

HB336 INTRODUCED



1 HB336

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3 By Representatives McClammy, Gray, Hollis, McCampbell,
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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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29 Alabama 1975, are hereby amended as follows:

30 "§40-23-2

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

37 (1) Upon every person, firm, or corporation, ~~+including~~ the State of Alabama and its Alcoholic Beverage Control Board
38 in the sale of alcoholic beverages of all kinds, The
39 University of Alabama, Auburn University, and all other
40 institutions of higher learning in the state, whether the
41 institutions be denominational, state, county, or municipal
42 institutions, any association or other agency or
43 instrumentality of the institutions~~+,~~ engaged or continuing
44 within this state, in the business of selling at retail any
45 tangible personal property whatsoever, including merchandise
46 and commodities of every kind and character, ~~+not including,~~ however, bonds or other evidences of debts or stocks, nor
47 sales of material and supplies to any person for use in
48 fulfilling a contract for the painting, repair, or
49 reconditioning of vessels, barges, ships, other watercraft,
50 and commercial fishing vessels of over five tons load
51 displacement as registered with the U.S. Coast Guard and
52 licensed by the State of Alabama Department of Conservation
53 and Natural Resources~~+,~~ an amount equal to four percent of the
54 gross proceeds of sales of the business except where a



57 different amount is expressly provided herein. ~~Provided,~~
58 ~~however, that any~~Any person engaging or continuing in business
59 as a retailer and wholesaler or jobber shall pay the tax
60 required on the gross proceeds of retail sales of the business
61 at the rates specified, when his or her books are kept so as
62 to show separately the gross proceeds of sales of each
63 business, and when his or her books are not kept he or she
64 shall pay the tax as a retailer, on the gross sales of the
65 business.

66 Where any used part, including tires of an automotive
67 vehicle or a truck trailer, semitrailer, or house trailer, is
68 taken in trade, or in a series of trades, as a credit or part
69 payment on the sale of a new or rebuilt part or tire, the tax
70 levied herein shall be paid on the net difference, that is,
71 the price of the new or used part or tire sold less the credit
72 for the used part or tire taken in trade, provided, ~~however,~~
73 this provision shall not be construed to include batteries.

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



85 institution or association be a denominational, a state, or
86 county, or a municipal institution, or association or a state,
87 county, or city school, or other institution, association, or
88 school~~+,~~ skating rinks, race tracks, golf courses, or any
89 other place at which any exhibition, display, amusement, or
90 entertainment is offered to the public or place or places
91 where an admission fee is charged, including public bathing
92 places and public dance halls of every kind and description
93 within the State of Alabama, an amount equal to four percent
94 of the gross receipts of any such business. ~~Provided, however,~~
95 ~~notwithstanding~~Notwithstanding any language to the contrary in
96 the prior portion of this subdivision, the tax provisions so
97 specified shall not apply to any athletic event conducted by a
98 public or nonpublic primary or secondary school or any
99 athletic event conducted by or under the auspices of the
100 Alabama High School Athletic Association. The tax amount that
101 would have been collected pursuant to this subdivision shall
102 continue to be collected by the public or nonpublic primary or
103 secondary school, but shall be retained by the school that
104 collected it and shall be used by the school for school
105 purposes.

106 (3) Upon every person, firm, or corporation engaged or
107 continuing within this state in the business of selling at
108 retail machines used in mining, quarrying, compounding,
109 processing, and manufacturing of tangible personal property an
110 amount equal to one and one-half percent of the gross proceeds
111 of the sale of the machines. The term "machine," as herein
112 used, shall include machinery that is used for mining,



113 quarrying, compounding, processing, or manufacturing tangible
114 personal property, and the parts of the machines, attachments,
115 and replacements therefor, that are made or manufactured for
116 use on or in the operation of the machines and that are
117 necessary to the operation of the machines and are customarily
118 so used.

119 (4) Upon every person, firm, or corporation engaged or
120 continuing within this state in the business of selling at
121 retail any automotive vehicle or truck trailer, semitrailer,
122 or house trailer, or mobile home set-up materials and
123 supplies, including, but not limited to, steps, blocks,
124 anchoring, cable pipes, and any other materials pertaining
125 thereto, an amount equal to two percent of the gross proceeds
126 of sale of the automotive vehicle or truck trailer,
127 semitrailer, or house trailer, or mobile home set-up materials
128 and supplies, provided, ~~however~~, where a person subject to the
129 tax provided for in this subdivision withdraws from his or her
130 stock in trade any automotive vehicle or truck trailer,
131 semitrailer, or house trailer for use by him or her or by his
132 or her employee or agent in the operation of the business,
133 there shall be paid, in lieu of the tax levied in this
134 subdivision, a fee of five dollars (\$5) per year or part
135 thereof during which the automotive vehicle, truck trailer,
136 semitrailer, or house trailer shall remain the property of the
137 person. Each year or part thereof shall begin with the day or
138 anniversary date, as the case may be, of such withdrawal and
139 shall run for the 12 succeeding months or part thereof during
140 which the automotive vehicle, truck trailer, semitrailer, or



141 house trailer shall remain the property of the person.

