

1 HB587
2 165181-1
3 By Representative Collins
4 RFD: Ways and Means Education
5 First Read: 30-APR-15

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8 SYNOPSIS: Existing law requires the state to apply an
9 excise tax on lubricating oil. This bill would
10 repeal and amend law to allow for sales to be
11 collected on lubricating oil products.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 To amend Sections 40-17-182, 40-23-4, and 40-23-62,
18 Code of Alabama 1975, relating to the excise tax applied to
19 lubricating oil products; and to repeal Sections 40-17-170,
20 40-17-171, 40-17-172, 40-17-173, 40-17-175, 40-17-176,
21 40-17-177, 40-17-178, 40-17-179, 40-17-180, 40-17-185,
22 40-17-186, 40-17-220, 40-17-221, 40-17-223, and 40-17-225,
23 Code of Alabama 1975, relating to the excise tax applied to
24 lubricating oil.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 40-17-182, 40-23-4, 40-23-62,
2 and 40-17-182, Code of Alabama 1975, are hereby amended to
3 read as follows:

4 "§40-17-182.

5 "The forms for all statements and reports required
6 by the provisions of this article shall be prescribed and
7 furnished by the Department of Revenue, ~~and the cost of the~~
8 ~~enforcement of this article shall be paid out of the funds~~
9 ~~derived from the excise tax herein prescribed upon a warrant~~
10 ~~of the Comptroller upon a voucher of the Chairman of the~~
11 ~~Department of Revenue and approved by the Governor.~~

12 "§40-23-4.

13 "(a) There are exempted from the provisions of this
14 division and from the computation of the amount of the tax
15 levied, assessed, or payable under this division the
16 following:

17 "(1) The gross proceeds of the sales of ~~lubricating~~
18 ~~oil and gasoline as defined in Sections 40-17-30~~ Section
19 40-17-322 ~~and 40-17-170 and the gross proceeds from those~~
20 ~~sales of lubricating oil destined for out-of-state use which~~
21 ~~are transacted in a manner whereby an out-of-state purchaser~~
22 ~~takes delivery of such oil at a distributor's plant within~~
23 ~~this state and transports it out-of-state, which are otherwise~~
24 ~~taxed.~~

25 "(2) The gross proceeds of the sale, or sales, of
26 fertilizer when used for agricultural purposes. The word

1 "fertilizer" shall not be construed to include cottonseed
2 meal, when not in combination with other materials.

3 "(3) The gross proceeds of the sale, or sales, of
4 seeds for planting purposes and baby chicks and poults.
5 Nothing herein shall be construed to exempt or exclude from
6 the computation of the tax levied, assessed, or payable, the
7 gross proceeds of the sale or sales of plants, seedlings,
8 nursery stock, or floral products.

9 "(4) The gross proceeds of sales of insecticides and
10 fungicides when used for agricultural purposes or when used by
11 persons properly permitted by the Department of Agriculture
12 and Industries or any applicable local or state governmental
13 authority for structural pest control work and feed for
14 livestock and poultry, but not including prepared food for
15 dogs and cats.

16 "(5) The gross proceeds of sales of all livestock by
17 whomsoever sold, and also the gross proceeds of poultry and
18 other products of the farm, dairy, grove, or garden, when in
19 the original state of production or condition of preparation
20 for sale, when such sale or sales are made by the producer or
21 members of his immediate family or for him by those employed
22 by him to assist in the production thereof. Nothing herein
23 shall be construed to exempt or exclude from the measure or
24 computation of the tax levied, assessed, or payable hereunder,
25 the gross proceeds of sales of poultry or poultry products
26 when not products of the farm.

1 "(6) Cottonseed meal exchanged for cottonseed at or
2 by cotton gins.

3 "(7) The gross receipts from the business on which,
4 or for engaging in which, a license or privilege tax is levied
5 by or under the provisions of Sections 40-21-50, 40-21-53, and
6 40-21-56 through 40-21-60; provided, that nothing contained in
7 this subdivision shall be construed to exempt or relieve the
8 person or persons operating the business enumerated in said
9 sections from the payments of the tax levied by this division
10 upon or measured by the gross proceeds of sales of any
11 tangible personal property, except gas and water, the gross
12 receipts from the sale of which are the measure of the tax
13 levied by said Section 40-21-50, merchandise or other tangible
14 commodities sold at retail by said persons, unless the gross
15 proceeds of sale thereof are otherwise specifically exempted
16 by the provisions of this division.

17 "(8) The gross proceeds of sales or gross receipts
18 of or by any person, firm, or corporation, from the sale of
19 transportation, gas, water, or electricity, of the kinds and
20 natures, the rates and charges for which, when sold by public
21 utilities, are customarily fixed and determined by the Public
22 Service Commission of Alabama or like regulatory bodies.

23 "(9) The gross proceeds of the sale, or sales of
24 wood residue, coal, or coke to manufacturers, electric power
25 companies, and transportation companies for use or consumption
26 in the production of by-products, or the generation of heat or
27 power used in manufacturing tangible personal property for

1 sale, for the generation of electric power or energy for use
2 in manufacturing tangible personal property for sale or for
3 resale, or for the generation of motive power for
4 transportation.

5 "(10) The gross proceeds from the sale or sales of
6 fuel and supplies for use or consumption aboard ships,
7 vessels, towing vessels, or barges, or drilling ships, rigs or
8 barges, or seismic or geophysical vessels, or other watercraft
9 (herein for purposes of this exemption being referred to as
10 "vessels") engaged in foreign or international commerce or in
11 interstate commerce; provided, that nothing in this division
12 shall be construed to exempt or exclude from the measure of
13 the tax herein levied the gross proceeds of sale or sales of
14 material and supplies to any person for use in fulfilling a
15 contract for the painting, repair, or reconditioning of
16 vessels, barges, ships, other watercraft, and commercial
17 fishing vessels of over five tons load displacement as
18 registered with the U.S. Coast Guard and licensed by the State
19 of Alabama Department of Conservation and Natural Resources.

