

SB134 ENGROSSED



1 SB134
2 PS448ER-2
3 By Senator Beasley
4 RFD: County and Municipal Government
5 First Read: 13-Jan-26



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A BILL
TO BE ENTITLED
AN ACT

Relating to interstate warehouser tobacco tax; to amend Sections 40-25-1, 40-25-4.1, 40-25-8, as last amended by Act 2025-448, 2025 Regular Session, 40-25-8.1, as last amended by Act 2025-448, 2025 Regular Session, 40-25-16.1, 40-25-18, as last amended by Act 2025-448, 2025 Regular Session, and 40-25-25, as last amended by Act 2025-448, 2025 Regular Session, Code of Alabama 1975; to define an interstate warehouser, to require an interstate warehouser permit issued by the Department of Revenue; to add Section 40-25-15.1 to the Code of Alabama 1975; to provide application and enforcement provisions; to provide for penalties for noncompliance; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-25-1, 40-25-4.1, 40-25-8, as last amended by Act 2025-448, 2025 Regular Session, 40-25-8.1, as last amended by Act 2025-448, 2025 Regular Session, 40-25-16.1, 40-25-18, as last amended by Act 2025-448, 2025 Regular Session, and 40-25-25, as last amended by Act 2025-448, 2025 Regular Session, Code of Alabama 1975, are



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amended to read as follows:

"§40-25-1

For the purposes of this article, the following terms shall have the ~~respective~~ following meanings ~~ascribed by this section:~~

~~(1)~~ (10) WHOLESALE DEALER AND JOBBER. Persons, ~~firms, or corporations who~~ that buy tobacco products direct from the manufacturer or an affiliate of the manufacturer and sell at wholesale only, any one or more of the articles taxed ~~herein~~ under this article to licensed wholesale dealers, jobbers, semijobbers, and retail dealers for the purpose of resale only.

~~(2)~~ (7) RETAIL DEALER. Every person, ~~firm, or corporation,~~ other than a wholesale dealer or jobber, ~~who~~ that sells or offers for sale any one or more of the articles taxed ~~herein~~ under this article, ~~irrespective~~ regardless of quantity or amount, or the number of sales; and all persons operating under a retail dealer's license.

~~(3)~~ (8) SEMIJOBBER. ~~Persons, firms, or corporations~~ A person who ~~buy~~ buys tobacco products from permitted wholesalers or ~~obtain~~ obtains tobacco from any other source and ~~sell~~ sells at wholesale any one or more of the articles taxed ~~herein~~ under this article to licensed retail dealers for ~~the purpose of~~ resale only.

~~(4)~~ (9) STAMPS. The ~~stamp or stamps by the use of~~ through which the tax levied under this article ~~is~~ are paid and shall be designated Alabama Revenue Stamps.

~~(5)~~ (3) CIGARS, CHERROOTS, or ~~STOGIES, ETC.~~ A roll for



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57 smoking that is of any size or shape, ~~and~~ that is made wholly
58 or in part of tobacco or any tobacco substitute ~~therefor~~,
59 ~~irrespective~~ regardless of whether the tobacco is pure, ~~or~~
60 flavored, adulterated, or mixed with any other ingredient, ~~if~~
61 ~~the roll has~~ with a wrapper made wholly or in part of
62 tobacco.

63 ~~(6)~~ (5) HEATED TOBACCO PRODUCT. A product other than a
64 cigarette intended to be heated, containing tobacco that
65 produces an inhalable aerosol by heating the tobacco by means
66 of a device without combustion of the tobacco or by heat
67 generated from a combustion source that only or primarily
68 heats rather than burns the tobacco.

69 ~~(7)~~ (1) CIGARETTE ~~or CIGARETTES~~. The same meaning as
70 defined in Section 6-12-2 ~~and includes~~ including a cigarette
71 ~~or cigarettes~~ intended to be heated.

72 ~~(8)~~ (2) CIGARETTE ~~OR CIGARETTES~~ INTENDED TO BE HEATED. A
73 cigarette containing tobacco that produces an inhalable
74 aerosol: (i) by heating the tobacco by means of an electronic
75 device without combustion of the tobacco; or (ii) by heat
76 generated from a combustion source that only or primarily
77 heats rather than burns the tobacco.

78 (4) DEPARTMENT. The Alabama Department of Revenue.

