Partlow State School for Mental Deficients at Tuscaloosa,
619 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
620 benefit of the patients therein.

621 (20) The gross proceeds of the sale, or sales, of
622 wrapping paper and other wrapping materials when used in
623 preparing poultry or poultry products for delivery, shipment,
624 or sale by the producer, processor, packer, or seller of such
625 poultry or poultry products, including pallets used in
626 shipping poultry and egg products, paper or other materials
627 used for lining boxes or other containers in which poultry or
628 poultry products are packed together with any other materials
629 placed in such containers for the delivery, shipment, or sale
630 of poultry or poultry products.

631 (21) The gross proceeds of the sales of all
632 antibiotics, hormones and hormone preparations, drugs,
633 medicines or medications, vitamins, minerals or other
634 nutrients, and all other feed ingredients including
635 concentrates, supplements, and other feed ingredients when
636 such substances are used as ingredients in mixing and
637 preparing feed for fish raised to be sold on a commercial
638 basis, livestock, and poultry. Such exemption herein granted
639 shall be in addition to exemptions now provided by law for
640 feed for fish raised to be sold on a commercial basis,
641 livestock, and poultry, but not including prepared foods for
642 dogs or cats.

643 (22) The gross proceeds of the sale, or sales, of
644 seedlings, plants, shoots, and slips which are to be used for



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645 planting vegetable gardens or truck farms and other
646 agricultural purposes. Nothing herein shall be construed to
647 exempt, or exclude from the computation of the tax levied,
648 assessed, or payable, the gross proceeds of the sale, or the
649 use of plants, seedlings, shoots, slips, nursery stock, and
650 floral products, except as hereinabove exempted.

651 (23) The gross proceeds of the sale, or sales, of
652 fabricated steel tube sections, when produced and fabricated
653 in this state by any person, firm, or corporation for any
654 vehicular tunnel for highway vehicular traffic, when sold by
655 the manufacturer or fabricator thereof, and also the gross
656 proceeds of the sale, or sales, of steel which enters into and
657 becomes a component part of such fabricated steel tube
658 sections of said tunnel.

659 (24) The gross proceeds from sales of admissions to any
660 theatrical production, symphonic or other orchestral concert,
661 ballet, or opera production when the concert or production is
662 presented by any society, association, guild, or workshop
663 group, organized within this state, whose members or some of
664 whose members regularly and actively participate in the
665 concerts or productions for the purposes of providing a
666 creative outlet for the cultural and educational interests of
667 its members, and of promoting such interests for the
668 betterment of the community by presenting the productions to
669 the general public for an admission charge. The employment of
670 a paid director or conductor to assist in any such
671 presentation described in this subdivision shall not be
672 construed to prohibit the exemptions herein provided.



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673 (25) The gross proceeds of sales of "herbicides" for
674 agricultural uses by whomsoever sold. The term herbicides, as
675 used in this subdivision, means any substance or mixture of
676 substances intended to prevent, destroy, repel, or retard the
677 growth of weeds or plants. The term includes preemergence
678 herbicides, postemergence herbicides, lay-by herbicides,
679 pasture herbicides, defoliant herbicides, and desiccant
680 herbicides.

681 (26) The Alabama Chapter of the Cystic Fibrosis
682 Research Foundation and the Jefferson Tuberculosis Sanatorium
683 and any of their departments or agencies, heretofore or
684 hereafter organized and existing in good faith in the State of
685 Alabama for purposes other than for pecuniary gain and not for
686 individual profit, shall be exempted from the computation of
687 the tax on the gross proceeds of all sales levied, assessed,
688 or payable.

689 (27) The gross proceeds from the sale or sales of fuel
690 for use or consumption aboard commercial fishing vessels are
691 exempt from the computation of all sales taxes levied,
692 assessed, or payable under this division or levied under any
693 county or municipal sales tax law.

694 (28) The gross proceeds from the sales of rope, fishing
695 nets, tools, or any substitute used directly in the process of
696 commercial fishing by a holder of a commercial license issued
697 pursuant to Chapter 12 of Title 9.

698 (29) The gross proceeds of sales of sawdust, wood
699 shavings, wood chips, and other like materials sold for use as
700 chicken litter by poultry producers and poultry processors.