20 "For purposes of this subdivision, it shall be
21 presumed that vessels engaged in the transportation of cargo
22 between ports in the State of Alabama and ports in foreign
23 countries or possessions or territories of the United States
24 or between ports in the State of Alabama and ports in other
25 states are engaged in foreign or international commerce or
26 interstate commerce, as the case may be. For the purposes of
27 this subdivision, the engaging in foreign or international

1 commerce or interstate commerce shall not require that the
2 vessel involved deliver cargo to or receive cargo from a port
3 in the State of Alabama. For purposes of this subdivision,
4 vessels carrying passengers for hire, and no cargo, between
5 ports in the State of Alabama and ports in foreign countries
6 or possessions or territories of the United States or between
7 ports in the State of Alabama and ports in other states shall
8 be engaged in foreign or international commerce or interstate
9 commerce, as the case may be, if, and only if, both of the
10 following conditions are met: (i) The vessel in question is a
11 vessel of at least 100 gross tons; and (ii) the vessel in
12 question has an unexpired certificate of inspection issued by
13 the United States Coast Guard or by the proper authority of a
14 foreign country for a foreign vessel, which certificate is
15 recognized as acceptable under the laws of the United States.
16 Vessels which are engaged in foreign or international commerce
17 or interstate commerce shall be deemed for the purposes of
18 this subdivision to remain in such commerce while awaiting or
19 under repair in a port of the State of Alabama if such vessel
20 returns after such repairs are completed to engaging in
21 foreign or international commerce or interstate commerce. For
22 purposes of this subdivision, seismic or geophysical vessels
23 which are engaged either in seismic or geophysical tests or
24 evaluations exclusively in offshore federal waters or in
25 traveling to or from conducting such tests or evaluations
26 shall be deemed to be engaged in international or foreign
27 commerce. For purposes of this subdivision, proof that fuel

1 and supplies purchased are for use or consumption aboard
2 vessels engaged in foreign or international commerce or in
3 interstate commerce may be accomplished by the merchant or
4 seller securing the duly signed certificate of the vessel
5 owner, operator, or captain or their respective agent on a
6 form prescribed by the department that the fuel and supplies
7 purchased are for use or consumption aboard vessels engaged in
8 foreign or international commerce or in interstate commerce.
9 Any person filing a false certificate shall be guilty of a
10 misdemeanor and upon conviction shall be fined not less than
11 \$25 nor more than \$500 for each offense. Each false
12 certificate filed shall constitute a separate offense. Any
13 person filing a false certificate shall be liable to the
14 department for all taxes imposed by this division upon the
15 merchant or seller, together with any interest or penalties
16 thereon, by reason of the sale or sales of fuel and supplies
17 applicable to such false certificate. If a merchant or seller
18 of fuel and supplies secures the certificate herein mentioned,
19 properly completed, such merchant or seller shall not be
20 liable for the taxes imposed by this division, if such
21 merchant or seller had no knowledge that such certificate was
22 false when it was filed with such merchant or seller.

23 "(11) The gross proceeds of sales of tangible
24 personal property to the State of Alabama, to the counties
25 within the state and to incorporated municipalities of the
26 State of Alabama.

1 "(12) The gross proceeds of the sale or sales of
2 railroad cars, vessels, barges, and commercial fishing vessels
3 of over five tons load displacement as registered with the
4 U.S. Coast Guard and licensed by the State of Alabama
5 Department of Conservation and Natural Resources, when sold by
6 the manufacturers or builders thereof.

7 "(13) The gross proceeds of the sale or sales of
8 materials, equipment, and machinery which, at any time, enter
9 into and become a component part of ships, vessels, towing
10 vessels or barges, or drilling ships, rigs or barges, or
11 seismic or geophysical vessels, other watercraft and
12 commercial fishing vessels of over five tons load displacement
13 as registered with the U.S. Coast Guard and licensed by the
14 State of Alabama Department of Conservation and Natural
15 Resources. Additionally, the gross proceeds from the sale or
16 sales of lifeboats, personal flotation devices, ring life
17 buoys, survival craft equipment, distress signals, EPIRB's,
18 fire extinguishers, injury placards, waste management plans
19 and logs, marine sanitation devices, navigation rulebooks,
20 navigation lights, sound signals, navigation day shapes, oil
21 placard cards, garbage placards, FCC SSL, stability
22 instructions, first aid equipment, compasses, anchor and radar
23 reflectors, general alarm systems, bilge pumps, piping, and
24 discharge and electronic position fixing devices which are
25 used on the aforementioned watercraft.

1 "(14) The gross proceeds of the sale or sales of
2 fuel oil purchased as fuel for kiln use in manufacturing
3 establishments.

4 "(15) The gross proceeds of the sale or sales of
5 tangible personal property to county and city school boards
6 within the State of Alabama, independent school boards within
7 the State of Alabama, all educational institutions and
8 agencies of the State of Alabama, the counties within the
9 state, or any incorporated municipalities of the State of
10 Alabama, and private educational institutions operating within
11 the State of Alabama offering conventional and traditional
12 courses of study, such as those offered by public schools,
13 colleges, or universities within the State of Alabama; but not
14 including nurseries, day care centers, and home schools.

15 "(16) The gross proceeds from the sale of all
16 devices or facilities, and all identifiable components
17 thereof, or materials for use therein, acquired primarily for
18 the control, reduction, or elimination of air or water
19 pollution and the gross proceeds from the sale of all
20 identifiable components of or materials used or intended for
21 use in structures built primarily for the control, reduction,
22 or elimination of air and water pollution.

23 "(17) The gross proceeds of sales of tangible
24 personal property or the gross receipts of any business which
25 the state is prohibited from taxing under the Constitution or
26 laws of the United States or under the Constitution of this
27 state.

1 "(18) When dealers or distributors use parts taken
2 from stocks owned by them in making repairs without charge for
3 such parts to the owner of the property repaired pursuant to
4 warranty agreements entered into by manufacturers, such use
5 shall not constitute taxable sales to the manufacturers,
6 distributors, or to the dealers, under this division or under
7 any county sales tax law.

