

1 SB501
2 169892-2
3 By Senators Chambliss and Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 21-MAY-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 40-23-2 of the Code of Alabama
12 1975, relating to the taxation of sales of automobiles,
13 motorcycles, trucks, truck trailers, or semi-trailers that
14 will be registered or titled outside of Alabama or are
15 exported or removed from Alabama within 72 hours by the
16 purchaser, or his or her agent, for first time use outside
17 Alabama.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 40-23-2 Code of Alabama 1975, is
20 amended to read as follows:

21 "§40-23-2.

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

1 "(1) Upon every person, firm, or corporation,
2 (including the State of Alabama and its Alcoholic Beverage
3 Control Board in the sale of alcoholic beverages of all kinds,
4 the University of Alabama, Auburn University, and all other
5 institutions of higher learning in the state, whether the
6 institutions be denominational, state, county, or municipal
7 institutions, any association or other agency or
8 instrumentality of the institutions) engaged or continuing
9 within this state, in the business of selling at retail any
10 tangible personal property whatsoever, including merchandise
11 and commodities of every kind and character, (not including,
12 however, bonds or other evidences of debts or stocks, nor
13 sales of material and supplies to any person for use in
14 fulfilling a contract for the painting, repair, or
15 reconditioning of vessels, barges, ships, other watercraft,
16 and commercial fishing vessels of over five tons load
17 displacement as registered with the U.S. Coast Guard and
18 licensed by the State of Alabama Department of Conservation
19 and Natural Resources), an amount equal to four percent of the
20 gross proceeds of sales of the business except where a
21 different amount is expressly provided herein. Provided,
22 however, that any person engaging or continuing in business as
23 a retailer and wholesaler or jobber shall pay the tax required
24 on the gross proceeds of retail sales of the business at the
25 rates specified, when his or her books are kept so as to show
26 separately the gross proceeds of sales of each business, and

1 when his or her books are not kept he or she shall pay the tax
2 as a retailer, on the gross sales of the business.

3 "Where any used part including tires of an
4 automotive vehicle or a truck trailer, semitrailer, or house
5 trailer is taken in trade, or in a series of trades, as a
6 credit or part payment on the sale of a new or rebuilt part or
7 tire, the tax levied herein shall be paid on the net
8 difference, that is, the price of the new or used part or tire
9 sold less the credit for the used part or tire taken in trade,
10 provided, however, this provision shall not be construed to
11 include batteries.

12 "(2) Upon every person, firm, or corporation engaged
13 or continuing within this state in the business of conducting
14 or operating places of amusement or entertainment, billiard
15 and pool rooms, bowling alleys, amusement devices, musical
16 devices, theaters, opera houses, moving picture shows,
17 vaudevilles, amusement parks, athletic contests, including
18 wrestling matches, prize fights, boxing and wrestling
19 exhibitions, football and baseball games, (including athletic
20 contests, conducted by or under the auspices of any
21 educational institution within this state, or any athletic
22 association thereof, or other association whether the
23 institution or association be a denominational, a state, or
24 county, or a municipal institution, or association or a state,
25 county, or city school, or other institution, association or
26 school), skating rinks, race tracks, golf courses, or any
27 other place at which any exhibition, display, amusement, or

1 entertainment is offered to the public or place or places
2 where an admission fee is charged, including public bathing
3 places, public dance halls of every kind and description
4 within the State of Alabama, an amount equal to four percent
5 of the gross receipts of any such business. Provided, however,
6 notwithstanding any language to the contrary in the prior
7 portion of this subdivision, the tax provisions so specified
8 shall not apply to any athletic event conducted by a public or
9 nonpublic primary or secondary school or any athletic event
10 conducted by or under the auspices of the Alabama High School
11 Athletic Association. The tax amount which would have been
12 collected pursuant to this subdivision shall continue to be
13 collected by the public or nonpublic primary or secondary
14 school, but shall be retained by the school which collected it
15 and shall be used by the school for school purposes.

