

1 HB412  
2 218150-1  
3 By Representatives Smith, Sorrell, Crawford and Standridge  
4 RFD: Ways and Means Education  
5 First Read: 24-FEB-22

SYNOPSIS: Under current law, exemptions from sales taxation are provided to farmers selling certain agricultural products.

This bill would extend the exemption from sales taxation to producer value added agricultural products that are sold by the producer, the producer's family, or the producer's employees.

A BILL  
TO BE ENTITLED  
AN ACT

Related to sales tax; to amend Sections 40-23-1 and 40-23-4, Code of Alabama 1975; to exempt producer value added products from sales tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This bill shall be known as the "Sweet Grown Alabama Act."

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

1           "§40-23-1.

2           "(a) For the purpose of this division, the following  
3 terms shall have the respective meanings ascribed by this  
4 section:

5           "(1) PERSON or COMPANY. Used interchangeably,  
6 includes any individual, firm, copartnership, association,  
7 corporation, receiver, trustee, or any other group or  
8 combination acting as a unit and the plural as well as the  
9 singular number, unless the intention to give a more limited  
10 meaning is disclosed by the context.

11           "(2) DEPARTMENT. The Department of Revenue of the  
12 State of Alabama.

13           "(3) COMMISSIONER. The Commissioner of Revenue of  
14 the State of Alabama.

15           "(4) TAX YEAR or TAXABLE YEAR. The calendar year.

16           "(5) SALE or SALES. Installment and credit sales and  
17 the exchange of properties as well as the sale thereof for  
18 money, every closed transaction constituting a sale. Provided,  
19 however, a transaction shall not be closed or a sale completed  
20 until the time and place when and where title is transferred  
21 by the seller or seller's agent to the purchaser or  
22 purchaser's agent, and for the purpose of determining transfer  
23 of title, a common carrier or the U.S. Postal Service shall be  
24 deemed to be the agent of the seller, regardless of any F.O.B.  
25 point and regardless of who selects the method of  
26 transportation, and regardless of by whom or the method by  
27 which freight, postage, or other transportation charge is

1 paid. Provided further that, where billed as a separate item  
2 to and paid by the purchaser, the freight, postage, or other  
3 transportation charge paid to a common carrier or the U.S.  
4 Postal Service is not a part of the selling price.

5 "(6) GROSS PROCEEDS OF SALES. The value proceeding  
6 or accruing from the sale of tangible personal property, and  
7 including the proceeds from the sale of any property handled  
8 on consignment by the taxpayer, including merchandise of any  
9 kind and character without any deduction on account of the  
10 cost of the property sold, the cost of the materials used,  
11 labor or service cost, interest paid, any consumer excise  
12 taxes that may be included within the sales price of the  
13 property sold, or any other expenses whatsoever, and without  
14 any deductions on account of losses; provided, that cash  
15 discounts allowed and taken on sales shall not be included,  
16 and "gross proceeds of sales" shall not include the sale price  
17 of property returned by customers when the full sales price  
18 thereof is refunded either in cash or by credit. The term  
19 "gross proceeds of sale" shall also mean and include the  
20 reasonable and fair market value of any tangible personal  
21 property previously purchased at wholesale which is withdrawn  
22 or used from the business or stock and used or consumed in  
23 connection with a business, and shall also mean and include  
24 the reasonable and fair market value of any tangible personal  
25 property previously purchased at wholesale which is withdrawn  
26 from the business or stock and used or consumed by any person  
27 so withdrawing the same, except property which has been

1 previously withdrawn from business or stock and so used or  
2 consumed with respect to which property the tax has been paid  
3 because of previous withdrawal, use, or consumption, except  
4 property which enters into and becomes an ingredient or  
5 component part of tangible personal property or products  
6 manufactured or compounded for sale and not for the personal  
7 and private use or consumption of any person so withdrawing,  
8 using, or consuming the same, and except refinery, residue, or  
9 fuel gas, whether in a liquid or gaseous state, that has been  
10 generated by, or is otherwise a by-product of, a  
11 petroleum-refining process, which gas is then utilized in the  
12 process to generate heat or is otherwise utilized in the  
13 distillation or refining of petroleum products.

14 "In the case of the retail sale of equipment,  
15 accessories, fixtures, and other similar tangible personal  
16 property used in connection with the sale of commercial mobile  
17 services as defined herein, or in connection with satellite  
18 television services, at a price below cost, "gross proceeds of  
19 sale" shall only include the stated sales price thereof and  
20 shall not include any sales commission or rebate received by  
21 the seller as a result of the sale. As used herein, the term  
22 "commercial mobile services" shall have the same meaning as  
23 that term has in 47 U.S.C. Sections 153(n) and 332(d), as in  
24 effect from time to time.

25 "(7) TAXPAYER. Any person liable for taxes  
26 hereunder.