8 "(19) The gross proceeds received from the sale or
9 furnishing of food, including potato chips, candy, fruit and
10 similar items, soft drinks, tobacco products, and stationery
11 and other similar or related articles by hospital canteens
12 operated by Alabama state hospitals at Bryce Hospital and
13 Partlow State School for Mental Deficients at Tuscaloosa,
14 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
15 benefit of the patients therein.

16 "(20) The gross proceeds of the sale, or sales, of
17 wrapping paper and other wrapping materials when used in
18 preparing poultry or poultry products for delivery, shipment,
19 or sale by the producer, processor, packer, or seller of such
20 poultry or poultry products, including pallets used in
21 shipping poultry and egg products, paper or other materials
22 used for lining boxes or other containers in which poultry or
23 poultry products are packed together with any other materials
24 placed in such containers for the delivery, shipment, or sale
25 of poultry or poultry products.

26 "(21) The gross proceeds of the sales of all
27 antibiotics, hormones and hormone preparations, drugs,

1 medicines or medications, vitamins, minerals or other
2 nutrients, and all other feed ingredients including
3 concentrates, supplements, and other feed ingredients when
4 such substances are used as ingredients in mixing and
5 preparing feed for fish raised to be sold on a commercial
6 basis, livestock, and poultry. Such exemption herein granted
7 shall be in addition to exemptions now provided by law for
8 feed for fish raised to be sold on a commercial basis,
9 livestock, and poultry, but not including prepared foods for
10 dogs or cats.

11 "(22) The gross proceeds of the sale, or sales, of
12 seedlings, plants, shoots, and slips which are to be used for
13 planting vegetable gardens or truck farms and other
14 agricultural purposes. Nothing herein shall be construed to
15 exempt, or exclude from the computation of the tax levied,
16 assessed, or payable, the gross proceeds of the sale, or the
17 use of plants, seedlings, shoots, slips, nursery stock, and
18 floral products, except as hereinabove exempted.

19 "(23) The gross proceeds of the sale, or sales, of
20 fabricated steel tube sections, when produced and fabricated
21 in this state by any person, firm, or corporation for any
22 vehicular tunnel for highway vehicular traffic, when sold by
23 the manufacturer or fabricator thereof, and also the gross
24 proceeds of the sale, or sales, of steel which enters into and
25 becomes a component part of such fabricated steel tube
26 sections of said tunnel.

1 "(24) The gross proceeds from sales of admissions to
2 any theatrical production, symphonic or other orchestral
3 concert, ballet, or opera production when such concert or
4 production is presented by any society, association, guild, or
5 workshop group, organized within this state, whose members or
6 some of whose members regularly and actively participate in
7 such concerts or productions for the purposes of providing a
8 creative outlet for the cultural and educational interests of
9 such members, and of promoting such interests for the
10 betterment of the community by presenting such productions to
11 the general public for an admission charge. The employment of
12 a paid director or conductor to assist in any such
13 presentation described in this subdivision shall not be
14 construed to prohibit the exemptions herein provided.

15 "(25) The gross proceeds of sales of herbicides for
16 agricultural uses by whomsoever sold. The term herbicides, as
17 used in this subdivision, means any substance or mixture of
18 substances intended to prevent, destroy, repel, or retard the
19 growth of weeds or plants. It shall include preemergence
20 herbicides, postemergence herbicides, lay-by herbicides,
21 pasture herbicides, defoliant herbicides, and desiccant
22 herbicides.

23 "(26) The Alabama Chapter of the Cystic Fibrosis
24 Research Foundation and the Jefferson Tuberculosis Sanatorium
25 and any of their departments or agencies, heretofore or
26 hereafter organized and existing in good faith in the State of
27 Alabama for purposes other than for pecuniary gain and not for

1 individual profit, shall be exempted from the computation of
2 the tax on the gross proceeds of all sales levied, assessed,
3 or payable.

4 "(27) The gross proceeds from the sale or sales of
5 fuel for use or consumption aboard commercial fishing vessels
6 are hereby exempt from the computation of all sales taxes
7 levied, assessed, or payable under the provisions of this
8 division or levied under any county or municipal sales tax
9 law.

10 "The words commercial fishing vessels shall mean
11 vessels whose masters and owners are regularly and exclusively
12 engaged in fishing as their means of livelihood.

13 "(28) The gross proceeds of sales of sawdust, wood
14 shavings, wood chips, and other like materials sold for use as
15 chicken litter by poultry producers and poultry processors.

16 "(29) The gross proceeds of the sales of all
17 antibiotics, hormones and hormone preparations, drugs,
18 medicines, and other medications including serums and
19 vaccines, vitamins, minerals, or other nutrients for use in
20 the production and growing of fish, livestock, and poultry by
21 whomsoever sold. Such exemption as herein granted shall be in
22 addition to the exemption provided by law for feed for fish,
23 livestock, and poultry, and in addition to the exemptions
24 provided by law for the above-enumerated substances and
25 products when mixed and used as ingredients in fish,
26 livestock, and poultry feed.

1 "(30) The gross proceeds of the sale or sales of all
2 medicines prescribed by physicians for persons who are 65
3 years of age or older, and when said prescriptions are filled
4 by licensed pharmacists, shall be exempted under this division
5 or under any county or municipal sales tax law. The exemption
6 provided in this section shall not apply to any medicine
7 purchased in any manner other than as is herein provided.

8 "For the purposes of this subdivision, proof of age
9 may be accomplished by filing with the dispensing pharmacist
10 any one or more of the following documents:

11 "a. The name and claim number as shown on a
12 "Medicare" card issued by the United States Social Security
13 Administration.

14 "b. A certificate executed by any adult person
15 having knowledge of the fact that the person for whom the
16 medicine was prescribed is not less than 65 years of age.

17 "c. An affidavit executed by any adult person having
18 knowledge of the fact that the person for whom the medicine
19 was prescribed is not less than 65 years of age.