79 (6) INTERSTATE WAREHOUSER. A person who purchases
80 tobacco products directly from the manufacturer or an
81 affiliate of the manufacturer and, solely for resale, sells
82 any one or more of the articles taxed under this article to a
83 permitted wholesale dealer who is qualified under Section
84 40-25-16."



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"§40-25-4.1

(a) Notwithstanding any other laws, the only persons or businesses who may be licensed to buy and affix ~~the~~ tax stamps of the Alabama Department of Revenue required by law to packages of tobacco products are: (i) wholesalers and distributors who buy the tobacco products direct from the manufacturer, or an affiliate of the manufacturer; or (ii) wholesalers who purchase tobacco products directly from an interstate warehouse permitted by the State of Alabama. ~~except that the~~ The manufacturer of the product may be allowed to affix the stamps to a tobacco product for the following purposes:

- (1) Trademark registration.
- (2) Promotions of the product.
- (3) Test-marketing the product.

(b) ~~In order for~~ For a manufacturer to affix tax stamps to a tobacco product for a purpose described in subsection (a), the manufacturer shall give at least four weeks' prior written notice to the Commissioner of the ~~Department of Revenue~~ department of ~~such~~ the manufacturer's intention, along with full details of the ~~exceptional event~~ purpose, including, but not limited to:

- (1) The nature of the promotion.
- (2) The location and length of the promotion.
- (3) The estimated number of tobacco products to be offered for sale during the promotion.

(c) The ~~Department of Revenue~~ department shall notify all self-administered counties and municipalities of the



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manufacturer's request within seven days of receiving notice from the manufacturer by forwarding to each self-administered county and municipality a copy of the written notice, including the full details of the ~~exceptional event~~ purpose as set out above.

(d) Any person who violates this section shall be guilty of a Class A misdemeanor ~~and, upon conviction thereof, shall be punished as prescribed by law."~~

"§40-25-8

(a) Any cigarettes, smoking tobacco, heated tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article found at any point within the State of Alabama, which ~~the cigarettes, smoking tobacco, heated tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article~~ shall have been within the State of Alabama for a period of two hours, or longer, in possession of any retailer or semijobber ~~not having~~ without the stamps required by this article affixed to the package ~~the stamps as provided in this article, or,~~ in the case of products not requiring a stamp to be affixed, where purchase invoices do not itemize the applicable tobacco taxes, are declared to be contraband goods and may be seized by the ~~Department of Revenue department, its agents~~ of the department, or by any peace officer of the State of Alabama, ~~without a warrant, and the goods~~ Goods confiscated pursuant to this subsection shall be delivered to the ~~Department of Revenue~~ department for destruction.



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141 **(b)** ~~Any of the goods, wares, or merchandise when~~
142 offered for sale, either at wholesale or retail without the
143 stamps having been first affixed, or, in the case of products
144 not requiring a stamp to be affixed, where purchase invoices
145 do not itemize the applicable tobacco taxes, shall be subject

146 to confiscation as hereinabove provided.

147 **(c)** Any untaxed cigarettes, smoking tobacco, heated
148 tobacco products, cigars, stogies, cheroots, chewing tobacco,
149 snuff, or other products taxable under this article found at
150 any location within the State of Alabama, ~~other than the~~
151 primary location of the permitted wholesaler or jobber,
152 registered semijobber, registered retailer, or tobacco
153 products manufacturer who stores tobacco products at a bonded
154 warehouse in this state for resale, ~~are declared to be~~
155 contraband goods, and those goods may be seized by the
156 ~~Department of Revenue department, or its agents of the~~
157 department, or by any peace officer of the State of Alabama, ~~or~~
158 without a warrant. ~~and the goods~~ Goods confiscated pursuant to
159 this subsection shall be delivered to the ~~Department of~~
160 Revenue department for destruction.