1           "(8) GROSS RECEIPTS. The value proceeding or  
2 accruing from the sale of tangible personal property,  
3 including merchandise and commodities of any kind and  
4 character, all receipts actual and accrued, by reason of any  
5 business engaged in, not including, however, interest,  
6 discounts, rentals of real estate or royalties, and without  
7 any deduction on account of the cost of the property sold, the  
8 cost of the materials used, labor or service cost, interest  
9 paid, any consumer excise taxes that may be included in the  
10 sales price of the property sold, or any other expenses  
11 whatsoever and without any deductions on account of losses.  
12 The term "gross receipts" shall also mean and include the  
13 reasonable and fair market value of any tangible personal  
14 property previously purchased at wholesale which is withdrawn  
15 or used from the business or stock and used or consumed in  
16 connection with a business, and shall also mean and include  
17 the reasonable and fair market value of any tangible personal  
18 property previously purchased at wholesale which is withdrawn  
19 from the business or stock and used or consumed by any person  
20 so withdrawing the same, except property which has been  
21 previously withdrawn from business or stock and so used or  
22 consumed and with respect to which property the tax has been  
23 paid because of previous withdrawal, use, or consumption,  
24 except property which enters into and becomes an ingredient or  
25 component part of tangible personal property or products  
26 manufactured or compounded for sale as provided in subdivision  
27 (9) and not for the personal and private use or consumption of

1 any person so withdrawing, using, or consuming the same, and  
2 except refinery, residue, or fuel gas, whether in a liquid or  
3 gaseous state, that has been generated by, or is otherwise a  
4 by-product of, a petroleum-refining process, which gas is then  
5 utilized in the process to generate heat or is otherwise  
6 utilized in the distillation or refining of petroleum  
7 products.

8 "(9) WHOLESALE SALE or SALE AT WHOLESALE. Any one of  
9 the following:

10 "a. A sale of tangible personal property by  
11 wholesalers to licensed retail merchants, jobbers, dealers, or  
12 other wholesalers for resale and does not include a sale by  
13 wholesalers to users or consumers, not for resale.

14 "b. A sale of tangible personal property or  
15 products, including iron ore, and including the furnished  
16 container and label of such property or products, to a  
17 manufacturer or compounder which enter into and become an  
18 ingredient or component part of the tangible personal property  
19 or products which the manufacturer or compounder manufactures  
20 or compounds for sale, whether or not such tangible personal  
21 property or product used in manufacturing or compounding a  
22 finished product is used with the intent that it becomes a  
23 component of the finished product; provided, however, that it  
24 is the intent of this section that no sale of capital  
25 equipment, machinery, tools, or product shall be included in  
26 the term "wholesale sale." The term "capital equipment,  
27 machinery, tools, or product" shall mean property that is

1 subject to depreciation allowances for Alabama income tax  
2 purposes.

3 "c. A sale of containers intended for one-time use  
4 only, and the labels thereof, when containers are sold without  
5 contents to persons who sell or furnish containers along with  
6 the contents placed therein for sale by persons.

7 "d. A sale of pallets intended for one-time use only  
8 when pallets are sold without contents to persons who sell or  
9 furnish pallets along with the contents placed thereon for  
10 sale by persons.

11 "e. A sale to a manufacturer or compounder, of  
12 crowns, caps, and tops intended for one-time use employed and  
13 used upon the containers in which a manufacturer or compounder  
14 markets his products.

15 "f. A sale of containers to persons engaged in  
16 selling or otherwise supplying or furnishing baby chicks to  
17 growers thereof where containers are used for the delivery of  
18 chicks or a sale of containers for use in the delivery of eggs  
19 by the producer thereof to the distributor or packer of eggs  
20 even though containers used for delivery of baby chicks or  
21 eggs may be recovered for reuse.

22 "g. A sale of bagging and ties used in preparing  
23 cotton for market.

24 "h. A sale to meat packers, manufacturers,  
25 compounders, or processors of meat products of all casings  
26 used in molding or forming wieners and Vienna sausages even  
27 though casings may be recovered for reuse.



1            "i. A sale of commercial fish feed including  
2 concentrates, supplements, and other feed ingredients when  
3 substances are used as ingredients in mixing and preparing  
4 feed for fish raised to be sold on a commercial basis.

5            "j. A sale of tangible personal property to any  
6 person engaging in the business of leasing or renting tangible  
7 personal property to others, if tangible personal property is  
8 purchased for the purpose of leasing or renting it to others  
9 under a transaction subject to the privilege or license tax  
10 levied in Article 4 of Chapter 12 of this title against any  
11 person engaging in the business of leasing or renting tangible  
12 personal property to others.

13           "k. A purchase or withdrawal of parts or materials  
14 from stock by any person licensed under this division where  
15 parts or materials are used in repairing or reconditioning the  
16 tangible personal property of a licensed person, which  
17 tangible personal property is a part of the stock of goods of  
18 a licensed person, offered for sale by him, and not for use or  
19 consumption of a licensed person.