20 "For the purposes of this subdivision, any person
21 filing a false proof of age shall be guilty of a misdemeanor
22 and upon conviction thereof shall be punished by a fine of
23 \$100.

24 "(31) There shall be exempted from the tax levied by
25 this division the gross receipts of sales of grass sod of all
26 kinds and character when in the original state of production
27 or condition of preparation for sale, when such sales are made

1 by the producer or members of his family or for him by those
2 employed by him to assist in the production thereof; provided,
3 that nothing herein shall be construed to exempt sales of sod
4 by a person engaged in the business of selling plants,
5 seedlings, nursery stock, or floral products.

6 "(32) The gross receipts of sales of the following
7 items or materials which are necessary in the farm-to-market
8 production of tomatoes when such items or materials are used
9 by the producer or members of his family or for him by those
10 employed by him to assist in the production thereof: Twine for
11 tying tomatoes, tomato stakes, field boxes (wooden boxes used
12 to take tomatoes from the fields to shed), and tomato boxes
13 used in shipments to customers.

14 "(33) The gross proceeds from the sale of liquefied
15 petroleum gas or natural gas sold to be used for agricultural
16 purposes.

17 "(34) The gross receipts of sales from state
18 nurseries of forest tree seedlings.

19 "(35) The gross receipts of sales of forest tree
20 seed by the state.

21 "(36) The gross receipts of sales of Lespedeza
22 bicolor and other species of perennial plant seed and
23 seedlings sold for wildlife and game food production purposes
24 by the state.

25 "(37) The gross receipts of any aircraft
26 manufactured, sold, and delivered in this state if said

1 aircraft are not permanently domiciled in Alabama and are
2 removed to another state.

3 "(38) The gross proceeds from the sale or sales of
4 all diesel fuel used for off-highway agricultural purposes.

5 "(39) The gross proceeds from sales of admissions to
6 any sporting event which:

7 "a. Takes place in the State of Alabama on or after
8 January 1, 1984, regardless of when such sales occur; and

9 "b. Is hosted by a not-for-profit corporation
10 organized and existing under the laws of the State of Alabama;
11 and

12 "c. Determines a national championship of a national
13 organization, including but not limited to the Professional
14 Golfers Association of America, the Tournament Players
15 Association, the United States Golf Association, the United
16 States Tennis Association, and the National Collegiate
17 Athletic Association; and

18 "d. Has not been held in the State of Alabama on
19 more than one prior occasion, provided, however, that for such
20 purpose the Professional Golfers Association Championship, the
21 United States Open Golf Championship, the United States
22 Amateur Golf Championship of the United States Golf
23 Association, and the United States Open Tennis Championship
24 shall each be treated as a separate event.

25 "(40) The gross receipts from the sale of any
26 aircraft and replacement parts, components, systems, supplies,
27 and sundries affixed or used on said aircraft and ground

1 support equipment and vehicles used by or for the aircraft to
2 or by a certificated or licensed air carrier with a hub
3 operation within this state, for use in conducting intrastate,
4 interstate, or foreign commerce for transporting people or
5 property by air. For the purpose of this subdivision, the
6 words "hub operation within this state" shall be construed to
7 have all of the following criteria:

8 "a. There originates from the location 15 or more
9 flight departures and five or more different first-stop
10 destinations five days per week for six or more months during
11 the calendar year; and

12 "b. Passengers and/or property are regularly
13 exchanged at the location between flights of the same or a
14 different certificated or licensed air carrier.

15 "(41) The gross receipts from the sale of hot or
16 cold food and beverage products sold to or by a certificated
17 or licensed air carrier with a hub operation within this
18 state, for use in conducting intrastate, interstate, or
19 foreign commerce for transporting people or property by air.
20 For the purpose of this subdivision, the words "hub operation
21 within this state" shall be construed to have all of the
22 following criteria:

23 "a. There originates from the location 15 or more
24 flight departures and five or more different first-stop
25 destinations five days per week for six or more months during
26 the calendar year; and

1 "b. Passengers and/or property are regularly
2 exchanged at the location between flights of the same or a
3 different certificated or licensed air carrier.

4 "(42) The gross receipts from the sale of any
5 aviation jet fuel to a certificated or licensed air carrier
6 purchased for use in scheduled all-cargo operations being
7 conducted on international flights or in international
8 commerce. For purposes of this subdivision, the following
9 words or terms shall be defined and interpreted as follows:

10 "a. Air Carrier. Any person, firm, corporation, or
11 entity undertaking by any means, directly or indirectly, to
12 provide air transportation.

13 "b. All-Cargo Operations. Any flight conducted by an
14 air carrier for compensation or hire other than a passenger
15 carrying flight, except passengers as specified in 14 C.F.R.
16 §121.583(a) or 14 C.F.R. §135.85, as amended.

17 "c. International Commerce. Any air carrier engaged
18 in all-cargo operations transporting goods for compensation or
19 hire on international flights.

20 "d. International Flights. Any air carrier
21 conducting scheduled all-cargo operations between any point
22 within the 50 states of the United States and the District of
23 Columbia and any point outside the 50 states of the United
24 States and the District of Columbia, including any interim
25 stops within the United States so long as the ultimate origin
26 or destination of the aircraft is outside the United States
27 and the District of Columbia.

1 "(43) The gross proceeds of the sale or sales of the
2 following:

3 "a. Drill pipe, casing, tubing, and other pipe used
4 for the exploration for or production of oil, gas, sulphur, or
5 other minerals in offshore federal waters.

6 "b. Tangible personal property exclusively used for
7 the exploration for or production of oil, gas, sulphur, or
8 other minerals in offshore federal waters.

9 "c. Fuel and supplies for use or consumption aboard
10 boats, ships, aircraft, and towing vessels when used
11 exclusively in transporting persons or property between a
12 point in Alabama and a point or points in offshore federal
13 waters for the exploration for or production of oil, gas,
14 sulphur, or other minerals in offshore federal waters.

15 "d. Drilling equipment that is used for the
16 exploration for or production of oil, gas, sulphur, or other
17 minerals, that is built for exclusive use outside this state
18 and that is, on completion, removed forthwith from this state.

