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3 SENATE FR&ED COMMITTEE SUBSTITUTE FOR SB104
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8 SYNOPSIS: This bill establishes the Wholesale to
9 Retail Accountability Program or "WRAP". This bill
10 would standardize the informational reporting of
11 licensed beer and wine distributors and sellers of
12 tobacco products making sales within this state for
13 resale purposes, on which sales or use tax was not
14 collected at the time of the sale, to the
15 Department of Revenue regarding those transactions.
16 This bill establishes an industry advisory group.
17 The bill would also provide for information on
18 municipal business privilege licenses to be
19 submitted to the department.
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21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To establish the Wholesale to Retail Accountability
26 Program or "WRAP". To standardize the reporting of sellers of

1 tobacco products and distributors of beer and wine to file
2 informational reports on sales for resale purposes made within
3 this state on which sales or use tax was not collected; to
4 provide electronic filing of required informational reports;
5 to establish an industry advisory group; to provide penalties
6 for noncompliance; to authorize the Department of Revenue to
7 adopt rules; to provide for duplicate information reporting
8 from reporting entities as defined in Section 6050W of the
9 Internal Revenue Code; to provide for information on municipal
10 business privilege license applications to be submitted to the
11 department.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. (a) This act shall establish the
14 Wholesale to Retail Accountability Program or "WRAP".

15 (b) For the purpose of this act, the following words
16 shall have the following meanings:

17 (1) DEPARTMENT. The State Department of Revenue.

18 (2) LICENSED BEER OR WINE DISTRIBUTOR. A
19 distributor, as licensed by the Alabama Alcoholic Beverage
20 Control Board, selling or distributing beer or wine in this
21 state.

22 (3) PERSON. Any individual, firm, partnership,
23 association, corporation, limited liability company, receiver,
24 trustee, or any other entity.

25 (4) RETAILER. A person or group of persons that have
26 a relationship with each other as defined in Section 267(b) of

1 the federal Internal Revenue Code whose primary business is
2 the sale of tangible personal property at retail, including
3 supporting operations such as warehousing, shipping, and
4 storage of product, and who holds a license pursuant to
5 Section 40-23-6 or 40-23-66, Code of Alabama 1975.

6 (5) SELLER. A manufacturer, wholesaler, or
7 distributor of beer, wine, or tobacco products who sells to a
8 retailer in this state. The term also includes a wholesale
9 club or warehouse club that sells tobacco under a membership.

10 (c) For the purpose of enforcing the collection of
11 taxes levied by Chapter 23 of Title 40, Code of Alabama 1975,
12 on the sale of tangible personal property, every seller of
13 tobacco products making sales within this state on which sales
14 or use tax was not collected at the time of the sale and every
15 beer or wine distributor, shall file informational reports
16 with the department pursuant to subsection (d) as follows:

17 (1) Each licensed beer or wine distributor shall
18 report sales of any beer or wine made to licensees for which
19 an exemption from sales or use tax collection was claimed at
20 the time of the sale. A licensed beer or wine distributor who
21 donates beer or wine in the same manner as a retailer making a
22 gift pursuant to Section 40-23-1(f) shall not be required to
23 report such transaction under this act and is subject to the
24 same exemption as a retailer making a gift pursuant to Section
25 40-23-1(f).

1 (2) Each seller of tobacco products, selling or
2 distributing to retailers in this state, shall report sales of
3 tobacco products for which exemptions from sales or use tax
4 were claimed at the time of the sale.

5 (d) The informational report shall be filed in the
6 following manner as provided by the department:

7 (1) The information provided in the report from each
8 seller or distributor required in subdivision (1) of
9 subsection (c) shall include seller's legal name, seller's
10 address, seller's beverage license number, if applicable,
11 retailer's name, retailer's address, total dollar amount sold
12 for the reporting period, invoice period, invoice date and
13 applicable Alabama Alcoholic Beverage Control Board license
14 number provided by the retailer.

15 (2) The information provided in the report from each
16 seller or distributor required in subdivision (2) of
17 subsection (c) shall include the seller's legal name, seller's
18 address, retailer's name, retailer's address, total dollar
19 amount sold for the reporting period, and applicable sales tax
20 number provided by the retailer. The department shall allow
21 the seller to file a consolidated report to meet the
22 requirements of Section 40-25-16.1, Code of Alabama 1975, and
23 this act.

24 (3) The department shall provide an electronic
25 filing mechanism for submission of the informational report to
26 the department.

1 (4) The informational report shall be due on or
2 before the 20th day of the month next succeeding the month in
3 which a sale occurs. The first informational report due shall
4 be for sales occurring on or after July 1, 2018.

5 (e) If a seller fails to properly file the required
6 informational report in good faith with the department on or
7 before the prescribed date, the following penalties shall
8 apply on or after January 1, 2019 and each reporting period
9 thereafter:

10 (1) The first violation of this section shall result
11 in a written notice from the department. The notice shall
12 advise the seller of the non-compliance and the penalty for
13 future non-compliance if the required informational reports is
14 not filed within 30 days from the written notice as provided
15 herein.

16 (2) The second violation of this section shall
17 result in a penalty not to exceed five hundred dollars (\$500).

