



SYNOPSIS:

Under existing law, the state imposes sales or use taxes upon certain persons, firms, or corporations at a general rate of four percent. Sales of certain items are taxed at a reduced rate, including food, which is taxed at three percent by the state. The definition of "food" for state sales and use taxes is applicable to county and municipal sales and use taxes and county and municipal governments may reduce their sales and use tax rate on food by 25 percent in any year in which certain growth targets are met.

This bill would reduce the sales and use tax rate on food to two percent, on September 1, 2025.

This bill also would revise the provisions authorizing a county or municipal governing body to reduce their sales and use tax on food to eliminate the 25 percent limitation on the rate cut and remove the growth requirement.



A BILL

TO BE ENTITLED

AN ACT

Relating to sales and use taxes; to amend Sections 40-23-2, 40-23-40, and 40-23-61, Code of Alabama 1975, to reduce the state sales and use tax rate on food to two percent on September 1, 2025; and to revise the provisions authorizing a county or municipal governing body to reduce their sales and use tax on food to eliminate the restriction on the amount of rate cut and remove the growth requirement.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-23-2, 40-23-40, and 40-23-61, Code of Alabama 1975, are hereby amended as follows:

"§40-23-2

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

(1) Upon every person, firm, or corporation, (including the State of Alabama and its Alcoholic Beverage Control Board in the sale of alcoholic beverages of all kinds, ~~the~~The University of Alabama, Auburn University, and all other institutions of higher learning in the state, whether the institutions be denominational, state, county, or municipal institutions, any association or other agency or



instrumentality of the institutions) engaged or continuing within this state, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships, other watercraft, and commercial fishing vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources) an amount equal to four percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of the business at the rates specified, when his or her books are kept so as to show separately the gross proceeds of sales of each business, and when his or her books are not kept he or she shall pay the tax as a retailer, on the gross sales of the business.

Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however,



85 this provision shall not be construed to include batteries.

86 (2) Upon every person, firm, or corporation engaged or
87 continuing within this state in the business of conducting or
88 operating places of amusement or entertainment, billiard and
89 pool rooms, bowling alleys, amusement devices, musical
90 devices, theaters, opera houses, moving picture shows,
91 vaudevilles, amusement parks, athletic contests, including
92 wrestling matches, prize fights, boxing and wrestling
93 exhibitions, football and baseball games, (including athletic
94 contests, conducted by or under the auspices of any
95 educational institution within this state, or any athletic
96 association thereof, or other association whether the
97 institution or association be a denominational, a state, or
98 county, or a municipal institution, or association or a state,
99 county, or city school, or other institution, association or
100 school) skating rinks, race tracks, golf courses, or any other
101 place at which any exhibition, display, amusement, or
102 entertainment is offered to the public or place or places
103 where an admission fee is charged, including public bathing
104 places and public dance halls of every kind and description
105 within the State of Alabama, an amount equal to four percent
106 of the gross receipts of any such business. Provided, however,
107 notwithstanding any language to the contrary in the prior
108 portion of this subdivision, the tax provisions so specified
109 shall not apply to any athletic event conducted by a public or
110 nonpublic primary or secondary school or any athletic event
111 conducted by or under the auspices of the Alabama High School
112 Athletic Association. The tax amount which would have been



collected pursuant to this subdivision shall continue to be collected by the public or nonpublic primary or secondary school, but shall be retained by the school that collected it and shall be used by the school for school purposes.

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

(4) Upon every person, firm, or corporation engaged or continuing within this state in the business of selling at retail any automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies including, but not limited to, steps, blocks, anchoring, cable pipes, and any other materials pertaining thereto, an amount equal to two percent of the gross proceeds of sale of the automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subdivision withdraws from his or her stock in



141 trade any automotive vehicle or truck trailer, semitrailer, or
142 house trailer for use by him or her or by his or her employee
143 or agent in the operation of the business, there shall be
144 paid, in lieu of the tax levied herein, a fee of five dollars
145 (\$5) per year or part thereof during which the automotive
146 vehicle, truck trailer, semitrailer, or house trailer shall
147 remain the property of the person. Each year or part thereof
148 shall begin with the day or anniversary date, as the case may
149 be, of such withdrawal and shall run for the 12 succeeding
150 months or part thereof during which the automotive vehicle,
151 truck trailer, semitrailer, or house trailer shall remain the
152 property of the person.