19 "The delivery of items exempted by this subdivision
20 to the purchaser or lessee in this state does not disqualify
21 the purchaser or lessee from the exemption if the property is
22 removed from the state by any means, including by the use of
23 the purchaser's or lessee's own facilities.

24 "The shipment to a place in this state of equipment
25 exempted by this subdivision for further assembly or
26 fabrication does not disqualify the purchaser or lessee from
27 the exemption if on completion of the further assembly or

1 fabrication the equipment is removed forthwith from this
2 state. This subdivision applies to a sale that may occur when
3 the equipment exempted is further assembled or fabricated if
4 on completion the equipment is removed forthwith from this
5 state.

6 "(44) The gross receipts derived from all bingo
7 games and operations which are conducted in compliance with
8 validly enacted legislation authorizing the conduct of such
9 games and operations, and which comply with the distribution
10 requirements of the applicable local laws; provided that the
11 exemption from sales taxation granted by this subdivision
12 shall apply only to gross receipts taxable under subdivision
13 (2) of Section 40-23-2. It is further provided that this
14 exemption shall not apply to any gross receipts from the sale
15 of tangible personal property, such as concessions, novelties,
16 food, beverages, etc. The exemption provided for in this
17 section shall be limited to those games and operations by
18 organizations which have qualified for exemption under the
19 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
20 (19), or which are defined in 26 U.S.C. § 501(d).

21 "(45) The gross receipts derived from the sale or
22 sales of fruit or other agricultural products by the person or
23 corporation that planted, cultivated, and harvested such fruit
24 or agricultural product.

25 "(46) The gross receipts derived from the sale or
26 sales of all domestically mined or produced coal, coke, and
27 coke by-products used in cogeneration plants.

1 "(47) The gross receipts from the sale or sales of
2 metal, other than gold or silver, when such metal is purchased
3 for the purpose of transferring such metal to an investment
4 trust in exchange for shares or other units, each of which are
5 both publicly traded and represent fractional undivided
6 beneficial interests in the trust's net assets, including
7 metal stored in warehouses located in this state, as well as
8 the gross proceeds from the sale or other transfer of such
9 metal to or from such investment trust in exchange for shares
10 or other units that are publicly traded and represent
11 fractional undivided beneficial interests in the trust's net
12 assets but not to the extent that metal is transferred to or
13 from the investment trust in exchange for consideration other
14 than such publicly traded shares or other units. For purposes
15 of this subdivision, the term metals includes, but is not
16 limited to, copper, aluminum, nickel, zinc, tin, lead, and
17 other similar metals typically used in commercial and
18 industrial applications.

19 "(48) For the period commencing on October 1, 2012,
20 and ending May 30, 2022, unless extended by joint resolution,
21 the gross receipts from the sale of parts, components, and
22 systems that become a part of a fixed or rotary wing military
23 aircraft or certified transport category aircraft that
24 undergoes conversion, reconfiguration, or general maintenance
25 so long as the address of the aircraft for FAA registration is
26 not in the state; provided, however, that this exemption shall
27 not apply to a local sales tax unless previously exempted by

1 local law or approved by resolution of the local governing
2 body.

3 "(49) The gross proceeds from the sale or sales
4 within school buildings of lunches to pupils of kindergarten,
5 grammar, and high schools, either public or private, that are
6 not sold for profit.

7 "(b) Any violation of any provision of this section
8 shall be punishable in a court of competent jurisdiction by a
9 fine of not less than \$500 and no more than \$2,000 and
10 imprisonment of not less than six months nor more than one
11 year in the county jail.

12 "§40-23-62.

13 "The storage, use, or other consumption in this
14 state of the following tangible personal property is hereby
15 specifically exempted from the tax imposed by this article:

16 "(1) Property, on which the sales tax imposed by the
17 provisions of Article 1 of this chapter is paid by the
18 consumer to a person licensed under the provisions of Article
19 1 of this chapter.

20 "(2) Property, the storage, use, or other
21 consumption of which this state is prohibited from taxing
22 under the Constitution or laws of the United States of America
23 or under the constitution of this state.

24 "(3) Tangible personal property, not to be used in
25 the performance of a contract, brought into this state by a
26 nonresident thereof for his own storage, use, or consumption
27 while temporarily within this state.

1 "~~(4) Lubricating oil and gasoline~~ Gasoline as
2 defined in ~~Sections 40-17-30 and 40-17-170~~ Section 40-17-322,
3 the storage, use, or other consumption of which is otherwise
4 taxed.

5 "(5) All fertilizer; provided, that the word
6 "fertilizer" as used in this article shall not be construed to
7 include cottonseed meal when not in combination with other
8 material.

9 "(6) All seeds for planting purposes and baby chicks
10 and poults; provided, that nothing herein shall be construed
11 to exempt plants, seedlings, nursery stock or floral products.

12 "(7) Insecticides and fungicides and feed for
13 livestock and poultry, but not including prepared foods for
14 dogs and cats.

15 "(8) The use, storage, or consumption of all
16 livestock by whomsoever sold; and also the gross proceeds of
17 poultry and other products of the farm, dairy, grove or
18 garden, when in the original state of production or condition
19 of preparation for sale, when such sale or sales are made by
20 the producer or members of his immediate family or for him by
21 those employed by him to assist in the production thereof.
22 Nothing herein shall be construed to exempt or exclude from
23 the measure or computation of the tax levied, assessed, or
24 payable hereunder, the gross proceeds of sales of poultry or
25 poultry products when not products of the farm.

26 "(9) Cottonseed meal exchanged for cottonseed at or
27 by cotton gins.

1 "(10) Transportation, gas, water, or electricity, of
2 the kinds and natures, the rates and charges for which when
3 sold by public utilities, are customarily fixed and determined
4 by the Public Service Commission of Alabama or like regulatory
5 bodies.