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701 (30) The gross proceeds of the sales of all
702 antibiotics, hormones and hormone preparations, drugs,
703 medicines, and other medications including serums and
704 vaccines, vitamins, minerals, or other nutrients for use in
705 the production and growing of fish, livestock, and poultry by
706 whomsoever sold. The exemption herein granted shall be in
707 addition to the exemption provided by law for feed for fish,
708 livestock, and poultry, and in addition to the exemptions
709 provided by law for the above-enumerated substances and
710 products when mixed and used as ingredients in fish,
711 livestock, and poultry feed.

712 (31) The gross proceeds of the sale or sales of all
713 medicines prescribed by physicians for persons who are 65
714 years of age or older, and when the prescriptions are filled
715 by licensed pharmacists, shall be exempted under this division
716 or under any county or municipal sales tax law. The exemption
717 provided in this section shall not apply to any medicine
718 purchased in any manner other than as is herein provided.

719 For the purposes of this subdivision, proof of age may
720 be accomplished by filing with the dispensing pharmacist any
721 one or more of the following documents:

722 a. The name and claim number as shown on a Medicare
723 card issued by the United States Social Security
724 Administration.

725 b. A certificate executed by any adult person having
726 knowledge of the fact that the person for whom the medicine
727 was prescribed is not less than 65 years of age.

728 c. An affidavit executed by any adult person having



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729 knowledge of the fact that the person for whom the medicine
730 was prescribed is not less than 65 years of age.

731 For the purposes of this subdivision, any person filing
732 a false proof of age shall be guilty of a misdemeanor and upon
733 conviction thereof shall be punished by a fine of one hundred
734 dollars (\$100).

735 (32) There shall be exempted from the tax levied by
736 this division the gross receipts of sales of grass sod of all
737 kinds and character when in the original state of production
738 or condition of preparation for sale, when the sales are made
739 by the producer or members of the producer's family or for the
740 producer by those employed by the producer to assist in the
741 production thereof; provided, that nothing herein shall be
742 construed to exempt sales of sod by a person engaged in the
743 business of selling plants, seedlings, nursery stock, or
744 floral products.

745 (33) The gross receipts of sales of the following items
746 or materials that are necessary in the farm-to-market
747 production of tomatoes when such items or materials are used
748 by the producer or members of the producer's family or for the
749 producer by those employed by the producer to assist in the
750 production thereof: Twine for tying tomatoes, tomato stakes,
751 field boxes (wooden boxes used to take tomatoes from the
752 fields to shed), and tomato boxes used in shipments to
753 customers.

754 (34) The gross proceeds from the sale of liquefied
755 petroleum gas or natural gas sold to be used for agricultural
756 purposes.



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757 (35) The gross receipts of sales from state nurseries
758 of forest tree seedlings.

759 (36) The gross receipts of sales of forest tree seed by
760 the state.

761 (37) The gross receipts of sales of Lespedeza bicolor
762 and other species of perennial plant seed and seedlings sold
763 for wildlife and game food production purposes by the state.

764 (38) The gross receipts of any aircraft manufactured,
765 sold, and delivered in this state if the aircraft are not
766 permanently domiciled in Alabama and are removed to another
767 state.

768 (39) The gross proceeds from the sale or sales of all
769 diesel fuel used for off-highway agricultural purposes.

770 (40) The gross proceeds from sales of admissions to any
771 sporting event that:

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

774 b. Is hosted by a not-for-profit corporation organized
775 and existing under the laws of the State of Alabama; and

776 c. Determines a national championship of a national
777 organization, including, but not limited to, the Professional
778 Golfers Association of America, the Tournament Players
779 Association, the United States Golf Association, the United
780 States Tennis Association, and the National Collegiate
781 Athletic Association; and

782 d. Has not been held in the State of Alabama on more
783 than one prior occasion, provided, however, that for such
784 purpose the Professional Golfers Association Championship, the



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785 United States Open Golf Championship, the United States
786 Amateur Golf Championship of the United States Golf
787 Association, and the United States Open Tennis Championship
788 shall each be treated as a separate event.