20           "(10) SALE AT RETAIL or RETAIL SALE. All sales of  
21 tangible personal property except those above defined as  
22 wholesale sales. The quantities of goods sold or prices at  
23 which sold are immaterial in determining whether or not a sale  
24 is at retail. Sales of building materials to contractors,  
25 builders, or landowners for resale or use in the form of real  
26 estate are retail sales in whatever quantity sold. Sales of  
27 building materials, fixtures, or other equipment to a

1 manufacturer or builder of modular buildings for use in  
2 manufacturing, building, or equipping a modular building  
3 ultimately becoming a part of real estate situated in the  
4 State of Alabama are retail sales, and the use, sale, or  
5 resale of building shall not be subject to the tax. Sales of  
6 tangible personal property to undertakers and morticians are  
7 retail sales and subject to the tax at the time of purchase,  
8 but are not subject to the tax on resale to the consumer.  
9 Sales of tangible personal property or products to  
10 manufacturers, quarry operators, mine operators, or  
11 compounders, which are used or consumed by them in  
12 manufacturing, mining, quarrying, or compounding and do not  
13 become an ingredient or component part of the tangible  
14 personal property manufactured or compounded as provided in  
15 subdivision (9) are retail sales. The term "sale at retail" or  
16 "retail sale" shall also mean and include the withdrawal, use,  
17 or consumption of any tangible personal property by any one  
18 who purchases same at wholesale, except property which has  
19 been previously withdrawn from the business or stock and so  
20 used or consumed and with respect to which property tax has  
21 been paid because of previous withdrawal, use, or consumption,  
22 except property which enters into and becomes an ingredient or  
23 component part of tangible personal property or products  
24 manufactured or compounded for sale as provided in subdivision  
25 (9) and not for the personal and private use or consumption of  
26 any person so withdrawing, using, or consuming the same; and  
27 wholesale purchaser shall report and pay the taxes thereon. In

1 the case of the sale of equipment, accessories, fixtures, and  
2 other similar tangible personal property used in connection  
3 with the sale of commercial mobile services as defined in  
4 subdivision (6) above, or in connection with satellite  
5 television services, at a price below cost, the term "sale at  
6 retail" and "retail sale" shall include those sales, and those  
7 sales shall not also be taxable as a withdrawal, use, or  
8 consumption of such tangible personal property.

9 "(11) BUSINESS. All activities engaged in, or caused  
10 to be engaged in, with the object of gain, profit, benefit, or  
11 advantage, either direct or indirect, and not excepting  
12 subactivities producing marketable commodities used or  
13 consumed in the main business activity, each of which  
14 subactivities shall be considered business engaged in, taxable  
15 in the class in which it falls.

16 "(12) AUTOMOTIVE VEHICLE. A power shovel, dragline,  
17 crawler, crawler crane, ditcher, or any similar machine which  
18 is self-propelled, in addition to self-propelled machines  
19 which are used primarily as instruments of conveyance.

20 "(13) PREPAID TELEPHONE CALLING CARD. A sale of a  
21 prepaid telephone calling card or a prepaid authorization  
22 number, or both, shall be deemed the sale of tangible personal  
23 property subject to the tax imposed on the sale of tangible  
24 personal property pursuant to this chapter. For purposes of  
25 this subdivision, the sale of prepaid wireless service that is  
26 evidenced by a physical card constitutes the sale of a prepaid  
27 telephone calling card, and the sale of prepaid wireless

1 service that is not evidenced by a physical card constitutes  
2 the sale of a prepaid authorization number.

3 "(14) PREPAID WIRELESS SERVICE. The right to use  
4 mobile telecommunications service, which must be paid for in  
5 advance and that is sold in predetermined units or dollars of  
6 which the number declines with use in a known amount, and  
7 which may include rights to use non-telecommunications  
8 services or to download digital products or digital content.  
9 For purposes of this subdivision, mobile telecommunications  
10 service has the meaning ascribed by Section 40-21-120.

11 "(15) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid  
12 solution or other material containing nicotine that is  
13 depleted when used as a vapor product.

14 "(16) VAPOR PRODUCTS. Any non-lighted,  
15 noncombustible product that employs a mechanical heating  
16 element, battery, or electronic circuit regardless of shape or  
17 size and that can be used to produce vapor from nicotine in a  
18 solution. The term includes any vapor cartridge or other  
19 container of nicotine in a solution or other form that is  
20 intended to be used with or in an electronic cigarette,  
21 electronic cigar, electronic cigarillo, electronic pipe, or  
22 similar product or device. The term does not include any  
23 product regulated by the United States Food and Drug  
24 Administration under Chapter V of the Federal Food, Drug, and  
25 Cosmetic Act.

26 "(17) PRODUCER VALUE ADDED AGRICULTURAL PRODUCTS.  
27 Fruits or other agricultural products that have undergone some

1 degree of further processing by the original producer of the  
2 agricultural product, including, but not limited to, whole  
3 cuts of meat, bound cut flowers, jams, jellies, or boiled or  
4 roasted peanuts.

5           "(b) The use within this state of tangible personal  
6 property by the manufacturer thereof, as building materials in  
7 the performance of a construction contract, shall, for the  
8 purposes of this division, be considered as a retail sale  
9 thereof by manufacturer, who shall also be construed as the  
10 ultimate consumer of materials or property, and who shall be  
11 required to report transaction and pay the sales tax thereon,  
12 based upon the reasonable and fair market price thereof at the  
13 time and place where same are used or consumed by him or it.  
14 Where the contractor is the manufacturer or compounder of  
15 ready-mix concrete or asphalt plant mix used in the  
16 performance of a contract, whether the ready-mix concrete or  
17 asphalt plant mix is manufactured or compounded at the job  
18 site or at a fixed or permanent plant location, the tax  
19 applies only to the cost of the ingredients that become a  
20 component part of the ready-mix concrete or the asphalt plant  
21 mix. The provisions of this subsection shall not apply to any  
22 tangible personal property which is specifically exempted from  
23 the tax levied in this division.