6 "(11) Coal or coke to be stored, used, or consumed
7 by manufacturers, electric power companies and transportation
8 companies for use or consumption in the production of
9 by-products or the generation of heat or power used:

10 "a. In manufacturing tangible personal property for
11 sale;

12 "b. For the generation of electric power or energy
13 for use in manufacturing tangible personal property for sale
14 or for resale; or

15 "c. For the generation of motive power for
16 transportation.

17 "(12) Fuel and supplies for use or consumption
18 aboard ships, vessels, towing vessels, or barges, or drilling
19 ships, rigs or barges, or seismic or geophysical vessels, or
20 other watercraft (herein for purposes of this exemption being
21 referred to as vessels) engaged in foreign or international
22 commerce or in interstate commerce; provided, that nothing in
23 this article shall be construed to exempt or exclude from the
24 measure of the tax herein levied the gross proceeds of sale or
25 sales of material and supplies to any person for use in
26 fulfilling a contract for the painting, repair or
27 reconditioning of vessels, barges, ships, other watercraft and

1 commercial fishing vessels of over five tons load displacement
2 as registered with the U.S. Coast Guard and licensed by the
3 State of Alabama Department of Conservation and Natural
4 Resources. For purposes of this subdivision, it shall be
5 presumed that vessels engaged in the transportation of cargo
6 between ports in the State of Alabama and ports in foreign
7 countries or possessions or territories of the United States
8 or between ports in the State of Alabama and ports in other
9 states are engaged in foreign or international commerce or
10 interstate commerce, as the case may be. For the purposes of
11 this subdivision, the engaging in foreign or international
12 commerce or interstate commerce shall not require that the
13 vessel involved deliver cargo to or receive cargo from a port
14 in the State of Alabama. For purposes of this subdivision,
15 vessels carrying passengers for hire, and no cargo, between
16 ports in the State of Alabama and ports in foreign countries
17 or possessions or territories of the United States or between
18 ports in the State of Alabama and ports in other states shall
19 be engaged in foreign or international commerce or interstate
20 commerce, as the case may be, if, and only if, both of the
21 following conditions are met: (i) The vessel in question is a
22 vessel of at least 100 gross tons; and (ii) the vessel in
23 question has an unexpired certificate of inspection issued by
24 the United States Coast Guard or by the proper authority of a
25 foreign country for a foreign vessel, which certificate is
26 recognized as acceptable under the laws of the United States.
27 Vessels which are engaged in foreign or international commerce

1 or interstate commerce shall be deemed for the purposes of
2 this subdivision to remain in such commerce while awaiting or
3 under repair in a port of the State of Alabama if such vessel
4 returns after such repairs are completed to engaging in
5 foreign or international commerce or interstate commerce. For
6 purposes of this subdivision, seismic or geophysical vessels
7 which are engaged either in seismic or geophysical tests or
8 evaluations exclusively in offshore federal waters or in
9 traveling to or from conducting such tests or evaluations
10 shall be deemed to be engaged in international or foreign
11 commerce. For purposes of this subdivision, proof that fuel
12 and supplies purchased are for use or consumption aboard
13 vessels engaged in foreign or international commerce or in
14 interstate commerce may be accomplished by the merchant or
15 seller securing the duly signed certificate of the vessel
16 owner, operator or captain or their respective agent on a form
17 prescribed by the department that the fuel and supplies
18 purchased are for use or consumption aboard vessels engaged in
19 foreign or international commerce or in interstate commerce.
20 Any person filing a false certificate shall be guilty of a
21 misdemeanor and upon conviction shall be fined not less than
22 \$25 nor more than \$500 for each offense. Each false
23 certificate filed shall constitute a separate offense. Any
24 person filing a false certificate shall be liable to the
25 department for all taxes imposed by this division upon the
26 merchant or seller, together with any interest or penalties
27 thereon, by reason of the sale or sales of fuel and supplies

1 applicable to such false certificate. If a merchant or seller
2 of fuel and supplies secures the certificate herein mentioned,
3 properly completed, such merchant or seller shall not be
4 liable for the taxes imposed by this division, if such
5 merchant or seller had no knowledge that such certificate was
6 false when it was filed with such merchant or seller.

7 "(13) Property stored, used, or consumed by the
8 State of Alabama, by the counties within the state or by
9 incorporated municipalities of the State of Alabama.

10 "(14) The use, storage, or consumption of materials,
11 equipment and machinery which, at any time, enter into and
12 become a component part of ships, vessels, towing vessels or
13 barges, or drilling ships, rigs or barges, or seismic or
14 geophysical vessels, other watercraft and commercial fishing
15 vessels of over five tons load displacement as registered with
16 the U.S. Coast Guard and licensed by the Department of
17 Conservation and Natural Resources. Additionally, the use,
18 storage, or consumption of lifeboats, personal flotation
19 devices, ring life buoys, survival craft equipment, distress
20 signals, EPIRB's, fire extinguishers, injury placards, waste
21 management plans and logs, marine sanitation devices,
22 navigation rulebooks, navigation lights, sound signals,
23 navigation day shapes, oil placard cards, garbage placards,
24 FCC SSL, stability instructions, first aid equipment,
25 compasses, anchor and radar reflectors, general alarm systems,
26 bilge pumps, piping, and discharge and electronic position
27 fixing devices on the aforementioned watercraft.

1 "(15) The use, storage, or consumption of fuel oil
2 purchased as fuel for kilns used in manufacturing
3 establishments.

4 "(16) Tangible personal property stored, used, or
5 consumed by county and city school boards within the State of
6 Alabama, independent school boards within the State of
7 Alabama, all educational institutions and agencies of the
8 State of Alabama, the counties within the state or any
9 incorporated municipality of the State of Alabama, and private
10 educational institutions operating within the State of Alabama
11 offering conventional and traditional courses of study, such
12 as those offered by public schools, colleges, or universities
13 within the State of Alabama; but not including nurseries, day
14 care centers, and home schools.

15 "(17) The storage, use, or consumption of railroad
16 cars, vessels, and barges and commercial fishing vessels of
17 over five tons load displacement as registered with the U.S.
18 Coast Guard and licensed by the State of Alabama Department of
19 Conservation and Natural Resources when purchased from the
20 manufacturers or builders thereof.