161 **(d)** Any vehicle, ~~that is~~ not a common carrier, or owned
162 by an interstate warehouser permittee and that is used for the
163 transportation for the purpose of ~~sale of~~ selling unstamped
164 tobacco articles as hereinabove enumerated described in this
165 section shall ~~likewise~~ be subject to confiscation and sale at
166 public auction to the highest bidder after ~~due~~ advertisement
167 and notice to the title owner of the vehicle. The proceeds of
168 sale for any vehicle sold ~~hereunder~~ pursuant to this



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subsection shall be deposited into the State Treasury by the ~~Department of Revenue~~ department to be credited in the same manner as the tax otherwise due on the tobacco products being transported. The cost of confiscation and sale shall be paid out of the sales proceeds ~~derived from the sale~~ before making remittance to the State Treasurer. Should any unstamped ~~tobacco~~ tobacco products be found in any vehicle that is engaged in the sale, distribution, or delivery of taxable ~~tobacco~~ tobacco products, the same shall be prima facie evidence that ~~it was there~~ the tobacco products were for sale."

"§40-25-8.1

(a) Each person, firm, corporation, club, or association that transports products upon the public highways, roads, or streets of this state which are required to be stamped as provided in Section 40-25-8~~7~~, and which are not stamped, or on which the tax has not been paid in accordance with this chapter and Chapter 25A, ~~upon the public highways, roads, or streets of this state~~ is required to have an active interstate warehouser permit, tobacco permit, or transporters permit under this chapter. Failure to obtain a permit ~~prior to~~ before transporting the products is a violation of this section. A violation of this section may result in the products being declared contraband goods that may be seized without warrant by any law enforcement officer in this state. The contraband goods may be disposed of or destroyed by the law enforcement officer in accordance with this chapter. In addition, a vehicle used in the transportation of confiscated



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products may be subject to confiscation by the law enforcement officer and sold at public auction to the highest bidder after ~~due~~ advertisement pursuant to Chapter 13 of Title 32.

(b) The owner~~or~~, driver, or both~~r~~ of a vehicle used in a violation of this section is guilty of a Class A misdemeanor unless the tobacco products being transported~~exceeds~~ exceed any of the following quantities: (i) 25,000 cigars; (ii) 50,000 filtered cigars; (iii) 50,000 little cigars; (iv) 50,000 cigarettes; (v) 50,000 heated tobacco products; (vi) 25,000 cigar wraps; or (vii) 2,500 individual containers of loose or smokeless tobacco, in which case the owner or driver is guilty of a Class C felony. Any person convicted of a second or subsequent offense for a violation of this section is guilty of a Class C felony, regardless of the amount of tobacco products involved in the violation.

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

"§40-25-11

All interstate warehouses, common carriers, contract carriers, buses, and trucks transporting tobacco products may be required, ~~under regulations to be prescribed~~ rules adopted by the ~~Department of Revenue~~ department, to transmit to the Department of Revenue a periodic statement of ~~such~~ consignments or deliveries of tobacco products showing date, point of origin, point of delivery ~~and to whom delivered~~, recipient, and time of delivery. ~~and all~~ All interstate warehouses, common carriers, buses, ~~or~~ and trucks shall



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225 permit examination by the ~~Department of Revenue~~ department or
226 ~~its~~ the department's agents of their records relating to
227 shipment or receipt of tobacco products. The interstate
228 warehouser, common carriers, buses, and trucks shall permit
229 the examination and investigation of their records of shipment
230 or receipts relating to tobacco products, when and ~~wherever~~
231 where it is deemed advisable and necessary by the ~~Department~~
232 ~~of Revenue~~ department or ~~its~~ the department's agents in the
233 enforcement of this article. Inspectors, stamp deputies, and
234 other ~~duly authorized~~ agents of the ~~Department of Revenue,~~
235 department shall conduct these examinations on upon proper
236 identification from and authorization by from the Department
237 ~~of Revenue, shall make such examination~~ department. Any
238 person, firm, corporation, partnership, or association of
239 persons who refuses to ~~transmit to the Department of Revenue~~
240 ~~the statements hereinabove provided for, or who refuses to~~
241 ~~permit the examination of his records by~~ submit the statements
242 required by this section to the department, or who refuses to
243 permit the Department of Revenue department or its duly an
244 authorized agent of the department to examine its records,
245 shall be guilty of a misdemeanor and upon conviction shall be
246 punished by a fine of not less than one hundred dollars (\$100)
247 nor more than five hundred dollars (\$500) for each ~~such~~
248 offense."