789 (41) The gross receipts from the sale of any aircraft
790 and replacement parts, components, systems, supplies, and
791 sundries affixed or used on the aircraft and ground support
792 equipment and vehicles used by or for the aircraft to or by a
793 certificated or licensed air carrier with a hub operation
794 within this state, for use in conducting intrastate,
795 interstate, or foreign commerce for transporting people or
796 property by air. For the purpose of this subdivision, the
797 words "hub operation within this state" shall be construed to
798 have both of the following criteria:

799 a. There originates from the location 15 or more flight
800 departures and five or more different first-stop destinations
801 five days per week for six or more months during the calendar
802 year.

803 b. Passengers or property or both are regularly
804 exchanged at the location between flights of the same or a
805 different certificated or licensed air carrier.

806 (42) The gross receipts from the sale of hot or cold
807 food and beverage products sold to or by a certificated or
808 licensed air carrier with a hub operation within this state,
809 for use in conducting intrastate, interstate, or foreign
810 commerce for transporting people or property by air. For the
811 purpose of this subdivision, the words "hub operation within
812 this state" shall be construed to have all of the following



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813 criteria:

814 a. There originates from the location 15 or more flight
815 departures and five or more different first-stop destinations
816 five days per week for six or more months during the calendar
817 year.

818 b. Passengers or property or both are regularly
819 exchanged at the location between flights of the same or a
820 different certificated or licensed air carrier.

821 (43) The gross receipts from the sale of any aviation
822 jet fuel to a certificated or licensed air carrier purchased
823 for use in scheduled all-cargo operations being conducted on
824 international flights or in international commerce. For
825 purposes of this subdivision, the following words or terms
826 shall be defined and interpreted as follows:

827 a. Air Carrier. Any person, firm, corporation, or
828 entity undertaking by any means, directly or indirectly, to
829 provide air transportation.

830 b. All-Cargo Operations. Any flight conducted by an air
831 carrier for compensation or hire other than a passenger
832 carrying flight, except passengers as specified in 14 C.F.R. §
833 121.583(a) or 14 C.F.R. § 135.85, as amended.

834 c. International Commerce. Any air carrier engaged in
835 all-cargo operations transporting goods for compensation or
836 hire on international flights.

837 d. International Flights. Any air carrier conducting
838 scheduled all-cargo operations between any point within the 50
839 states of the United States and the District of Columbia and
840 any point outside the 50 states of the United States and the



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841 District of Columbia, including any interim stops within the
842 United States so long as the ultimate origin or destination of
843 the aircraft is outside the United States and the District of
844 Columbia.

845 (44) The gross proceeds of the sale or sales of the
846 following:

847 a. Drill pipe, casing, tubing, and other pipe used for
848 the exploration for or production of oil, gas, sulphur, or
849 other minerals in offshore federal waters.

850 b. Tangible personal property exclusively used for the
851 exploration for or production of oil, gas, sulphur, or other
852 minerals in offshore federal waters.

853 c. Fuel and supplies for use or consumption aboard
854 boats, ships, aircraft, and towing vessels when used
855 exclusively in transporting persons or property between a
856 point in Alabama and a point or points in offshore federal
857 waters for the exploration for or production of oil, gas,
858 sulphur, or other minerals in offshore federal waters.

859 d. Drilling equipment that is used for the exploration
860 for or production of oil, gas, sulphur, or other minerals,
861 that is built for exclusive use outside this state and that
862 is, on completion, removed forthwith from this state.

863 The delivery of items exempted by this subdivision to
864 the purchaser or lessee in this state does not disqualify the
865 purchaser or lessee from the exemption if the property is
866 removed from the state by any means, including by the use of
867 the purchaser's or lessee's own facilities.

868 The shipment to a place in this state of equipment



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869 exempted by this subdivision for further assembly or
870 fabrication does not disqualify the purchaser or lessee from
871 the exemption if on completion of the further assembly or
872 fabrication the equipment is removed forthwith from this
873 state. This subdivision applies to a sale that may occur when
874 the equipment exempted is further assembled or fabricated if
875 on completion the equipment is removed forthwith from this
876 state.