21 "(18) The storage, use, or consumption of all
22 devices or facilities, and all identifiable components thereof
23 or materials for use therein, used or placed in operation
24 primarily for the control, reduction or elimination of air or
25 water pollution, and the storage, use, or consumption of all
26 identifiable components of or materials used or intended for

1 use in structures built primarily for the control, reduction
2 or elimination of air or water pollution.

3 "(19) When dealers or distributors use parts taken
4 from stocks owned by them in making repairs without charge for
5 such parts to the owner of the property required pursuant to
6 warranty agreements entered into by manufacturers, such use
7 shall not constitute taxable sales to the manufacturers,
8 distributors or to the dealers, under this article, or under
9 any county use tax law.

10 "(20) The storage, use, or other consumption in this
11 state of religious magazines and publications. For the purpose
12 of this subdivision the words "religious magazines and
13 publications" shall be construed to mean printed or
14 illustrated lessons, notes and explanations distributed by
15 churches or other religious organizations free of charge to
16 pupils or students in Sunday schools, Bible classes or other
17 educational facilities established and maintained by churches
18 or similar religious organizations in this state.

19 "(21) The storage, use, or other consumption of
20 wrapping paper and other wrapping materials when used in
21 preparing poultry or poultry products for delivery, shipment
22 or sale by the producer, processor, packer, or seller of such
23 poultry or poultry products including pallets used in shipping
24 poultry and egg products, paper or other materials used for
25 lining boxes or other containers in which poultry or poultry
26 products are packed together with any other materials placed

1 in such containers for the delivery, shipment or sale of
2 poultry or poultry products.

3 "(22) The storage, use, or other consumption of all
4 antibiotics, hormones and hormone preparations, drugs,
5 medicines or medications, vitamins, minerals, or other
6 nutrients and all other feed ingredients including
7 concentrates, supplements and other feed ingredients when such
8 substances are used as ingredients in mixing and preparing
9 feed for livestock and poultry. Such exemption herein granted
10 shall be in addition to exemptions now provided by law for
11 feed for livestock and poultry, but not including prepared
12 foods for dogs and cats.

13 "(23) The use of seedlings, plants, shoots, and
14 slips which are to be used for planting vegetable gardens or
15 truck farms. Nothing herein shall be construed to exempt, or
16 exclude from the computation of the tax levied, assessed, or
17 payable, the use of plants, seedlings, shoots, slips, nursery
18 stock and floral products except as hereinabove exempted.

19 "(24) Fabricated steel tube sections, when produced
20 and fabricated in this state by any person, firm, or
21 corporation, for any vehicular tunnel for highway vehicular
22 traffic, when sold by the manufacturer or fabricator thereof,
23 and also steel which enters into and becomes a component part
24 of such fabricated steel tube sections of said tunnel, shall
25 be exempted from the provisions of this article and from the
26 computation of the amount of the tax levied, assessed or
27 payable under this article.

1 "(25) The storage, use, or other consumption of
2 herbicides for agricultural uses by whomsoever sold. The term
3 "herbicides" as used in this subdivision means any substance
4 or mixture of substances intended to prevent, destroy, repel,
5 or retard the growth of weeds or plants. It shall include
6 preemergence herbicides, postemergence herbicides, lay-by
7 herbicides, pasture herbicides, defoliant herbicides, and
8 desiccant herbicides.

9 "(26) The Alabama Chapter of the Cystic Fibrosis
10 Research Foundation, and the Jefferson Tuberculosis Sanatorium
11 and any of their departments or agencies, heretofore or
12 hereafter organized and existing in good faith in the State of
13 Alabama for purposes other than for pecuniary gain and not for
14 individual profit, shall be exempted from the payment of the
15 state use tax levied under this article.

16 "(27) Fuel for use or consumption aboard commercial
17 fishing vessels are hereby exempt from the payment of the
18 state use tax levied under this article, or levied under any
19 county or municipal use tax law.

20 "The words commercial fishing vessels shall mean
21 vessels whose masters and owners are regularly and exclusively
22 engaged in fishing as their means of livelihood.

23 "(28) The storage, use, or withdrawal of sawdust,
24 wood shavings, wood chips, and other like materials purchased
25 for use as chicken litter by poultry producers and poultry
26 processors shall be exempt under this article.

1 "(29) The storage, use, or other consumption of all
2 antibiotics, hormones and hormone preparations, drugs,
3 medicines and other medications including serums and vaccines,
4 vitamins, minerals or other nutrients for use in the
5 production and growing of fish, livestock, and poultry are
6 hereby specifically exempted from the payment of the state use
7 tax levied by this article. Such exemption as herein granted
8 shall be in addition to the exemptions now provided by law for
9 feed for fish, livestock, and poultry, and in addition to the
10 exemptions now provided by law for the above-enumerated
11 substances and products when mixed and used as ingredients in
12 fish, livestock and poultry feeds.

13 "(30) All medicines prescribed by physicians for
14 persons who are 65 years of age or older, and when said
15 prescriptions are filled by licensed pharmacists, shall be
16 exempted from the operation of the state use tax law levied by
17 this article, or by any county or municipal use tax law. The
18 exemptions provided in this subdivision shall not apply to any
19 medicine purchased in any manner other than as is herein
20 provided.

21 "For the purposes of this subdivision, proof of age
22 may be accomplished by filing with the dispensing pharmacist
23 any one or more of the following documents:

24 "a. The name and claim number as shown on a
25 "Medicare" card issued by the United States Social Security
26 Administration.

1 "b. A certificate executed by any adult person
2 having knowledge of the fact that the person for whom the
3 medicine was prescribed is not less than 65 years of age.

4 "c. An affidavit executed by any adult person having
5 knowledge of the fact that the person for whom the medicine
6 was prescribed is not less than 65 years of age.

7 "For the purposes of this subdivision any person
8 filing a false proof of age shall be guilty of a misdemeanor
9 and upon conviction thereof shall be punished by a fine of
10 \$100.