18 (3) The third and each subsequent violation of this
19 section shall result in a penalty not to exceed one thousand
20 dollars (\$1,000).

21 (f) The department shall not initiate an automated
22 assessment or automated audit based solely on data provided to
23 the department in the informational reports.

24 (g) The informational report filed with the
25 department shall be subject to the exchange of information
26 provisions set forth in Title 40, Chapter 2A, Section 10, Code

1 of Alabama 1975 for municipal and county government agencies
2 in this state. Effective January 1, 2022, the department shall
3 be the sole source for municipal and county government
4 agencies to obtain sales information that is required to be
5 provided under this act to the department.

6 (h) (1) To ensure that taxpayers and industry have
7 meaningful input into the informational reports, a Wholesale
8 and Distributor Reporting Advisory Group is hereby established
9 to make recommendations regarding the reporting of the
10 informational reports required herein.

11 (2) The advisory group shall consist of the
12 following individuals:

13 a. One representative from the Alabama Department of
14 Revenue as designated by the Commissioner who shall serve as
15 chair of the group.

16 b. One representative of county government,
17 appointed by the Association of County Commissions of Alabama.

18 c. One representative of municipal government,
19 appointed by the Alabama League of Municipalities.

20 d. One representative of the industry community,
21 appointed by the Alabama Wholesale Beer Association.

22 e. One representative of the tobacco industry
23 community, appointed by the Alabama Wholesale Distributors
24 Association.

25 f. One representative of the retail community,
26 appointed by the Alabama Retail Association.

1 g. One representative from the Alabama Alcoholic
2 Beverage Control Board as designated by the Administrator.

3 h. One representative of the industry community,
4 appointed by the Alabama Beer Association.

5 i. One representative of the industry community,
6 appointed by the Alabama Grocers Association.

7 j. One representative of the industry community,
8 appointed by the Petroleum and Convenience Marketers of
9 Alabama.

10 k. One representative of the industry community,
11 appointed by the Cigar Association of America, Inc.

12 l. Three additional industry representatives as
13 designated by the Commissioner of Revenue.

14 (3) The designating and appointing authorities shall
15 coordinate their designations and appointments to assure the
16 advisory group is inclusive and reflects the racial, gender,
17 geographic, urban, rural, and economic diversity of the state.

18 (4) a. The advisory group shall receive no
19 compensation or reimbursement of expense from the state for
20 serving on the committee.

21 b. The advisory group shall meet with the Designee
22 of the Commissioner of Revenue and with other employees of the
23 department as the commissioner deems appropriate. The meeting
24 times and place will be determined by the designee of the
25 commissioner.

1 c. The role of the advisory group shall be limited
2 to providing industry input and recommendations towards the
3 filing of required informational reports. The group shall make
4 no review of any other department matter beyond the
5 recommendation of required reporting by this act.

6 (i) By no later than January 15, 2020, the
7 department shall submit a report regarding the implementation,
8 administration, achievements, and suggested improvements
9 related to the WRAP Program to the Chairs of the House Ways
10 and Means General Fund and Education Trust Fund Committees and
11 the Senate Finance and Taxation General Fund and Education
12 Trust Fund Committees and the Legislative Fiscal Office.

13 Section 2. (a) The Department is authorized to
14 require that every payment settlement entity, third party
15 settlement organization, electronic payment facilitator, or
16 other third party acting on behalf of a payment settlement
17 entity, all as defined in Section 6050W of the Internal
18 Revenue Code and referred to herein as a reporting entity,
19 required to file information reports pursuant to that section
20 shall, within thirty (30) days of the filing due date, file
21 with the department in such form and manner as prescribed by
22 the department either a duplicate of all such information
23 returns or a duplicate of such information returns related to
24 taxpayers or participating payees, as defined in Section 6050W
25 of the Internal Revenue Code, with an Alabama address. The

1 department may require that such duplicate information returns
2 be filed electronically.

3 (b) The information received by the department on a
4 duplicate information return filed pursuant to this section
5 shall be used only for taxes administered by the department.

6 (c) Any reporting entity failing to file a duplicate
7 information return with the department on or before the
8 prescribed date shall be subject to the following penalties:

9 (1) The first violation shall result in a written
10 notice from the department. The notice shall advise the
11 reporting entity of the non-compliance and the penalty for
12 future non-compliance if the required duplicate information
13 return is not filed within 30 days from the written notice as
14 provided herein.

15 (2) The subsequent violation(s) shall result in a
16 penalty not to exceed one-thousand dollars (\$1,000) for each
17 month or fraction of a month during which each failure
18 continues.

19 Section 3. (a) Information on all municipal business
20 privilege license applications for new licenses and renewals
21 issued on or after October 1, 2019, shall be electronically
22 transmitted to the department by the licensing official or
23 agent in the same manner as privilege licenses issued pursuant
24 to Chapter 12 of Title 40, Code of Alabama 1975.

25 (b) The department may adopt rules to administer and
26 implement this section.

1 Section 4. Section 1 of this act is limited to the
2 reporting of certain information to the Department of Revenue
3 and shall not be construed as limiting or changing the
4 existing record keeping requirements as provided in Section
5 40-23-9.

6 Section 5. All laws or parts of laws which conflict
7 with this act are repealed.

8 Section 6. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.