

1 SB487
2 135679-7
3 By Senator Dial (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 05-APR-12

1 SB487

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4 With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to Chambers County; to amend Section
8 45-9-244, Code of Alabama 1975; to provide further for the
9 distribution of the tobacco tax.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 45-9-244, Code of Alabama 1975,
12 is amended to read as follows:

13 "§45-9-244.

14 "(a) Upon adoption of the Legislature, there is
15 hereby imposed on every person, firm, or corporation that
16 sells, stores, delivers, uses, or otherwise consumes tobacco
17 or tobacco products in Chambers County, a county privilege,
18 license, or excise tax in the following amounts:

19 "(1) Twenty-five cents (\$.25) for each package of
20 cigarettes made of tobacco or any substitute therefor.

21 "(2) Twelve cents (\$.12) for each cigar of any
22 description made of tobacco or any substitute therefor, but
23 not including cigarette sized and near cigarette sized cigars
24 which shall be taxed in the same manner as cigarettes under
25 subdivision (1).

1 "(3) Twenty-five cents (\$.25) for each sack, can,
2 package, or other container of smoking tobacco, including
3 granulated, plug cut, crimp cut, ready rubbed, and other kinds
4 and forms of tobacco which are prepared in such manner
5 suitable for smoking in a pipe or cigarette.

6 "(4) Twenty-five cents (\$.25) for each sack, plug,
7 package, or other container of chewing tobacco, which tobacco
8 is prepared in such manner suitable for chewing only and not
9 suitable for smoking as described in subdivision (3).

10 "(5) Twenty-five cents (\$.25) for each can, bottle,
11 glass, tumbler, package, or other container of snuff made of
12 tobacco or any substitute therefor.

13 "(6) Twenty-five cents (\$.25) for each package of
14 tobacco paper, both gummed and ungummed.

15 "The privilege, license, or excise tax shall be in
16 addition to all other taxes imposed by law and shall be
17 collected in the same manner as other taxes on tobacco, except
18 that when the license tax required by this section has been
19 paid by a wholesaler or seller of the products, that payment
20 shall be sufficient. The legislative intent is that the tax
21 shall be paid only once on each package of cigarettes, chewing
22 tobacco, snuff, cigars of every description, and smoking
23 tobacco of every description, and for each package of tobacco
24 paper, whether gummed or ungummed.

1 "(b) Every person, firm, corporation, club, or
2 association that sells, stores, or receives for the purpose of
3 selling or storing in Chambers County, any cigarettes, cigars,
4 snuff, and smoking tobacco products shall add the amount of
5 the license or privilege tax levied and assessed to the price
6 of the cigarettes, cigars, snuff, and smoking tobacco
7 products. It is the purpose and intent of this subsection that
8 the tax levied is, in fact, a levy on the consumer with the
9 person, firm, corporation, club, or association that sells or
10 stores or receives for the purpose of distributing the
11 cigarettes, cigars, snuff, and smoking tobacco products acting
12 merely as an agent for the collection of the tax. The dealer,
13 storer, or distributor shall state the amount of the tax
14 separately from the price of the cigarettes, cigars, snuff,
15 and smoking tobacco products on all price display signs, sales
16 or delivery slips, bills, and statements which advertise or
17 indicate the price of the cigarettes, cigars, snuff, and
18 smoking tobacco products.

19 "(c) It shall be unlawful for any dealer, storer,
20 distributor, or any person, firm, or corporation that sells,
21 delivers, uses, or otherwise consumes tobacco products in
22 Chambers County, for which the tax is levied, to fail or
23 refuse to add to the sales price and collect from the
24 purchaser the amount due to Chambers County on account of the
25 tax herein provided, to refund or offer to refund all or any

1 part of the amount collected or absorbed, or advertise
2 directly or indirectly, the absorption of the tax or any
3 portion thereof. Any person, firm, corporation, club, or
4 association violating this subsection shall be subject to a
5 civil penalty of not less than twenty-five dollars (\$25) nor
6 more than five hundred dollars (\$500). Each section in
7 violation of this subsection shall constitute a separate
8 offense.

9 "(1) The State Department of Revenue may collect all
10 taxes levied pursuant to this section at the same time and in
11 the same manner as state sales and use taxes are collected.

12 "(2) The tax levied herein shall be paid by affixing
13 stamps that are required for the payment of the tax imposed by
14 Section 40-25-1 to 40-25-28, inclusive.