877 (45) The gross receipts derived from all bingo games
878 and operations that are conducted in compliance with validly
879 enacted legislation authorizing the conduct of such games and
880 operations, and which comply with the distribution
881 requirements of the applicable local laws; provided that the
882 exemption from sales taxation granted by this subdivision
883 shall apply only to gross receipts taxable under subdivision
884 (2) of Section 40-23-2. It is further provided that this
885 exemption shall not apply to any gross receipts from the sale
886 of tangible personal property, such as concessions, novelties,
887 food, beverages, etc. The exemption provided for in this
888 section shall be limited to those games and operations by
889 organizations that have qualified for exemption under the
890 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
891 (19), or which are defined in 26 U.S.C. § 501(d).

892 (46) The gross receipts derived from the sale or sales
893 of fruit or other agricultural products by the person or
894 company, as defined in Section 40-23-1, that planted or
895 cultivated and harvested the fruit or agricultural product,
896 when the land is owned or leased by the seller.



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897 (47) The gross receipts derived from the sale or sales
898 of all domestically mined or produced coal, coke, and coke
899 by-products used in cogeneration plants.

900 (48) The gross receipts from the sale or sales of
901 metal, other than gold or silver, when such metal is purchased
902 for the purpose of transferring such metal to an investment
903 trust in exchange for shares or other units, each of which are
904 both publicly traded and represent fractional undivided
905 beneficial interests in the trust's net assets, including
906 metal stored in warehouses located in this state, as well as
907 the gross proceeds from the sale or other transfer of such
908 metal to or from the investment trust in exchange for shares
909 or other units that are publicly traded and represent
910 fractional undivided beneficial interests in the trust's net
911 assets but not to the extent that metal is transferred to or
912 from the investment trust in exchange for consideration other
913 than such publicly traded shares or other units. For purposes
914 of this subdivision, the term "metals" includes, but is not
915 limited to, copper, aluminum, nickel, zinc, tin, lead, and
916 other similar metals typically used in commercial and
917 industrial applications.

918 (49)a. For the period commencing on October 1, 2012,
919 and ending May 30, 2027, the gross receipts from the sale of
920 parts, components, and systems that become a part of a fixed
921 or rotary wing military aircraft or certified transport
922 category aircraft that undergoes conversion, reconfiguration,
923 or general maintenance so long as the address of the aircraft
924 for FAA registration is not in the state; provided, however,



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925 that this exemption shall not apply to a local sales tax
926 unless previously exempted by local law or approved by
927 resolution of the local governing body.

928 b. The exemption authorized by this subdivision shall
929 not be available for sales of parts, components, or systems
930 for new contracts or projects entered into after May 30, 2027,
931 unless the Legislature enacts legislation to continue or
932 reinstate the exemption for new contracts or projects after
933 that date. No action or inaction on the part of the
934 Legislature shall reduce, suspend, or disqualify sales of
935 parts, components, or systems from the exemption in any past
936 year or future years until May 30, 2030, with respect to
937 contracts or projects entered into on or before May 30, 2027;
938 it being the sole intent that failure of the Legislature to
939 enact legislation to reinstate the exemption for new contracts
940 or projects after May 30, 2027, shall affect only the
941 availability of the exemption to new contracts and projects
942 after that date and shall not affect availability of the
943 exemption for contracts or projects entered into on or before
944 May 30, 2027, for which the exemption shall be available until
945 May 30, 2030.

946 (50) The gross proceeds from the sale or sales within
947 school buildings of lunches to pupils of kindergarten,
948 grammar, and high schools, either public or private, that are
949 not sold for profit.

950 (51) The gross proceeds of services provided by
951 photographers, including, but not limited to, sitting fees and
952 consultation fees, even when provided as part of a transaction



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953 ultimately involving the sale of one or more photographs, so
954 long as the exempt services are separately stated to the
955 customer on a bill of sale, invoice, or like memorialization
956 of the transaction. For transactions occurring before October
957 1, 2017, neither the Department of Revenue nor local tax
958 officials may seek payment for sales tax not collected. With
959 regard to such transactions in which sales tax was collected
960 and remitted on services provided by photographers, neither
961 the taxpayer nor the entity remitting sales tax shall have the
962 right to seek refund of such tax.

