

1 HB104  
2 196336-3  
3 By Representatives Brown (C) and Stringer (N & P)  
4 RFD: Mobile County Legislation  
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ENROLLED, An Act,

Relating to Mobile County; to provide for the local collection and enforcement of all county privilege, license, or excise taxes on the sale, distribution, storage, use, or other consumption of tobacco products in the county.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall only apply to Mobile County.

Section 2. For the purposes of this act, the following words shall have the following meanings:

(1) BUSINESS RECORDS. All invoices, receipts, ledgers, inventories, tax returns, balance sheets, reports, and documents of every type, whether prepared or maintained on paper or electronically.

(2) CIGARS, CHERROOTS, STOGIES, ETC. A roll for smoking that is of any size or shape and that is made wholly or in part of tobacco or any substitute therefor, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in part of tobacco.

(3) CHEWING TOBACCO. All chewing tobacco prepared in such manner as to be suitable for chewing only and not suitable for smoking.

1           (4) FILTERED CIGARS. Filtered cigars that have a  
2 cellulose acetate or similar integrated filter, made of  
3 tobacco, or any substitute therefor, and weighing more than  
4 three pounds per 1,000.

5           (5) LITTLE CIGARS. Cigars of all descriptions,  
6 including filtered cigars, made of tobacco, or any substitute  
7 therefor, and weighing not more than three pounds per 1,000.

8           (6) OTHER TOBACCO PRODUCTS. Cigars made of tobacco  
9 or any substitute therefor, including cigarette-sized or  
10 near-cigarette-sized cigars, smoking tobacco or hookah,  
11 chewing tobacco, snuff, rolling papers, tubes, wraps, or cones  
12 designed for tobacco consumption.

13           (7) RETAIL DEALER. Every person, firm, or  
14 corporation, other than a wholesale dealer or jobber, who  
15 shall sell or offer for sale any one or more of the articles  
16 taxed herein, irrespective of quantity or amount, or the  
17 number of sales; and all persons operating under a retail  
18 dealer's license.

19           (8) SEMIJOBBER. Persons, firms, or corporations who  
20 buy tobacco products from permitted wholesalers or obtain  
21 tobacco from any other source and sell at wholesale any one or  
22 more of the articles taxed herein to licensed retail dealers  
23 for the purpose of resale only.

24           (9) STAMPS. The stamp or stamps by the use of which  
25 tax is levied under this act.

1           (10) SMOKING TOBACCO. All smoking tobacco, including  
2 granulated, plug cut, crimp cut, ready rubbed, and other kinds  
3 and forms of tobacco prepared in such manner as to be suitable  
4 for smoking in a pipe or cigarette.

5           (11) WHOLESALE DEALER AND JOBBER. Persons, firms, or  
6 corporations who buy tobacco products direct from the  
7 manufacturer or an affiliate of the manufacturer and sell at  
8 wholesale only, any one or more of the articles taxed herein  
9 to licensed wholesale dealers, jobbers, semijobbers, and  
10 retail dealers for the purpose of resale only.

11           Section 3. This act applies to the collection and  
12 enforcement of all county privilege, license, or excise taxes  
13 levied or authorized to be levied by local law, or resolution  
14 of the Mobile County Commission on the sale, distribution,  
15 storage, use, or otherwise consumption of cigarette and other  
16 tobacco products in the county whether collected by the State  
17 Department of Revenue or the Mobile County Commission prior to  
18 the effective date of this act and set out below in the total,  
19 cumulative amount of tax on each item:

20           (a) Twenty cents (\$.20) for each package of  
21 cigarettes made of tobacco or any substitute therefor.

22           (b) Twenty-one cents (\$.21) for each cigar stick of  
23 any description made of tobacco or any substitute therefor,  
24 with the exception of cigarette-sized or near-cigarette-sized  
25 cigars which shall be taxed at the same rate as cigarettes.

1           (c) Twenty-three cents (\$.23) 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 a manner as to  
5 be suitable for smoking in a pipe or cigarette.

6           (d) Twenty-three cents (\$.23) for each sack, plug,  
7 package, or other container of chewing tobacco, which tobacco  
8 is prepared in such manner as to be suitable for chewing only  
9 and not suitable for smoking as described in subsection (c) of  
10 this section.

11           (e) Twenty-three cents (\$.23) for each can, bottle,  
12 glass, tumbler, package, or other container of snuff made of  
13 tobacco or any substitute therefor.