24           "(c) The sale of lumber by a lumber manufacturer to  
25 a trucker for resale is a sale at wholesale as sales are  
26 defined herein where the trucker is either a licensed dealer  
27 in lumber or, if a resident of Alabama, has registered with

1 the Department of Revenue, and has received therefrom a  
2 certificate of registration or, if a nonresident of this state  
3 purchasing lumber for resale outside the State of Alabama, has  
4 furnished to the lumber manufacturer his or her name, address  
5 and the vehicle license number of the truck in which the  
6 lumber is to be transported, which name, address, and vehicle  
7 license number shall be shown on the sales invoice rendered by  
8 the lumber manufacturer. The certificate provided for herein  
9 shall be valid for the calendar year of its issuance and may  
10 be renewed from year to year on application to the Department  
11 of Revenue on or before January 31 of each succeeding year;  
12 provided, that if not renewed the certificate shall become  
13 invalid for the purpose of this division on February 1.

14 "(d) The dispensing or transferring of ophthalmic  
15 materials, including lenses, frames, eyeglasses, contact  
16 lenses, and other therapeutic optic devices, to a patient by a  
17 licensed ophthalmologist, as a part of his or her professional  
18 service, shall, for purposes of this division, constitute a  
19 sale, subject to the state sales tax. The licensed  
20 ophthalmologist or licensed optometrist shall collect the  
21 state sales tax. In no event shall the providing of  
22 professional services in connection with the dispensing or  
23 transferring of ophthalmic materials, including dispensing  
24 fees or fitting fees, by a licensed ophthalmologist or  
25 licensed optometrist be considered a sale subject to the state  
26 sales tax. When the ophthalmic materials are purchased by a  
27 consumer covered by a third party benefit plan, including

1 Medicare, the sales tax shall be applicable to the amount that  
2 the ophthalmologist, optometrist, or optician is reimbursed by  
3 the third party benefit plan plus the amount that the consumer  
4 pays to the ophthalmologist, optometrist, or optician at the  
5 time of the sale. All transfers of ophthalmic materials by  
6 opticians or optometrists shall be considered retail sales  
7 subject to the state sales tax. The term supplier shall  
8 include but not be limited to optical laboratories, ophthalmic  
9 material wholesalers, or anyone selling ophthalmic materials  
10 to ophthalmologists.

11 "(e) Notwithstanding the above, the withdrawal, use,  
12 or consumption of a manufactured product by the manufacturer  
13 thereof in quality control testing performed by employees or  
14 independent contractors of the taxpayer, for purposes of this  
15 division, shall not be deemed or considered to constitute a  
16 transaction subject to sales tax, nor shall a gift by the  
17 manufacturer of a manufactured product, withdrawn from the  
18 manufacturer's inventory, to an entity listed in 26 U.S.C.  
19 Sections 170(b) or (c), be considered a transaction subject to  
20 sales tax.

21 "(f) Notwithstanding the foregoing, a gift by a  
22 retailer of a product or products where the aggregate retail  
23 value of any single gift is equal to or less than ten thousand  
24 dollars (\$10,000), withdrawn from the retailer's inventory, to  
25 an entity listed in 26 U.S.C. Sections 170(b) or (c) shall not  
26 be deemed or considered to constitute a transaction subject to  
27 sales and use tax.

1           "§40-23-4.

2           "(a) There are exempted from the provisions of this  
3 division and from the computation of the amount of the tax  
4 levied, assessed, or payable under this division the  
5 following:

6           "(1) The gross proceeds of the sales of lubricating  
7 oil and gasoline as defined in Sections 40-17-30 and 40-17-170  
8 and the gross proceeds from those sales of lubricating oil  
9 destined for out-of-state use which are transacted in a manner  
10 whereby an out-of-state purchaser takes delivery of such oil  
11 at a distributor's plant within this state and transports it  
12 out-of-state, which are otherwise taxed.

13           "(2) The gross proceeds of the sale, or sales, of  
14 fertilizer when used for agricultural purposes. The word  
15 "fertilizer" shall not be construed to include cottonseed  
16 meal, when not in combination with other materials.

17           "(3) The gross proceeds of the sale, or sales, of  
18 seeds for planting purposes and baby chicks and poults.  
19 Nothing herein shall be construed to exempt or exclude from  
20 the computation of the tax levied, assessed, or payable, the  
21 gross proceeds of the sale or sales of plants, seedlings,  
22 nursery stock, or floral products.

23           "(4) The gross proceeds of sales of insecticides and  
24 fungicides when used for agricultural purposes or when used by  
25 persons properly permitted by the Department of Agriculture  
26 and Industries or any applicable local or state governmental  
27 authority for structural pest control work and feed for



1 livestock and poultry, but not including prepared food for  
2 dogs and cats.