249 "§40-25-16.1

250 (a) (1) Each interstate warehouser, wholesaler, jobber,
251 semijobber, registered retailer, importer, or any other person
252 selling, receiving, or distributing tobacco products in this



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state for resale shall file a report of its activity with the ~~Department of Revenue~~ department between the first and the twentieth of each month. The ~~information~~ report shall include, but not be limited to, the customer's name, address, invoice number, invoice date, ~~a~~ description of the tobacco products, the itemized tax, and any other information required by the department.

~~(1)~~ (2) This subsection is enacted to aid the ~~Department of Revenue~~ department in the enforcement of Section 40-23-260, which requires a seller of tobacco products selling or distributing to retailers in this state to report the sale of tobacco products if an exemption from the sales or use tax is claimed at the time of sale.

~~(2)~~ (3) Any sale of tobacco products to a purchaser using a sales tax number to purchase the products is declared to be a purchase for resale, and the seller is required to obtain a tobacco account and report the sale on the monthly tobacco sales for resale report.

~~(3)~~ (4) If a non-registered seller or a non-permitted interstate warehouser fails to obtain a tobacco account as required, the department may assess the following penalties:

a. On the first violation, ~~the non-registered seller shall be issued~~ a written warning notice from the department. The notice shall ~~advise the non-registered seller of~~ state the penalty due ~~if the seller continues to fail to comply for~~ continued noncompliance with this section.

b. On a second violation of this section, ~~the non-registered seller shall be assessed~~ a civil penalty of one



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hundred dollars (\$100).

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

(b) The commissioner of the department shall establish ~~a web site~~ website for listing each interstate warehouser, wholesaler, jobber, semijobber, retailer, importer, or distributor of tobacco products ~~that has~~ qualified or registered with the ~~Department of Revenue~~ department. Purchases of tobacco products made from ~~an entity~~ entities other than ~~the above~~ those listed as permitted or registered entities appearing on the department's website listing shall be subject to confiscation, ~~as provided for~~ specified in this chapter."

"§40-25-18

(a) Persons failing to properly affix the required stamps to any cigars, cheroots, stogies, cigarettes, smoking tobacco, heated tobacco products, chewing tobacco, and snuff shall be required to pay, as part of the tax imposed ~~hereunder~~ under this article, a penalty of not less than twenty-five dollars (\$25) ~~nor more than~~ per article on the first violation, two hundred fifty dollars (\$250) per article on the second violation, and five hundred dollars (\$500) per article on the third and subsequent violations. Each article or commodity ~~not having~~ without the proper stamps affixed thereto ~~as herein~~ as required shall be ~~deemed~~ considered a separate offense. Any cigars, cheroots, stogies, cigarettes, smoking



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tobacco, heated tobacco products, chewing tobacco, and snuff
~~in the~~ at a place of business of any person required by this
article to stamp ~~the same~~ the products shall be prima facie
evidence that they are intended for sale. The Department of
Revenue, upon good cause shown, may waive or ~~remit~~ reduce any
penalty or any part ~~thereof~~ of a penalty provided for in this
section. Any person, ~~firm, corporation, club, or association~~
~~of persons~~ who has been found guilty of violating this article
and who, after being punished by fine, penalty, assessment, or
imprisonment, is found guilty of a second or subsequent
violation of this article shall have his or her license, as
provided in Sections 40-12-72 and 40-12-73, revoked by the
department, and no further license or permit shall be issued
or granted to that person, ~~firm, corporation, club, or~~
~~association of persons~~ for a period of one year from the date
~~their~~ the license or permit has been revoked. Notice of the
revocation shall be mailed to the ~~probate~~ judge of probate and
license inspector of the county in which the revocation was
made.

(b) In addition to the penalty levied by the department
pursuant to subsection (a), the county license inspector,
license commissioner, revenue commissioner, tax assessor, or
tax collector of the county in which the untaxed tobacco
product is located may assess a penalty against any person
failing to affix the required stamps to any cigars, cheroots,
stogies, cigarettes, smoking tobacco, heated tobacco products,
and or snuff. The ~~amount of the~~ additional penalty shall ~~be~~
not be less than one hundred dollars (\$100) nor more than five



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hundred dollars (\$500).

(c) The department and the local taxing official may assess the tax levied by this chapter pursuant to the assessment procedures set out in Chapter 2A of this title."

