

## HB336 INTRODUCED



1 HB336  
2 XD3HP7Z-1  
3 By Representatives McClammy, Gray, Hollis, McCampbell,  
4 Lawrence, Drummond, Forte, Clarke, Ensler, Lands, Travis,  
5 Tillman, Hendrix, Bracy, Jones, Givan, Sellers, Moore (M),  
6 Morris, Datcher, Chestnut, Warren, Hall, Hassell, Rafferty,  
7 Daniels, Boyd, England  
8 RFD: Ways and Means Education  
9 First Read: 27-Jan-26



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4 SYNOPSIS:

5           Under existing law, the state imposes sales or  
6           use taxes upon certain persons, firms, or corporations  
7           at a general rate of four percent. Sales of certain  
8           items are taxed at a reduced rate, including food,  
9           which is taxed at two percent.

10           This bill would eliminate the state sales and  
11           use tax on food on September 1, 2026, and allow local  
12           governments to adopt companion exemptions for local  
13           sales and use taxes.

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16                           A BILL  
17                           TO BE ENTITLED  
18                           AN ACT

19  
20           Relating to sales and use taxes; to amend Sections  
21           40-23-2, 40-23-40, and 40-23-61, as last amended by Act  
22           2025-305, 2025 Regular Session, Code of Alabama 1975, to  
23           repeal the state sales and use tax rate on food on September  
24           1, 2026; to exempt food from state sales tax; and to provide  
25           for local opt-ins.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

27           Section 1. Sections 40-23-2, 40-23-40 and 40-23-61, as  
28           last amended by Act 2025-305, 2025 Regular Session, Code of



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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 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



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different amount is expressly provided herein. ~~Provided,~~  
~~however, that any~~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,~~  
this provision shall not be construed to include batteries.

(2) Upon every person, firm, or corporation engaged or  
continuing within this state in the business of conducting or  
operating places of amusement or entertainment, billiard and  
pool rooms, bowling alleys, amusement devices, musical  
devices, theaters, opera houses, moving picture shows,  
vaudeville, amusement parks, athletic contests, including  
wrestling matches, prize fights, boxing and wrestling  
exhibitions, football and baseball games, including athletic  
contests, conducted by or under the auspices of any  
educational institution within this state, or any athletic  
association thereof, or other association whether the



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institution or association be a denominational, a state, or county, or a municipal institution, or association or a state, county, or city school, or other institution, association, or school, skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places and public dance halls of every kind and description within the State of Alabama, an amount equal to four percent of the gross receipts of any such business. ~~Provided, however, notwithstanding~~ Notwithstanding any language to the contrary in the prior portion of this subdivision, the tax provisions so specified shall not apply to any athletic event conducted by a public or nonpublic primary or secondary school or any athletic event conducted by or under the auspices of the Alabama High School Athletic Association. The tax amount that 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 that is used for mining,



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quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of the machines, attachments, and replacements therefor, that are made or manufactured for use on or in the operation of the machines and that 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 trade any automotive vehicle or truck trailer, semitrailer, or house trailer for use by him or her or by his or her employee or agent in the operation of the business, there shall be paid, in lieu of the tax levied in this subdivision, a fee of five dollars (\$5) per year or part thereof during which the automotive vehicle, truck trailer, semitrailer, or house trailer shall remain the property of the person. Each year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the 12 succeeding months or part thereof during which the automotive vehicle, truck trailer, semitrailer, or



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house trailer shall remain the property of the person.

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 in this subdivision 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.

Sales of automobiles, motorcycles, trucks, truck trailers, travel trailers, campers, housecars, or semitrailers that will be registered or titled outside Alabama and that are exported or removed from Alabama within 72 hours by the purchaser or his or her agent for first use outside Alabama are subject to Alabama sales tax in an amount equal to only the state automotive sales tax rate, unless the sales tax laws of the state in which the purchaser will title or register the vehicle allows an Alabama resident to purchase a motor vehicle for first titling and registering in Alabama without the payment of tax to that state. However, in no case shall the amount of Alabama state sales tax due on a motor vehicle that will be registered or titled for use in another state exceed the amount of sales tax that would otherwise have been due in the state where the vehicle will be registered or titled for first use. In order to qualify as a travel trailer, camper, or housecar that will be registered or titled for use in another state, the purchaser must provide documentation to the seller that the purchaser is not a resident of Alabama as required by the Department of Revenue. No such proof is required in the