3 "(5) The gross proceeds of sales of all livestock by  
4 whomsoever sold, and also the gross proceeds of poultry and  
5 other products of the farm, dairy, grove, or garden, when in  
6 the original state of production or condition of preparation  
7 for sale, when such sale or sales are made by the producer or  
8 members of his or her immediate family or for him by those  
9 employed by him to assist in the production thereof. Nothing  
10 herein shall be construed to exempt or exclude from the  
11 measure or computation of the tax levied, assessed, or payable  
12 hereunder, the gross proceeds of sales of poultry or poultry  
13 products when not products of the farm.

14 "(6) Cottonseed meal exchanged for cottonseed at or  
15 by cotton gins.

16 "(7) The gross receipts from the business on which,  
17 or for engaging in which, a license or privilege tax is levied  
18 by or under the provisions of Sections 40-21-50, 40-21-53, and  
19 40-21-56 through 40-21-60; provided, that nothing contained in  
20 this subdivision shall be construed to exempt or relieve the  
21 person or persons operating the business enumerated in said  
22 sections from the payments of the tax levied by this division  
23 upon or measured by the gross proceeds of sales of any  
24 tangible personal property, except gas and water, the gross  
25 receipts from the sale of which are the measure of the tax  
26 levied by said Section 40-21-50, merchandise or other tangible  
27 commodities sold at retail by said persons, unless the gross

1 proceeds of sale thereof are otherwise specifically exempted  
2 by the provisions of this division.

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

9 "(9) The gross proceeds of the sale, or sales of  
10 wood residue, coal, or coke to manufacturers, electric power  
11 companies, and transportation companies for use or consumption  
12 in the production of by-products, or the generation of heat or  
13 power used in manufacturing tangible personal property for  
14 sale, for the generation of electric power or energy for use  
15 in manufacturing tangible personal property for sale or for  
16 resale, or for the generation of motive power for  
17 transportation.

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

1 contract for the painting, repair, or reconditioning of  
2 vessels, barges, ships, other watercraft, and commercial  
3 fishing vessels of over five tons load displacement as  
4 registered with the U.S. Coast Guard and licensed by the State  
5 of Alabama Department of Conservation and Natural Resources.

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

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

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

9 "(11) The gross proceeds of sales of tangible  
10 personal property to the State of Alabama, to the counties  
11 within the state and to incorporated municipalities of the  
12 State of Alabama.

13 "(12) The gross proceeds of the sale or sales of  
14 railroad cars, vessels, barges, and commercial fishing vessels  
15 of over five tons load displacement as registered with the  
16 U.S. Coast Guard and licensed by the State of Alabama  
17 Department of Conservation and Natural Resources, when sold by  
18 the manufacturers or builders thereof.

19 "(13) The gross proceeds of the sale or sales of  
20 materials, equipment, and machinery that, at any time, enter  
21 into and become a component part of ships, vessels, towing  
22 vessels or barges, or drilling ships, rigs or barges, or  
23 seismic or geophysical vessels, other watercraft and  
24 commercial fishing vessels of over five tons load displacement  
25 as registered with the U.S. Coast Guard and licensed by the  
26 State of Alabama Department of Conservation and Natural  
27 Resources. Additionally, the gross proceeds from the sale or

1 sales of lifeboats, personal flotation devices, ring life  
2 buoys, survival craft equipment, distress signals, EPIRB's,  
3 fire extinguishers, injury placards, waste management plans  
4 and logs, marine sanitation devices, navigation rulebooks,  
5 navigation lights, sound signals, navigation day shapes, oil  
6 placard cards, garbage placards, FCC SSL, stability  
7 instructions, first aid equipment, compasses, anchor and radar  
8 reflectors, general alarm systems, bilge pumps, piping, and  
9 discharge and electronic position fixing devices which are  
10 used on the aforementioned watercraft.

11 "(14) The gross proceeds of the sale or sales of  
12 fuel oil purchased as fuel for kiln use in manufacturing  
13 establishments.

14 "(15) The gross proceeds of the sale or sales of  
15 tangible personal property to county and city school boards  
16 within the State of Alabama, independent school boards within  
17 the State of Alabama, all educational institutions and  
18 agencies of the State of Alabama, the counties within the  
19 state, or any incorporated municipalities of the State of  
20 Alabama, and private educational institutions operating within  
21 the State of Alabama offering conventional and traditional  
22 courses of study, such as those offered by public schools,  
23 colleges, or universities within the State of Alabama; but not  
24 including nurseries, day care centers, and home schools.

25 "(16) The gross proceeds from the sale of all  
26 devices or facilities, and all identifiable components  
27 thereof, or materials for use therein, acquired primarily for

1 the control, reduction, or elimination of air or water  
2 pollution and the gross proceeds from the sale of all  
3 identifiable components of, or materials used or intended for  
4 use in, structures built primarily for the control, reduction,  
5 or elimination of air and water pollution.

6 "(17) The gross proceeds of sales of tangible  
7 personal property or the gross receipts of any business which  
8 the state is prohibited from taxing under the Constitution or  
9 laws of the United States or under the Constitution of this  
10 state.

11 "(18) When dealers or distributors use parts taken  
12 from stocks owned by them in making repairs without charge for  
13 such parts to the owner of the property repaired pursuant to  
14 warranty agreements entered into by manufacturers, such use  
15 shall not constitute taxable sales to the manufacturers,  
16 distributors, or to the dealers, under this division or under  
17 any county sales tax law.