963 (52) a. For the period commencing on June 1, 2018, and
964 ending 10 years thereafter, unless extended by an act of the
965 Legislature, the gross proceeds of sales of bullion or money,
966 as defined in Section 40-1-1(7).

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

969 1. Bullion. Gold, silver, platinum, palladium, or a
970 combination of each precious metal, that has gone through a
971 refining process and for which the item's value depends on its
972 mass and purity, and not on its form, numismatic value, or
973 other value. The term includes bullion in the form of bars,
974 ingots, rounds, or coins that meet the requirements set forth
975 above. Qualifying bullion may contain other metals or
976 substances, provided that the other substances are minimal in
977 value compared with the value of the gold, silver, platinum,
978 or palladium and the other substances do not add value to the
979 item. For purposes of this subparagraph, "gold, silver,
980 platinum, or palladium" does not include jewelry or works of



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981 art.

982 2. Mass. An item's mass is its weight in precious
983 metal.

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

987 4. Purity. An item's purity is the proportion of
988 precious metal contained within.

989 c. In order for bullion to qualify for the sales tax
990 exemption, gold, silver, platinum, and palladium items must
991 meet all of the following requirements:

992 1. Must be refined.

993 2. Must contain at least 80 percent gold, silver,
994 platinum, or palladium or some combination of these metals.

995 3. The sales price of the item must fluctuate with and
996 depend on the market price of the underlying precious metal,
997 and not on the item's rarity, condition, age, or other
998 external factor.

999 (53) a. The gross proceeds of the initial retail sales
1000 of adaptive equipment that is permanently affixed to a motor
1001 vehicle.

1002 b. For the purposes of this subdivision, the following
1003 words or terms shall be defined and interpreted as follows:

1004 1. Adaptive Equipment. Equipment not generally used by
1005 persons with normal mobility that is appropriate for use in a
1006 motor vehicle and that is not normally provided by a motor
1007 vehicle manufacturer.

1008 2. Motor Vehicle. A vehicle as defined in Section



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1009 40-12-240.

1010 3. Motor Vehicle Manufacturer. Every person engaged in
1011 the business of constructing or assembling vehicles or
1012 manufactured homes.

1013 c. In order to qualify for the exemption provided for
1014 herein, the adaptive equipment must be separately stated to
1015 the customer on a bill of sale, invoice, or like
1016 memorialization of the transaction.

1017 (54) For the period commencing on October 1, 2022, and
1018 ending September 30, 2027, unless extended by an act of the
1019 Legislature, the gross receipts derived from the sale of
1020 producer value added agricultural products when the sale is
1021 made by the producer or by the producer's immediate family, or
1022 for the producer by the producer's employees.

1023 (55) Beginning September 1, 2024, the gross receipts
1024 derived from the sale of food, as defined in Section 40-23-1.

1025 (b) Any violation of any provision of this section
1026 shall be punishable in a court of competent jurisdiction by a
1027 fine of not less than five hundred dollars (\$500) and no more
1028 than two thousand dollars (\$2,000) and imprisonment of not
1029 less than six months nor more than one year in the county
1030 jail."

1031 Section 2.(a) On the effective date of this act, the
1032 definition of food in Section 40-23-1, Code of Alabama 1975,
1033 shall apply to county and municipal sales and use taxes. For
1034 purposes of county and municipal sales and use taxes, the
1035 sales tax rate on food shall be established as the general or
1036 retail sales tax rate in effect in the county or municipality



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1037 on the effective date of this act, unless otherwise provided
1038 by law. An act of the Legislature or an ordinance or
1039 resolution adopted by a county or municipal governing body
1040 levying a county or municipal sales and use tax inclusive of
1041 food passed or enacted on or before the effective date of this
1042 act shall remain operative, but no additional county or
1043 municipal sales and use taxes on food may be levied.

1044 (b) Any county or municipal governing body may, by
1045 resolution or ordinance, reduce the general or retail sales
1046 tax rate on food or adopt the exemption for food provided in
1047 Section 40-23-4(55), Code of Alabama 1975, for local sales and
1048 use taxes. Such ordinance or resolution must be adopted at
1049 least 60 days prior to becoming effective.

1050 Section 3. This act shall become effective on January
1051 1, 2024, following its passage and approval by the Governor,
1052 or its otherwise becoming law.