14           (f) Thirty-four cents (\$.34) for each package of  
15 tobacco paper, both gummed and ungummed.

16           Section 4. All county privilege, license, or excise  
17 taxes levied or authorized to be levied by local law or  
18 resolution of the Mobile County Commission, in Mobile County  
19 on the sale, distribution, storage, use, or otherwise  
20 consumption of all tobacco products in the county shall be  
21 collected after the effective date of this act by Mobile  
22 County in accordance with and subject to the procedures  
23 provided in this act.

24           Section 5. In Mobile County, every person, firm,  
25 corporation, club, or association that sells, stores, or

1 receives for distribution or sale any cigarettes, cigars,  
2 cheroots, stogies, smoking tobacco, chewing tobacco, snuff, or  
3 any substitute thereof, as defined in Section 42-25-1, Code of  
4 Alabama 1975, shall add the amount of the license or privilege  
5 tax levied and assessed to the price of the product. The  
6 dealer, storer, or distributor shall state the amount of the  
7 tax separately from the price of the tobacco product.

8 Section 6. Every wholesale dealer shall, at the time  
9 of selling or delivering any cigarettes or other tobacco  
10 products enumerated in this act, within Mobile County, make a  
11 true duplicate invoice of the same, which shall show full and  
12 complete details of the sale or delivery of the cigarettes or  
13 other tobacco products, and shall retain the same, subject to  
14 the use and inspection of the Mobile County Tobacco Tax  
15 Collector or his or her duly authorized deputy, for a period  
16 of three years. Wholesale and retail dealers shall also keep a  
17 record of the purchase, sale, exchange, or receipt of all the  
18 cigarettes or other tobacco products, and hold all books,  
19 records, canceled checks, and all other memoranda pertaining  
20 to the purchase, sales, exchange, or receipt for the period  
21 mentioned herein, subject to the inspection of the Mobile  
22 County Tobacco Tax Collector or his or her duly authorized  
23 deputy, who shall have the power and authority to enter upon  
24 the premises of any dealer and to examine such the business  
25 records at all reasonable times. Wholesale and retail dealers

1 shall also keep a record of the purchases of all cigarettes or  
2 other tobacco products enumerated herein and hold all books,  
3 records, and memoranda pertaining to the purchase of the  
4 cigarettes or other tobacco products enumerated herein, open  
5 to the inspection of the Mobile County Tobacco Tax Collector  
6 or his or her deputy, at any and all times.

7 Section 7. Every wholesale dealer shall furnish to  
8 the Mobile County Tobacco Tax Collector a monthly report,  
9 between the 1st and 20th of each month, for the preceding  
10 month, of the sale or delivery of all cigarettes or other  
11 tobacco products made in Mobile County, and of all orders for  
12 cigarettes or other tobacco products as enumerated herein  
13 purchased through the wholesale dealer from without Mobile  
14 County on a drop shipment, and consigned direct to the person,  
15 firm, corporation, or association of person ordering such  
16 cigarettes or other tobacco products from without this county  
17 through the wholesaler dealer. Any retail dealer or semijobber  
18 of cigarettes or other tobacco products enumerated herein,  
19 purchasing or receiving such commodities from without the  
20 county, whether the same shall have been ordered or purchased  
21 through a wholesaler or jobber in this county, or by drop  
22 shipment or otherwise, which the state, county, city, and  
23 local tax has not already been paid at wholesale, shall within  
24 three days of receipt of the cigarettes or other tobacco  
25 products, mail by registered mail a true duplicate invoice of

1 all the purchases or receipts to the Mobile County Tobacco Tax  
2 Collector, the invoice carrying the name of the person or firm  
3 from whom or through whom the purchases or shipments of the  
4 cigarettes or other tobacco products so received, showing  
5 kinds and quantities. Any person who purchases or receives in  
6 any manner whatsoever, any of the cigarettes or other tobacco  
7 products enumerated in this act which do not have affixed the  
8 stamps required by this act, which the state, county, city,  
9 and local tax has not already been paid at wholesale, within  
10 three days after receipt of the cigarettes or other tobacco  
11 products, shall report the receipt and purchase of the  
12 cigarettes or other tobacco products to the Mobile County  
13 Tobacco Tax Collector, giving the date of purchase or receipt,  
14 the name and address of the person or firm from whom it was  
15 purchased or received, and a list describing the cigarettes or  
16 other tobacco products purchased or received. The report must  
17 be made by registered mail or in person.