18 "(19) The gross proceeds received from the sale or  
19 furnishing of food, including potato chips, candy, fruit and  
20 similar items, soft drinks, tobacco products, and stationery  
21 and other similar or related articles by hospital canteens  
22 operated by Alabama state hospitals at Bryce Hospital and  
23 Partlow State School for Mental Deficients at Tuscaloosa,  
24 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the  
25 benefit of the patients therein.

26 "(20) The gross proceeds of the sale, or sales, of  
27 wrapping paper and other wrapping materials when used in

1 preparing poultry or poultry products for delivery, shipment,  
2 or sale by the producer, processor, packer, or seller of such  
3 poultry or poultry products, including pallets used in  
4 shipping poultry and egg products, paper or other materials  
5 used for lining boxes or other containers in which poultry or  
6 poultry products are packed together with any other materials  
7 placed in such containers for the delivery, shipment, or sale  
8 of poultry or poultry products.

9 "(21) The gross proceeds of the sales of all  
10 antibiotics, hormones and hormone preparations, drugs,  
11 medicines or medications, vitamins, minerals or other  
12 nutrients, and all other feed ingredients including  
13 concentrates, supplements, and other feed ingredients when  
14 such substances are used as ingredients in mixing and  
15 preparing feed for fish raised to be sold on a commercial  
16 basis, livestock, and poultry. Such exemption herein granted  
17 shall be in addition to exemptions now provided by law for  
18 feed for fish raised to be sold on a commercial basis,  
19 livestock, and poultry, but not including prepared foods for  
20 dogs or cats.

21 "(22) The gross proceeds of the sale, or sales, of  
22 seedlings, plants, shoots, and slips which are to be used for  
23 planting vegetable gardens or truck farms and other  
24 agricultural purposes. Nothing herein shall be construed to  
25 exempt, or exclude from the computation of the tax levied,  
26 assessed, or payable, the gross proceeds of the sale, or the



1 use of plants, seedlings, shoots, slips, nursery stock, and  
2 floral products, except as hereinabove exempted.

3 "(23) The gross proceeds of the sale, or sales, of  
4 fabricated steel tube sections, when produced and fabricated  
5 in this state by any person, firm, or corporation for any  
6 vehicular tunnel for highway vehicular traffic, when sold by  
7 the manufacturer or fabricator thereof, and also the gross  
8 proceeds of the sale, or sales, of steel which enters into and  
9 becomes a component part of such fabricated steel tube  
10 sections of said tunnel.

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

25 "(25) The gross proceeds of sales of herbicides for  
26 agricultural uses by whomsoever sold. The term herbicides, as  
27 used in this subdivision, means any substance or mixture of

1 substances intended to prevent, destroy, repel, or retard the  
2 growth of weeds or plants. It shall include preemergence  
3 herbicides, postemergence herbicides, lay-by herbicides,  
4 pasture herbicides, defoliant herbicides, and desiccant  
5 herbicides.

6 "(26) The Alabama Chapter of the Cystic Fibrosis  
7 Research Foundation and the Jefferson Tuberculosis Sanatorium  
8 and any of their departments or agencies, heretofore or  
9 hereafter organized and existing in good faith in the State of  
10 Alabama for purposes other than for pecuniary gain and not for  
11 individual profit, shall be exempted from the computation of  
12 the tax on the gross proceeds of all sales levied, assessed,  
13 or payable.

14 "(27) The gross proceeds from the sale or sales of  
15 fuel for use or consumption aboard commercial fishing vessels  
16 are hereby exempt from the computation of all sales taxes  
17 levied, assessed, or payable under the provisions of this  
18 division or levied under any county or municipal sales tax  
19 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 gross proceeds of sales of sawdust, wood  
24 shavings, wood chips, and other like materials sold for use as  
25 chicken litter by poultry producers and poultry processors.

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

1 medicines, and other medications including serums and  
2 vaccines, vitamins, minerals, or other nutrients for use in  
3 the production and growing of fish, livestock, and poultry by  
4 whomsoever sold. Such exemption as herein granted shall be in  
5 addition to the exemption provided by law for feed for fish,  
6 livestock, and poultry, and in addition to the exemptions  
7 provided by law for the above-enumerated substances and  
8 products when mixed and used as ingredients in fish,  
9 livestock, and poultry feed.

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

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

20 "a. The name and claim number as shown on a Medicare  
21 card issued by the United States Social Security  
22 Administration.

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

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

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

8            "(31) There shall be exempted from the tax levied by  
9 this division the gross receipts of sales of grass sod of all  
10 kinds and character when in the original state of production  
11 or condition of preparation for sale, when such sales are made  
12 by the producer or members of his or her family or for him by  
13 those employed by him to assist in the production thereof;  
14 provided, that nothing herein shall be construed to exempt  
15 sales of sod by a person engaged in the business of selling  
16 plants, seedlings, nursery stock, or floral products.

17            "(32) The gross receipts of sales of the following  
18 items or materials which are necessary in the farm-to-market  
19 production of tomatoes when such items or materials are used  
20 by the producer or members of his or her family or for him by  
21 those employed by him to assist in the production thereof:  
22 Twine for tying tomatoes, tomato stakes, field boxes (wooden  
23 boxes used to take tomatoes from the fields to shed), and  
24 tomato boxes used in shipments to customers.