11 "(31) All diesel fuel used for off-highway
12 agricultural purposes.

13 "(32) The storage, use, or other consumption of any
14 aircraft and replacement parts, components, systems, supplies
15 and sundries affixed or used on said aircraft and ground
16 support equipment and vehicles used by or for the aircraft by
17 a certificated or licensed air carrier with a hub operation
18 within this state, for use in conducting intrastate,
19 interstate or foreign commerce for transporting people or
20 property by air. For the purpose of this subdivision, the
21 words "hub operation within this state" shall be construed to
22 have all of the following criteria:

23 "a. There originates from the location 15 or more
24 flight departures and five or more different first-stop
25 destinations five days per week for six or more months during
26 the calendar year; and

1 "b. Passengers and/or property are regularly
2 exchanged at the location between flights of the same or a
3 different certificated or licensed air carrier.

4 "(33) The storage, use, or other consumption of any
5 aviation jet fuel used by an aircraft operated by a
6 certificated or licensed air carrier that purchases jet fuel
7 for use in scheduled all-cargo operations being conducted on
8 international flights or in international commerce. For
9 purposes of this subdivision, the following words or terms
10 shall be defined and interpreted as follows:

11 "a. Air Carrier. Any person, firm, corporation, or
12 entity undertaking by any means, directly or indirectly, to
13 provide air transportation.

14 "b. All-Cargo Operations. Any flight conducted by an
15 air carrier for compensation or hire other than a passenger
16 carrying flight, except passengers as specified in 14 C.F.R.
17 §121.583(a) or 14 C.F.R. §135.85, as amended.

18 "c. International Commerce. Any air carrier engaged
19 in all-cargo operations transporting goods for compensation or
20 hire on international flights.

21 "d. International Flights. Any air carrier
22 conducting scheduled all-cargo operations between any point
23 within the 50 states of the United States and the District of
24 Columbia and any point outside the 50 states of the United
25 States and the District of Columbia, including any interim
26 stops within the United States so long as the ultimate origin

1 or destination of the aircraft is outside the United States
2 and the District of Columbia.

3 "(34) The storage, use, or other consumption of hot
4 or cold food and beverage products by a certificated or
5 licensed air carrier with a hub operation within this state,
6 for use in conducting intrastate, interstate, or foreign
7 commerce for transporting people or property by air. For the
8 purpose of this subdivision, the words "hub operation within
9 this state" shall be construed to have all of the following
10 criteria:

11 "a. There originates from the location 15 or more
12 flight departures and five or more different first-stop
13 destinations five days per week for six or more months during
14 the calendar year; and

15 "b. Passengers and/or property are regularly
16 exchanged at the location between flights of the same or a
17 different certificated or licensed air carrier.

18 "(35) The storage, use, or other consumption of the
19 following:

20 "a. Drill pipe, casing, tubing, and other pipe used
21 for the exploration for or production of oil, gas, sulphur, or
22 other minerals in offshore federal waters.

23 "b. Tangible personal property exclusively used for
24 the exploration for or production of oil, gas, sulphur, or
25 other minerals in offshore federal waters.

26 "c. Fuel and supplies for use or consumption aboard
27 boats, ships, aircraft, and towing vessels when used

1 exclusively in transporting persons or property between a
2 point in Alabama and a point or points in offshore federal
3 waters for the exploration for or production of oil, gas,
4 sulphur, or other minerals in offshore federal waters.

5 "d. Drilling equipment that is used for the
6 exploration for or production of oil, gas, sulphur, or other
7 minerals, that is built for exclusive use outside this state
8 and that is, on completion, removed forthwith from this state.

9 "e. All domestically mined or produced coal, coke,
10 and coke by-products used in cogeneration plants in Alabama.

11 "The delivery of items exempted by this subdivision
12 to the purchaser or lessee in this state does not disqualify
13 the purchaser or lessee from the exemption if the property is
14 removed from the state by any means, including by the use of
15 the purchaser's or lessee's own facilities.

16 "The shipment to a place in this state of equipment
17 exempted by this subdivision for further assembly or
18 fabrication does not disqualify the purchaser or lessee from
19 the exemption if on completion of the further assembly or
20 fabrication the equipment is removed forthwith from this
21 state. This subdivision applies to a sale that may occur when
22 the equipment exempted is further assembled or fabricated if
23 on completion the equipment is removed forthwith from this
24 state.

25 "(36) The storage or use of metal, other than gold
26 or silver, when such metal is held by an investment trust the
27 shares or other units in the trust's net assets of which have

1 been issued in exchange for such metal and are publicly
2 traded, including metal stored in warehouses located in this
3 state. For purposes of this subdivision, the term metals
4 includes, but is not limited to, copper, aluminum, nickel,
5 zinc, tin, lead, and other similar metals typically used in
6 commercial and industrial applications.

7 "(37) For the period commencing October 1, 2012, and
8 ending May 30, 2022, unless extended by joint resolution, all
9 parts, components, and systems that become a part of a fixed
10 or rotary wing military aircraft or certified transport
11 category aircraft which undergoes conversion, reconfiguration,
12 or general maintenance so long as the address of the aircraft
13 for FAA registration is not in the state; provided, however,
14 that this exemption shall not apply to a local use tax unless
15 previously exempted by local law or approved by resolution of
16 the local governing body.

17 "(38) Lunches sold not for profit and within school
18 buildings to pupils of kindergarten, grammar, and high
19 schools, either public or private."

20 Section 2. Sections 40-17-170, 40-17-171, 40-17-172,
21 40-17-173, 40-17-175, 40-17-176, 40-17-177, 40-17-178,
22 40-17-179, 40-17-180, 40-17-185, 40-17-186, 40-17-220,
23 40-17-221, 40-17-223, and 40-17-225, Code of Alabama 1975, are
24 hereby repealed.

25 Section 3. All laws or parts of laws which conflict
26 with this act are hereby repealed.

1 Section 4. This act shall become effective on the
2 first day on the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.