153 Where any used automotive vehicle or truck trailer,
154 semitrailer, or house trailer is taken in trade or in a series
155 of trades, as a credit or part payment on the sale of a new or
156 used vehicle, the tax levied herein shall be paid on the net
157 difference, that is, the price of the new or used vehicle sold
158 less the credit for the used vehicle taken in trade.

159 Sales of automobiles, motorcycles, trucks, truck
160 trailers, travel trailers, campers, housecars, or semitrailers
161 that will be registered or titled outside Alabama, that are
162 exported or removed from Alabama within 72 hours by the
163 purchaser or his or her agent for first use outside Alabama
164 are subject to Alabama sales tax in an amount equal to only
165 the state automotive sales tax rate, unless the sales tax laws
166 of the state in which the purchaser will title or register the
167 vehicle allows an Alabama resident to purchase a motor vehicle
168 for first titling and registering in Alabama without the



169 payment of tax to that state. However, in no case shall the
170 amount of Alabama state sales tax due on a motor vehicle that
171 will be registered or titled for use in another state exceed
172 the amount of sales tax that would otherwise have been due in
173 the state where the vehicle will be registered or titled for
174 first use. In order to qualify as a travel trailer, camper, or
175 housecar that will be registered or titled for use in another
176 state, the purchaser must provide documentation to the seller
177 that the purchaser is not a resident of Alabama as required by
178 the Department of Revenue. No such proof is required in the
179 sale of an automobile, motorcycle, truck, truck trailer, or
180 semitrailer, excluding a travel trailer, camper, or housecar.
181 The tax collected under this export provision shall be Alabama
182 sales tax and shall exclude county and municipal sales tax. On
183 January 1, 2016, and each January 1 thereafter, the Alabama
184 Department of Revenue shall publish to the state's website a
185 list of states that do not allow drive out provisions to
186 Alabama residents. Should the list, required by this
187 subsection and relied upon by the taxpayer, be incorrect, the
188 taxpayer shall be relieved from the liability concerning the
189 miscollection of the state automotive sales tax. Sales of all
190 other vehicles such as mobile homes, motor bikes, all terrain
191 vehicles, and boats do not qualify for the export exemption
192 provision and are taxable unless the dealer can provide
193 factual evidence that the vehicle was delivered outside of
194 Alabama or to a common carrier for transportation outside
195 Alabama. In order for the sale to be exempt from Alabama tax,
196 the information relative to the exempt sale shall be



documented on forms approved by the Revenue Department.

Of the total two-cent (\$.02) tax on each dollar of sale provided hereunder, 58 percent of the total tax generated by this subdivision~~-(4)~~ shall be deposited to the credit of the Education Trust Fund and 42 percent of the total tax generated by this subdivision~~-(4)~~ shall be deposited to the credit of the State General Fund.

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

(6) Upon every person, firm, or corporation engaged or continuing within this state in the business of selling food as defined in Section 40-23-1, there is a tax levied equal to ~~four percent of the gross proceeds of the sale of food. On September 1, 2023, the tax rate shall be reduced to~~ three percent of the gross proceeds of the sale of food. On September 1, ~~2024~~2025, the tax rate shall be reduced to two percent, ~~if the average of the estimated growth in the total net receipts from all revenue sources to the Education Trust Fund for the fiscal year ending September 30, 2025, as certified by the Director of Finance and the Legislative Fiscal Officer, respectively, pursuant to Section 260.02 of~~



~~the Constitution of Alabama of 2022, is at least three and one-half percent higher than the previous fiscal year. If the growth requirement is not satisfied for the fiscal year ending September 30, 2025, the rate shall be reduced to two percent in a subsequent fiscal year when the growth requirement is satisfied.~~

"§40-23-40

(a) On June 15, 2023, the definition of "food" in Sections 40-23-1 and 40-23-60~~7~~ shall apply to county and municipal sales and use taxes. For purposes of county and municipal sales and use taxes, the sales tax rate on food shall be established as the general or retail sales tax rate in effect in the county or municipality on June 15, 2023, unless otherwise provided by law. An act of the Legislature or an ordinance or resolution adopted by a county or municipal governing body levying a county or municipal sales and use tax inclusive of food passed or enacted on or before June 15, 2023, shall remain operative, but no additional county or municipal sales and use taxes on food may be levied.

(b) Any county or municipal governing body, by resolution or ordinance, may reduce the general or retail sales tax rate on food for local sales and use taxes ~~by 25 percent in any year in which the growth in the applicable municipal or county general fund exceeds two percent over the prior year~~. The ordinance or resolution must be adopted at least 60 days prior to becoming effective and will take effect on October 1 following adoption.