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

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

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

5           "(36) The gross receipts of sales of Lespedeza  
6 bicolor and other species of perennial plant seed and  
7 seedlings sold for wildlife and game food production purposes  
8 by the state.

9           "(37) The gross receipts of any aircraft  
10 manufactured, sold, and delivered in this state if said  
11 aircraft are not permanently domiciled in Alabama and are  
12 removed to another state.

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

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

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

19           "b. Is hosted by a not-for-profit corporation  
20 organized and existing under the laws of the State of Alabama;  
21 and

22           "c. Determines a national championship of a national  
23 organization, including but not limited to the Professional  
24 Golfers Association of America, the Tournament Players  
25 Association, the United States Golf Association, the United  
26 States Tennis Association, and the National Collegiate  
27 Athletic Association; and

1 "d. Has not been held in the State of Alabama on  
2 more than one prior occasion, provided, however, that for such  
3 purpose the Professional Golfers Association Championship, the  
4 United States Open Golf Championship, the United States  
5 Amateur Golf Championship of the United States Golf  
6 Association, and the United States Open Tennis Championship  
7 shall each be treated as a separate event.

8 "(40) The gross receipts from the sale of any  
9 aircraft and replacement parts, components, systems, supplies,  
10 and sundries affixed or used on said aircraft and ground  
11 support equipment and vehicles used by or for the aircraft to  
12 or by a certificated or licensed air carrier with a hub  
13 operation within this state, for use in conducting intrastate,  
14 interstate, or foreign commerce for transporting people or  
15 property by air. For the purpose of this subdivision, the  
16 words "hub operation within this state" shall be construed to  
17 have all of the following criteria:

18 "a. There originates from the location 15 or more  
19 flight departures and five or more different first-stop  
20 destinations five days per week for six or more months during  
21 the calendar year; and

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

25 "(41) The gross receipts from the sale of hot or  
26 cold food and beverage products sold to or by a certificated  
27 or licensed air carrier with a hub operation within this

1 state, for use in conducting intrastate, interstate, or  
2 foreign commerce for transporting people or property by air.  
3 For the purpose of this subdivision, the words "hub operation  
4 within this state" shall be construed to have all of the  
5 following criteria:

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

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

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

19 "a. Air Carrier. Any person, firm, corporation, or  
20 entity undertaking by any means, directly or indirectly, to  
21 provide air transportation.

22 "b. All-Cargo Operations. Any flight conducted by an  
23 air carrier for compensation or hire other than a passenger  
24 carrying flight, except passengers as specified in 14 C.F.R.  
25 §121.583(a) or 14 C.F.R. §135.85, as amended.

1            "c. International Commerce. Any air carrier engaged  
2 in all-cargo operations transporting goods for compensation or  
3 hire on international flights.

4            "d. International Flights. Any air carrier  
5 conducting scheduled all-cargo operations between any point  
6 within the 50 states of the United States and the District of  
7 Columbia and any point outside the 50 states of the United  
8 States and the District of Columbia, including any interim  
9 stops within the United States so long as the ultimate origin  
10 or destination of the aircraft is outside the United States  
11 and the District of Columbia.

12            "(43) The gross proceeds of the sale or sales of the  
13 following:

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

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

20            "c. Fuel and supplies for use or consumption aboard  
21 boats, ships, aircraft, and towing vessels when used  
22 exclusively in transporting persons or property between a  
23 point in Alabama and a point or points in offshore federal  
24 waters for the exploration for or production of oil, gas,  
25 sulphur, or other minerals in offshore federal waters.

26            "d. Drilling equipment that is used for the  
27 exploration for or production of oil, gas, sulphur, or other



1 minerals, that is built for exclusive use outside this state  
2 and that is, on completion, removed forthwith from this state.

3 "The delivery of items exempted by this subdivision  
4 to the purchaser or lessee in this state does not disqualify  
5 the purchaser or lessee from the exemption if the property is  
6 removed from the state by any means, including by the use of  
7 the purchaser's or lessee's own facilities.

8 "The shipment to a place in this state of equipment  
9 exempted by this subdivision for further assembly or  
10 fabrication does not disqualify the purchaser or lessee from  
11 the exemption if on completion of the further assembly or  
12 fabrication the equipment is removed forthwith from this  
13 state. This subdivision applies to a sale that may occur when  
14 the equipment exempted is further assembled or fabricated if  
15 on completion the equipment is removed forthwith from this  
16 state.

17 "(44) The gross receipts derived from all bingo  
18 games and operations which are conducted in compliance with  
19 validly enacted legislation authorizing the conduct of such  
20 games and operations, and which comply with the distribution  
21 requirements of the applicable local laws; provided that the  
22 exemption from sales taxation granted by this subdivision  
23 shall apply only to gross receipts taxable under subdivision  
24 (2) of Section 40-23-2. It is further provided that this  
25 exemption shall not apply to any gross receipts from the sale  
26 of tangible personal property, such as concessions, novelties,  
27 food, beverages, etc. The exemption provided for in this

1 section shall be limited to those games and operations by  
2 organizations which have qualified for exemption under the  
3 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or  
4 (19), or which are defined in 26 U.S.C. § 501(d).