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sale of an automobile, motorcycle, truck, truck trailer, or semitrailer, excluding a travel trailer, camper, or housecar. The tax collected under this export provision shall be Alabama sales tax and shall exclude county and municipal sales tax. On January 1, 2016, and each January 1 thereafter, the Alabama Department of Revenue shall publish to the state's website a list of states that do not allow drive out provisions to Alabama residents. Should the list, required by this subdivision and relied upon by the taxpayer, be incorrect, the taxpayer shall be relieved from the liability concerning the miscollection of the state automotive sales tax. Sales of all other vehicles such as mobile homes, motor bikes, all terrain vehicles, and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of Alabama or to a common carrier for transportation outside Alabama. In order for the sale to be exempt from Alabama tax, the information relative to the exempt sale shall be documented on forms approved by the ~~Revenue~~ Department of Revenue.

Of the total ~~two-cent (\$.02)~~ two cent (\$0.02) tax on each dollar of sale provided in this subdivision, 58 percent of the total tax generated by this subdivision shall be deposited to the credit of the Education Trust Fund and 42 percent of the total tax generated by this subdivision 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





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197 through coin-operated dispensing machines, food and food  
198 products for human consumption, not including beverages other  
199 than coffee, milk, milk products, and substitutes therefor,  
200 there is levied a tax equal to three percent of the cost of  
201 the food, food products, and beverages sold through the  
202 machines, which cost for the purpose of this subdivision shall  
203 be the gross proceeds of sales of the business.

204 ~~“(6) Upon every person, firm, or corporation engaged or~~  
205 ~~continuing within this state in the business of selling food~~  
206 ~~as defined in Section 40-23-1, there is a tax levied equal to~~  
207 ~~three percent of the gross proceeds of the sale of food. On~~  
208 ~~September 1, 2025, the tax rate shall be reduced to two~~  
209 ~~percent.”~~

210 "§40-23-40

211 (a) On June 15, 2023, the definition of "food" in  
212 Sections 40-23-1 and 40-23-60 shall apply to county and  
213 municipal sales and use taxes. For purposes of county and  
214 municipal sales and use taxes, the sales tax rate on food  
215 shall be established as the general or retail sales tax rate  
216 in effect in the county or municipality on June 15, 2023,  
217 unless otherwise provided by law. An act of the Legislature or  
218 an ordinance or resolution adopted by a county or municipal  
219 governing body levying a county or municipal sales and use tax  
220 inclusive of food passed or enacted on or before June 15,  
221 2023, shall remain operative, but no additional county or  
222 municipal sales and use taxes on food may be levied.

223 (b) Any county or municipal governing body, by  
224 resolution or ordinance, may reduce the general or retail



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sales tax rate on food for local sales and use taxes. The ordinance or resolution must be adopted at least 60 days prior to becoming effective and shall 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.

(d) Any county or municipal governing body may exempt the gross proceeds from the sale of food from county or municipal sales and use taxes in accordance with Section 40-23-4.01."

"§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.~~ When the seller follows the



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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) or, (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 retail on or after October 1, 1965, at the rate of one and one-half percent of the sales price of any such machine or the amount of tax collected by the seller, whichever is greater ~~+~~ ~~provided, however, when~~. 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. The term "machine," as used in this subsection, shall include machinery that is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines, and are customarily so used.

(c) (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of any automotive vehicle or truck trailer, semitrailer, or house trailer, and



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mobile home set-up materials and supplies, including, but not limited to, steps, blocks, anchoring, cable pipes, and any other materials pertaining thereto, purchased at retail on or after October 1, 1965, for storage, use, or other consumption in this state at the rate of two percent of the sales price of such automotive vehicle, truck trailer, semitrailer, or house trailer, and mobile home set-up materials and supplies as specified above, or the amount of tax collected by the seller, whichever is greater; ~~provided, however, when.~~ 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. 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 ~~(\$0.02)~~ (\$0.02) 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~~



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~~Section 40-23-60, at the rate of three percent of the sales price of such food. On September 1, 2025, the tax rate shall be reduced to two percent.~~

~~(e)~~ (d) 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~~ 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)~~ (e) 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), or (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~~ The tax imposed by this subsection shall not apply where the taxes imposed by subsection (a), (b), or (c), ~~or (d)~~ apply."

Section 2. The gross proceeds from the sale of "food,"



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337 as defined in Section 40-23-1, Code of Alabama 1975, are  
338 exempt from state sales tax.

339 Section 3. This act shall become effective on September  
340 1, 2026.