(c) A county or municipal governing body that reduces



its general or retail sales tax rate on food for local sales and use taxes pursuant to this section may subsequently increase the rate on food not to exceed the rate in effect in the county or municipality on June 15, 2023, unless otherwise provided by law."

"§40-23-61

(a) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships, other watercraft, and commercial fishing vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources, purchased at retail on or after October 1, 1965, for storage, use, or other consumption in this state at the rate of four percent of the sales price of the property or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the Department of Revenue's suggested use tax brackets and his or her records prove that his or her following the brackets resulted in a net undercollection of tax for the month, he or she may report the tax due or tax collected, whichever is less, except as provided in subsections (b), (c), and (d).

(b) An excise tax is hereby imposed on the storage, use, or other consumption in this state of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, purchased at



281 retail on or after October 1, 1965, at the rate of one and
282 one-half percent of the sales price of any such machine or the
283 amount of tax collected by the seller, whichever is greater;
284 provided, however, when the seller follows the Department of
285 Revenue's suggested use tax brackets and his or her records
286 prove that his or her following the brackets resulted in a net
287 undercollection of tax for the month, he or she may report the
288 tax due or tax collected, whichever is less; provided, that
289 the term "machine," as used in this subsection, shall include
290 machinery that is used for mining, quarrying, compounding,
291 processing, or manufacturing tangible personal property, and
292 the parts of such machines, attachments, and replacements
293 therefor, which are made or manufactured for use on or in the
294 operation of such machines and which are necessary to the
295 operation of such machines, and are customarily so used.

296 (c)(1) An excise tax is hereby imposed on the storage,
297 use, or other consumption in this state of any automotive
298 vehicle or truck trailer, semitrailer or house trailer, and
299 mobile home set-up materials and supplies, including, but not
300 limited to, steps, blocks, anchoring, cable pipes, and any
301 other materials pertaining thereto, purchased at retail on or
302 after October 1, 1965, for storage, use, or other consumption
303 in this state at the rate of two percent of the sales price of
304 such automotive vehicle, truck trailer, semitrailer or house
305 trailer, and mobile home set-up materials and supplies as
306 specified above, or the amount of tax collected by the seller,
307 whichever is greater; provided, however, when the seller
308 follows the Department of Revenue's suggested use tax brackets



and his or her records prove that his or her following the brackets resulted in a net undercollection of tax for the month, he or she may report the tax due or tax collected, whichever is less. Where any used automotive vehicle or truck trailer, semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(2) Of the total two cent (\$.02) tax on each dollar of sale provided in this subsection, 58 percent of the total tax generated by this subsection shall be deposited to the credit of the Education Trust Fund; and 42 percent of the total tax generated by this subsection shall be deposited to the credit of the State General Fund.

(d) An excise tax is hereby imposed on the storage, use, or other consumption in this state of food as defined in Section 40-23-60, at the rate of ~~four percent of the sales price of such food. On September 1, 2023, the tax rate shall be reduced to~~ three percent of the sales price of such food. On September 1, ~~2024~~2025, the tax rate shall be reduced to two percent, ~~if the average of the estimated growth in the total net receipts from all revenue sources to the Education Trust Fund for the fiscal year ending September 30, 2025, as certified by the Director of Finance and the Legislative Fiscal Officer, respectively, pursuant to Section 260.02 of the Constitution of Alabama of 2022, is at least three and~~



~~one-half percent higher than the previous fiscal year. If the growth requirement is not satisfied for the fiscal year ending September 30, 2025, the rate shall be reduced to two percent in a subsequent fiscal year when the growth requirement is satisfied.~~

(e) Every person storing, using, or otherwise consuming in this state tangible personal property purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this state; provided, that a receipt from a retailer maintaining a place of business in this state or a retailer authorized by the department, under such rules as it may prescribe, to collect the tax imposed hereby and who shall for the purpose of this article be regarded as a retailer maintaining a place of business in this state, given to the purchaser in accordance with Section 40-23-67, shall be sufficient to relieve the purchaser from further liability for tax to which the receipt may refer.

(f) An excise tax is hereby imposed on the classes of tangible personal property, and at the rates imposed on such classes, specified in subsections (a), (b), (c), and (d) on the storage, use, or other consumption in the performance of a contract in this state of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of the tangible personal property when put into use in this state, whichever is less; provided, that the tax imposed by this subsection shall not apply where the taxes imposed by subsection (a), (b), (c), or



365 (d) ~~of this section~~ apply."

366 Section 2. This act shall become effective on June 1,
367 2025.