

1 HB87
2 180539-2
3 By Representative McMillan
4 RFD: Ways and Means General Fund
5 First Read: 07-FEB-17
6 PFD: 02/06/2017

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8 SYNOPSIS: This bill provides the Department of Revenue
9 with the ability to pursue options in order to
10 reduce identity theft related refund fraud. In
11 addition, this bill requires the Department to
12 standardize the method of filing returns, license
13 applications, and method of payments, whenever
14 feasible in order to minimize errors and promote
15 compliance. This bill allows the Department to
16 credit a taxpayer's account when a refund was
17 erroneously reversed by the Department. This bill,
18 with certain exceptions, would provide for the
19 imposition of penalties against a taxpayer who
20 presents as payment for his or her tax liability a
21 money order or electronic funds which are not
22 honored for payment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To add Article 7 to Chapter 29 of Title 40, Code of
2 Alabama 1975, to allow the Department of Revenue to pursue
3 options in order to reduce identity theft related refund
4 fraud; To add Section 40-30-7 Code of Alabama 1975, to allow
5 the Department to prescribe the method of filing returns,
6 license applications, and method of payments, by
7 administrative rule; To amend Section 40-18-79, Code of
8 Alabama 1975, to give the Department the authority to credit a
9 taxpayer's account when a refund was erroneously reversed by
10 the Department; To include electronic funds in Section
11 40-29-70, Code of Alabama, 1975 and provide penalties to
12 persons presenting non-payable electronic funds and money
13 orders to the Department for payment of tax liabilities.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Article 7 is hereby added to Chapter 29
16 of Title 40, Code of Alabama 1975, to read as follows:

17 ARTICLE 7. IDENTITY THEFT RELATED REFUND FRAUD.

18 "40-29-130.

19 "The Department of Revenue, with assistance and
20 support from other state offices and agencies that participate
21 in the income tax refund process, is authorized and instructed
22 to pursue all reasonable options available to it in order to
23 reduce identity theft related refund fraud. The Department and
24 other assisting state offices and agencies are authorized to
25 incur all reasonable costs associated in combating refund
26 fraud, to partner with other state, federal, and private
27 sectors in various programs and projects designed to reduce or

1 eliminate refund fraud, and to compensate or reimburse the
2 partners in these programs for the reasonable costs incurred
3 in carrying out these programs."

4 Section 2. Section 40-30-7 is hereby added to the
5 Code of Alabama 1975, as follows:

6 §40-30-7

7 "The Department shall, whenever feasible,
8 standardize the method of filing returns, license
9 applications, and methods of payments. The Department may
10 prescribe by administrative rule the method of filing tax
11 returns, license applications and other information related to
12 laws for which the Department is responsible for administering
13 as well as the method of payment for such taxes, licenses and
14 other information in order to standardize these processes
15 whenever feasible. Such rules shall be promulgated in
16 accordance with the Administrative Procedures Act and shall be
17 reviewed every five years in accordance with the Red Tape
18 Reduction Act."

19 Section 3. Section 40-18-79 is hereby amended as
20 follows:

21 "§40-18-79.

22 "Where there has been an overpayment of any tax
23 imposed under Section 40-18-71 or ~~40-18-82~~ 40-18-80, the
24 amount of such overpayment may, if a petition for refund is
25 timely filed or the department otherwise allows an automatic
26 refund within that period, be credited against any income tax
27 or installment thereof then due from the taxpayer, and any

1 balance shall be refunded to the taxpayer or if the taxpayer's
2 bank or other financial institution, pursuant to the State
3 Financial External Lead Program or any other similar program
4 selected by the Department, certifies a petition for
5 reimbursement that it has credited the taxpayer's account in
6 the amount of the refund due the taxpayer because the
7 taxpayer's refund was erroneously reversed by the Department,
8 then the balance shall be paid to the bank or other financial
9 institution as reimbursement. Any costs or reimbursement
10 incurred shall be paid from the same funds to which income tax
11 revenues are deposited."

12 Section 4. Section 40-29-70 is hereby amended to
13 read as follows:

14 "§40-29-70.

15 "If any check, ~~or~~ money order, or electronic funds
16 in payment of any amount receivable under this title for
17 payment of taxes under any provision of law is not duly paid,
18 in addition to any other penalties provided by law, there
19 shall be paid as a penalty by the person who tendered such
20 check, money order or electronic funds, upon notice and demand
21 by the commissioner, or his or her delegate, or other taxing
22 authority, in the same manner as tax, an amount equal to 10
23 percent of the amount of such check, money order or electronic
24 funds, except that if the amount of such check, money order or
25 electronic funds is less than five hundred dollars (\$500)
26 \$500, the penalty under this section shall be ~~\$10~~ ten dollars
27 (\$10) or the amount of such check, money order or electronic

1 funds, whichever is the lesser. This section shall not apply
2 if the person tendered such check, money order or electronic
3 funds in good faith and with reasonable cause to believe that
4 it would be duly paid, ~~or~~ and settlement is made by the
5 taxpayer within 10 days after notification of receipt of a bad
6 check, money order, or non-payable electronic funds by the
7 department or other taxing authority."

8 Section 5. All laws or parts of laws which conflict
9 with this act are hereby repealed.

10 Section 6. This act shall become effective October
11 1, 2017, following its passage and approval by the Governor,
12 or upon its otherwise becoming law.