5 "(45) The gross receipts derived from the sale or  
6 sales of fruit or other agricultural products by the person or  
7 company, as defined in Section 40-23-1, that planted or  
8 cultivated and harvested the fruit or agricultural product,  
9 when the land is owned or leased by the seller.

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

13 "(47) The gross receipts from the sale or sales of  
14 metal, other than gold or silver, when such metal is purchased  
15 for the purpose of transferring such metal to an investment  
16 trust in exchange for shares or other units, each of which are  
17 both publicly traded and represent fractional undivided  
18 beneficial interests in the trust's net assets, including  
19 metal stored in warehouses located in this state, as well as  
20 the gross proceeds from the sale or other transfer of such  
21 metal to or from such investment trust in exchange for shares  
22 or other units that are publicly traded and represent  
23 fractional undivided beneficial interests in the trust's net  
24 assets but not to the extent that metal is transferred to or  
25 from the investment trust in exchange for consideration other  
26 than such publicly traded shares or other units. For purposes  
27 of this subdivision, the term metals includes, but is not

1 limited to, copper, aluminum, nickel, zinc, tin, lead, and  
2 other similar metals typically used in commercial and  
3 industrial applications.

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

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

19 "(50) The gross proceeds of services provided by  
20 photographers, including but not limited to sitting fees and  
21 consultation fees, even when provided as part of a transaction  
22 ultimately involving the sale of one or more photographs, so  
23 long as the exempt services are separately stated to the  
24 customer on a bill of sale, invoice, or like memorialization  
25 of the transaction. For transactions occurring before October  
26 1, 2017, neither the Department of Revenue nor local tax  
27 officials may seek payment for sales tax not collected. With

1 regard to such transactions in which sales tax was collected  
2 and remitted on services provided by photographers, neither  
3 the taxpayer nor the entity remitting sales tax shall have the  
4 right to seek refund of such tax.

5 "(51) a. For the period commencing on June 1, 2018,  
6 and ending five years thereafter, unless extended by an act of  
7 the Legislature, the gross proceeds of sales of bullion or  
8 money, as defined in Section 40-1-1(7).

9 "b. For purposes of this subdivision, the following  
10 words or terms shall be defined and interpreted as follows:

11 "1. Bullion. Gold, silver, platinum, palladium, or a  
12 combination of each precious metal, that has gone through a  
13 refining process and for which the item's value depends on its  
14 mass and purity, and not on its form, numismatic value, or  
15 other value. The term includes bullion in the form of bars,  
16 ingots, or coins that meet the requirements set forth above.  
17 Qualifying bullion may contain other metals or substances,  
18 provided that the other substances are minimal in value  
19 compared with the value of the gold, silver, platinum, or  
20 palladium and the other substances do not add value to the  
21 item. For purposes of this subparagraph, "gold, silver,  
22 platinum, or palladium" does not include jewelry or works of  
23 art.

24 "2. Mass Purity. An item's mass is its weight in  
25 precious metal, and its purity is the amount of precious metal  
26 contained within the item.

1                   "3. Numismatic Value. An external value above and  
2 beyond the base value of the underlying precious metal, due to  
3 the item's rarity, condition, age, or other external factor.

4                   "c. In order for bullion to qualify for the sales  
5 tax exemption, gold, silver, platinum, and palladium items  
6 must meet all of the following requirements:

7                   "1. Must be refined.

8                   "2. Must contain at least ninety percent gold,  
9 silver, platinum, or palladium or some combination of these  
10 metals.

11                   "3. The sales price of the item must fluctuate with  
12 and depend on the market price of the underlying precious  
13 metal, and not on the item's rarity, condition, age, or other  
14 external factor.

15                   "(52) a. The gross proceeds of the initial retail  
16 sales of adaptive equipment that is permanently affixed to a  
17 motor vehicle.

18                   "b. For the purposes of this subdivision, the  
19 following words or terms shall be defined and interpreted as  
20 follows:

21                   "1. Adaptive Equipment. Equipment not generally used  
22 by persons with normal mobility that is appropriate for use in  
23 a motor vehicle and that is not normally provided by a motor  
24 vehicle manufacturer.

25                   "2. Motor Vehicle. A vehicle as defined in Section  
26 40-12-240.

1                   "3. Motor Vehicle Manufacturer. Every person engaged  
2 in the business of constructing or assembling vehicles or  
3 manufactured homes.

4                   "c. In order to qualify for the exemption provided  
5 for herein, the adaptive equipment must be separately stated  
6 to the customer on a bill of sale, invoice, or like  
7 memorialization of the transaction.

8                   "(53) The gross receipts derived from the sale of  
9 producer value added agricultural products when the sale is  
10 made by the producer or by his or her immediate family, or for  
11 the producer by his or her employees.

12                   "(b) Any violation of any provision of this section  
13 shall be punishable in a court of competent jurisdiction by a  
14 fine of not less than five hundred dollars (\$500) and no more  
15 than two thousand dollars (\$2,000) and imprisonment of not  
16 less than six months nor more than one year in the county  
17 jail."

18                   Section 3. This act shall become effective  
19 immediately following its passage and approval by the  
20 Governor, or its otherwise becoming law.