15 "(3) The county shall, in conjunction with the
16 District Community Service Grant Authority, contract with the
17 State Department of Revenue to purchase stamps to be affixed.
18 The department may have the same duties relative to the
19 preparation and sale of stamps to evidence the payment of the
20 tax that it has relative to the preparation and sale of stamps
21 under Section 40-25-1 to 40-25-28, inclusive.

22 "(4) In accordance with Section 40-25-2(g), in the
23 event the aforementioned tobacco stamps are not available for
24 affixing to tobacco products packages and containers, or by
25 the authority of a duly promulgated regulation eliminating the

1 requirement of affixing county tobacco stamps, the entity,
2 including the Commissioner of the Department of Revenue, may
3 require a monthly report in lieu of stamps to report the
4 amount of tax due. The monthly report shall be in a form
5 approved by the commissioner and adopted by the department
6 under the Alabama Administrative Procedure Act, Chapter 22,
7 Title 41. If monthly reports are not required to be filed by a
8 person, firm, or corporation that sells, stores, delivers,
9 uses, or otherwise consumes tobacco products in Chambers
10 County with the State Department of Revenue, these reports
11 shall be filed with the Chambers County Commission.

12 "(d) All laws, rules, and regulations of the
13 department relating to the manner and time of payment of the
14 tax levied by Sections 40-25-1 to 40-25-28, inclusive,
15 requiring reports from dealers and prescribing penalties for
16 violations shall apply with equal force to the tax levied by
17 this section as provided for in this section.

18 "(e) There is hereby created the District Community
19 Service Grant Authority consisting of the Senator from Senate
20 District 13 and the House members from House Districts 37 and
21 38. The District Community Service Grant Authority shall
22 allocate funds distributed to the authority.

23 "(f) (1) The proceeds from the tax authorized, less
24 two percent of the actual cost of collection shall be

1 distributed to the Chambers County General Fund to be expended
2 as follows:

3 "a. Twenty-five percent of the proceeds shall be
4 distributed to a special account to be utilized exclusively
5 for county fire and rescue protection purposes, as provided in
6 subdivision (2).

7 "b. Forty-eight percent of the proceeds shall be
8 distributed to the Chambers County Industrial Development
9 Council.

10 "c. Eighteen percent of the proceeds shall be
11 distributed to the District Community Service Grant Authority
12 to be allocated by the authority.

13 "d. Four percent of the proceeds shall be
14 distributed to the Chattahoochee Valley Humane Society to be
15 used for small animal control on a countywide basis.

16 "e. Three percent of the proceeds shall be
17 distributed to Valley Haven School.

18 "f. Two percent of the proceeds shall be deposited
19 into a fund in the county treasury earmarked for scholarships
20 for residents of Chambers County to be administered and
21 awarded by a scholarship board consisting of three persons
22 appointed by the legislative delegation representing Chambers
23 County.

24 "(2) The county commission may enter into a service
25 contract with the Chambers County Volunteer Fire and Rescue

1 Association which represents more than one fire and/or rescue
2 department to provide fire and rescue protection to a part or
3 all of the county. The county commission may develop criteria
4 which shall be met by the association with which it enters
5 into contract. The compensation for the contract shall be paid
6 from funds in the special account. The association may be
7 composed of volunteer fire and rescue departments which are
8 located within the county. Compensation paid to the
9 association pursuant to the service contract shall be
10 distributed by the association to the volunteer fire and
11 rescue departments in the manner the association's governing
12 body deems appropriate. The association shall develop
13 standards and criteria which shall be met by all its member
14 fire and rescue departments. Each officer of the association
15 shall be a member in good standing of a volunteer fire
16 department. Any member fire and rescue department which fails
17 to meet the standards and criteria shall be denied its share
18 of the funding. The association shall give noncomplying member
19 fire and rescue departments proper notice of all deficiencies
20 and a reasonable time period to correct the deficiencies
21 before any funds shall be denied.

22 "(g) This section shall not be construed to apply to
23 cigarettes, cigars, snuff, smoking tobacco, and like tobacco
24 products stored by a wholesale dealer for the purpose of

1 resale or reshipment outside of the county which are actually
2 resold or reshipped."

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

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SB487

Senate 09-MAY-2012

I hereby certify that the within Act originated in and passed the Senate, the Executive veto to the contrary notwithstanding.

Yeas 18

Nays 1

Abs 3

Patrick Harris
Secretary

House of Representatives

Passed 09-MAY-2012, the Executive veto to the contrary notwithstanding.

Yeas 46

Nays 2

I hereby certify that the vote shown above in the two Houses of the Legislature overriding the Governor's veto is true and correct.

Patrick Harris
Secretary

By: Senator Dial