18 Section 8. It shall be unlawful for any dealer,  
19 storer, or distributor engaged in or continuing in Mobile  
20 County in the business for which the tax is levied to fail or  
21 refuse to add to the sales price and collect from the  
22 purchaser the amount due on the tax authorized in this act or  
23 to refund or offer to refund all or any part of the amount  
24 collected or absorb or advertise directly or indirectly the  
25 absorption of the tax or any portion thereof.



1           Section 9. Any retail dealer or semijobber of  
2 tobacco products enumerated and defined in this act purchasing  
3 or receiving the commodities from without the state, whether  
4 the same shall have been ordered or purchased through a  
5 wholesaler or jobber in this state, or by drop shipment or  
6 otherwise, which the state, county, city, and local tax has  
7 not already been paid at wholesale, shall within three days of  
8 receipt of such tobacco products, provide electronically, a  
9 true duplicate invoice of all such purchases or receipts to  
10 the Mobile County Tobacco Tax Collector, the invoice carrying  
11 the name of the person or firm from whom or through whom such  
12 purchases or shipments of the tobacco products so received,  
13 showing kinds and quantities. Any retail dealer or semijobber  
14 failing or refusing to furnish duplicate invoices, in both the  
15 manner and time allowed, may be subject to a county imposed  
16 penalty of not less than one thousand dollars (\$1,000) nor  
17 more than five thousand dollars (\$5,000), to be multiplied by  
18 the sum of the current violation plus prior violations of this  
19 section. Tobacco products imported by retail dealers and  
20 semijobbers in which a true and duplicate invoice has not been  
21 received by the county are considered contraband and subject  
22 to confiscation as provided for by law.

23           Section 10. Any person, firm, corporation, club, or  
24 association failing to affix required stamps, or account and  
25 collect the taxes enumerated in Section 2, shall on a first

1 offense pay a civil penalty of not less than twenty-five  
 2 dollars (\$25) per item nor more than five hundred dollars  
 3 (\$500) per item. Penalty payments shall be made to the Mobile  
 4 County Tobacco Tax Collector within 30 days of notice of the  
 5 penalty and paid to the General Fund of the County. For a  
 6 second offense under this act, there shall be a civil penalty  
 7 of not less than one hundred dollars (\$100) per item, nor more  
 8 than five hundred dollars (\$500) per item. For a third  
 9 offense, the Mobile County Commission shall recommend to the  
 10 State Department of Revenue that the State Business License be  
 11 revoked for a period of one year.

12 Section 11. The Mobile County Tobacco Tax Collector  
 13 shall have the duties relative to the preparation and sale of  
 14 stamps to evidence the payment of the tax on products suitable  
 15 for affixing the stamp. In the event tobacco stamps are not  
 16 available, or not suitable for affixing to certain tobacco  
 17 products, the Mobile County Commission shall require a monthly  
 18 report in lieu of stamps to report the amount of tax due. The  
 19 monthly report shall be in a form approved and adopted by the  
 20 Mobile County Commission.

21 Section 12. Any product taxable by law found not  
 22 having affixed to the package the stamps, or in the case of  
 23 products not requiring a stamp to be affixed where purchase  
 24 invoices do not itemize the applicable tobacco taxes, are  
 25 declared to be contraband goods and may be seized by the

1 Mobile County Tobacco Tax Collector without a warrant and the  
 2 goods delivered to Mobile County for destruction.

3 Section 13. The Mobile County Commission may adopt  
 4 rules to effectuate the purposes of this act and conform to  
 5 the provisions of Chapter 25 of Title 40, Code of Alabama  
 6 1975. On the effective date of this act, the Mobile County  
 7 Commission shall publish a notice to all tobacco wholesalers  
 8 and retailers consistent with Act 2014-262, effective October  
 9 1, 2014, and the State Department of Revenue memo to all  
 10 tobacco wholesalers and retailers of June 11, 2014.

11 Section 14. Taxes, penalties, and fines assessed  
 12 pursuant to this act shall constitute a debt due to Mobile  
 13 County, may be collected by civil suit, and shall be secured  
 14 by a lien, superior to all other liens except the liens for  
 15 state and city ad valorem taxes upon the personal property of  
 16 any person subject to the provisions of this act.

17 Section 15. All other provisions of prior local laws  
 18 not inconsistent with this act are confirmed. All laws or  
 19 parts of laws which conflict with this act are repealed.

20 Section 16. This act shall become effective October  
 21 1, 2019, upon its passage and approval by the Governor, or  
 22 upon its otherwise becoming law.