"§40-25-25

If any person, ~~firm, or corporation~~ who is not a regularly licensed dealer in tobacco products ~~shall have~~ or a permitted interstate warehouser has in his or her possession ~~within the state~~ more than 30 packages of unstamped cigarettes or heated tobacco products or more than one box of ~~unstamped~~ untaxed cigars within the state, ~~such possession it~~ shall be presumed that the possession is to be for the purpose of evading the payment of the taxes due ~~thereon~~."

Section 2. Section 40-25-15.1, is added to the Code of Alabama 1975, to read as follows:

§40-25-15.1

(a) Before an interstate warehouser may ship tobacco products into this state, the interstate warehouser must possess a current interstate warehouser permit.

(b) (1) The annual application for an interstate warehouser permit must include the following items and any other information required by the department:

a. A copy of the current wholesale license or permit, or its equivalent, issued by at least four states other than Alabama.

b. A current Certificate of Authority issued by the Alabama Secretary of State if the applicant is not registered in Alabama as a domestic entity.



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c. The name and address of each permitted wholesaler within this state to whom the applicant will be delivering tobacco products.

d. A copy of any contracts between the applicant and the permitted wholesalers in Alabama regarding the potential sale of tobacco products within this state.

e. A copy of the most recent audited financial statements from a certified public accountant or a firm regularly engaged in the auditing of financial records.

f. A permit fee of two thousand dollars (\$2,000) for the initial application.

(2) An annual permit renewal fee of five hundred dollars (\$500) shall be due on October 1 of each following year with the annual renewal application. Failure to submit the required renewal application and fee by October 1 shall constitute a voluntary dismissal of the interstate warehouser permit.

(3) Permit fees may be retained and used by the Department of Revenue for the enforcement of this chapter.

(c) An interstate warehouser permit is non-transferable, and the annual fees paid are non-refundable.

(d) The department may refuse to issue a permit to an applicant under this section if any of the following conditions exist:

(1) The application is incomplete or contains inaccurate information.

(2) The applicant has been convicted of any criminal offense involving fraud or misrepresentation.



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393 (3) The applicant's wholesale license, permit, or
394 equivalent, has been revoked by any other state.

395 (4) The applicant or its predecessor in business
396 previously held an interstate warehouser permit that was
397 revoked by Alabama and was not pending reinstatement by the
398 Alabama Tax Tribunal within the past 12 months.

399 (5) The applicant has failed to file or pay any tax
400 administered by the department.

401 (6) The application is denied for other good cause
402 which shall be detailed in a written response to the applicant
403 by the Department of Revenue.

404 (e) The department may revoke the permit if the
405 interstate warehouser has violated any provisions of this
406 chapter or any rules of the department adopted under authority
407 of this article.

408 (f) An interstate warehouser with the required permit
409 may sell cigarettes and tobacco products without applying the
410 taxes imposed by this article or attaching the state or county
411 revenue stamps, provided that the products are sold to a
412 wholesale dealer who is licensed by the State of Alabama.
413 Additionally, the interstate warehouser must keep in its
414 possession a record of the sale, the original purchase order,
415 a copy of the invoice, a receipt from a common carrier or
416 contract carrier showing shipment for delivery, or, if the
417 interstate warehouser delivers directly to the qualified
418 wholesale dealer, a receipt showing delivery along with the
419 record, original purchase order, and invoice copy related to
420 the sale.



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421 (g) Any person who violates this section shall be
422 subject to a penalty of one thousand dollars (\$1,000)
423 multiplied by the total number of violations. This penalty is
424 in addition to any other penalties that may be imposed under
425 this chapter.

426 (h) Any unstamped tobacco product brought into the
427 state other than by an interstate warehouser, a manufacturer,
428 or an affiliate of a manufacturer for wholesale or retail sale
429 shall be deemed contraband and subject to confiscation and
430 applicable penalties.

431 (h) The department may adopt rules to implement and
432 administer this section.

433 Section 3. This act shall become effective on October
434 1, 2026.



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435
436
437 Senate

438 Read for the first time and referred13-Jan-26
439 to the Senate committee on County
440 and Municipal Government

441
442 Read for the second time and placed14-Jan-26
443 on the calendar:
444 1 amendment

445
446 Read for the third time and passed15-Jan-26
447 as amended
448 Yeas 35
449 Nays 0
450 Abstains 0

451
452
453 Patrick Harris,
454 Secretary.
455