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

1 necessary to the operation of the machines and are customarily
2 so used.

3 "(4) Upon every person, firm, or corporation engaged
4 or continuing within this state in the business of selling at
5 retail any automotive vehicle or truck trailer, semitrailer,
6 or house trailer, or mobile home set-up materials and supplies
7 including but not limited to steps, blocks, anchoring, cable
8 pipes, and any other materials pertaining thereto an amount
9 equal to two percent of the gross proceeds of sale of the
10 automotive vehicle or truck trailer, semitrailer, or house
11 trailer, or mobile home set-up materials and supplies
12 provided, however, where a person subject to the tax provided
13 for in this subdivision withdraws from his or her stock in
14 trade any automotive vehicle or truck trailer, semitrailer, or
15 house trailer for use by him or her or by his or her employee
16 or agent in the operation of the business, there shall be
17 paid, in lieu of the tax levied herein, a fee of five dollars
18 (\$5) per year or part thereof during which the automotive
19 vehicle, truck trailer, semitrailer, or house trailer shall
20 remain the property of the person. Each year or part thereof
21 shall begin with the day or anniversary date, as the case may
22 be, of such withdrawal and shall run for the 12 succeeding
23 months or part thereof during which the automotive vehicle,
24 truck trailer, semitrailer, or house trailer shall remain the
25 property of the person.

26 "Where any used automotive vehicle or truck trailer,
27 semitrailer, or house trailer is taken in trade or in a series

1 of trades, as a credit or part payment on the sale of a new or
2 used vehicle, the tax levied herein shall be paid on the net
3 difference, that is, the price of the new or used vehicle sold
4 less the credit for the used vehicle taken in trade.

5 "Sales of automobiles, motorcycles, trucks, truck
6 trailers, or semitrailers, excluding vehicle campers or
7 housecars as defined in Section 40-12-240, that will be
8 registered or titled outside Alabama, that are exported or
9 removed from Alabama within 72 hours by the purchaser or his
10 or her agent for first use outside Alabama are ~~not~~ subject to
11 ~~the~~ Alabama sales tax in an amount equal to only the state
12 automotive sales tax rate, unless the sales tax laws of the
13 state in which the purchaser will title or register the
14 vehicle, allows an Alabama resident to purchase a motor
15 vehicle for first titling and registering in Alabama without
16 the payment of tax to that state. The tax collected under this
17 export provision shall be Alabama sales tax and shall exclude
18 county and municipal sales tax. On October 1, 2015, and each
19 October 1 thereafter, the Alabama Department of Revenue shall
20 publish to the state's website a list of states that do not
21 allow drive out provisions to Alabama residents. Should the
22 list, required by this subsection and relied upon by the
23 taxpayer, be incorrect, the taxpayer shall be relieved from
24 the liability concerning the miscollection of the state
25 automotive sales tax. Sales of other vehicles such as mobile
26 homes, motor bikes, all terrain vehicles, and boats do not
27 qualify for the export exemption provision and are taxable

1 unless the dealer can provide factual evidence that the
2 vehicle was delivered outside of Alabama or to a common
3 carrier for transportation outside Alabama. In order for the
4 sale to be exempt from Alabama tax, the information relative
5 to the exempt sale shall be documented on forms approved by
6 the Revenue Department.

7 "Of the total \$.02 tax on each dollar of sale
8 provided hereunder, 58 percent of the total tax generated by
9 this subdivision (4) shall be deposited to the credit of the
10 Education Trust Fund; and 42 percent of the total tax
11 generated by this subdivision (4) shall be deposited to the
12 credit of the State General Fund.

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

22 Section 2. All laws or parts of laws which conflict
23 with this act are repealed.

24 Section 3. This act shall become effective on
25 October 1, 2015, following its passage and approval by the
26 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation General Fund ... 21-MAY-15

Read for the second time and placed on the calen-
dar 1 amendment..... 26-MAY-15

Read for the third time and passed as amended 28-MAY-15

Yeas 31
Nays 1

Patrick Harris
Secretary