142 Where any used automotive vehicle or truck trailer,
143 semitrailer, or house trailer is taken in trade or in a series
144 of trades, as a credit or part payment on the sale of a new or
145 used vehicle, the tax levied in this subdivision shall be paid
146 on the net difference, that is, the price of the new or used
147 vehicle sold less the credit for the used vehicle taken in
148 trade.

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



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

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

195 (5) Upon every person, firm, or corporation engaged or
196 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



225 sales tax rate on food for local sales and use taxes. The
226 ordinance or resolution must be adopted at least 60 days prior
227 to becoming effective and shall take effect on October 1
228 following adoption.

229 (c) A county or municipal governing body that reduces
230 its general or retail sales tax rate on food for local sales
231 and use taxes pursuant to this section may subsequently
232 increase the rate on food not to exceed the rate in effect in
233 the county or municipality on June 15, 2023, unless otherwise
234 provided by law.

235 (d) Any county or municipal governing body may exempt
236 the gross proceeds from the sale of food from county or
237 municipal sales and use taxes in accordance with Section
238 40-23-4.01."

239 "§40-23-61

240 (a) An excise tax is hereby imposed on the storage,
241 use, or other consumption in this state of tangible personal
242 property, not including, however, materials and supplies
243 bought for use in fulfilling a contract for the painting,
244 repairing, or reconditioning of vessels, barges, ships, other
245 watercraft, and commercial fishing vessels of over five tons
246 load displacement as registered with the U.S. Coast Guard and
247 licensed by the State of Alabama Department of Conservation
248 and Natural Resources, purchased at retail on or after October
249 1, 1965, for storage, use, or other consumption in this state
250 at the rate of four percent of the sales price of the property
251 or the amount of tax collected by the seller, whichever is
252 greater; ~~provided, however, when~~ When the seller follows the



253 Department of Revenue's suggested use tax brackets and his or
254 her records prove that his or her following the brackets
255 resulted in a net undercollection of tax for the month, he or
256 she may report the tax due or tax collected, whichever is
257 less, except as provided in subsections (b) or, (c), ~~and (d)~~.

258 (b) An excise tax is hereby imposed on the storage,
259 use, or other consumption in this state of any machines used
260 in mining, quarrying, compounding, processing, and
261 manufacturing of tangible personal property, purchased at
262 retail on or after October 1, 1965, at the rate of one and
263 one-half percent of the sales price of any such machine or the
264 amount of tax collected by the seller, whichever is greater~~or~~
265 ~~provided, however, when.~~ When the seller follows the
266 Department of Revenue's suggested use tax brackets and his or
267 her records prove that his or her following the brackets
268 resulted in a net undercollection of tax for the month, he or
269 she may report the tax due or tax collected, whichever is
270 less. The term "machine," as used in this subsection, shall
271 include machinery that is used for mining, quarrying,
272 compounding, processing, or manufacturing tangible personal
273 property, and the parts of such machines, attachments, and
274 replacements therefor, which are made or manufactured for use
275 on or in the operation of such machines and which are
276 necessary to the operation of such machines, and are
277 customarily so used.

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



281 mobile home set-up materials and supplies, including, but not
282 limited to, steps, blocks, anchoring, cable pipes, and any
283 other materials pertaining thereto, purchased at retail on or
284 after October 1, 1965, for storage, use, or other consumption
285 in this state at the rate of two percent of the sales price of
286 such automotive vehicle, truck trailer, semitrailer, or house
287 trailer, and mobile home set-up materials and supplies as
288 specified above, or the amount of tax collected by the seller,
289 whichever is greater; ~~provided, however, when.~~ When the seller
290 follows the Department of Revenue's suggested use tax brackets
291 and his or her records prove that his or her following the
292 brackets resulted in a net undercollection of tax for the
293 month, he or she may report the tax due or tax collected,
294 whichever is less. Where any used automotive vehicle or truck
295 trailer, semitrailer, or house trailer is taken in trade, or
296 in a series of trades, as a credit or part payment on the sale
297 of a new or used vehicle, the tax levied herein shall be paid
298 on the net difference, that is, the price of the new or used
299 vehicle sold less the credit for the used vehicle taken in
300 trade.

301 (2) Of the total two cent ~~(\$.02)~~ (\$0.02) tax on each
302 dollar of sale provided in this subsection, 58 percent of the
303 total tax generated by this subsection shall be deposited to
304 the credit of the Education Trust Fund and 42 percent of the
305 total tax generated by this subsection shall be deposited to
306 the credit of the State General Fund.

307 ~~(d) An excise tax is hereby imposed on the storage,~~
308 ~~use, or other consumption in this state of food as defined in~~



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

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

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

336 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.