

1 HB392  
2 183472-1  
3 By Representatives Mooney, Wingo, Butler, Ainsworth, Hanes,  
4 Williams (JW), Farley, Todd, Hall, Moore (B), Beech, Knight,  
5 Holmes (M), Brown and Lee  
6 RFD: Ways and Means General Fund  
7 First Read: 09-MAR-17

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8 SYNOPSIS: Under existing law, the Alabama Tax Tribunal  
9 has ruled that the lodging tax was intended to  
10 apply only to a room or other closed, private area,  
11 which a transient uses as a temporary living  
12 quarter or abode in which to live and use as  
13 sleeping accommodations for a short period.

14 This bill would revise the lodging tax law  
15 to specifically provide that the rental of any  
16 portion of a hotel, motel, inn, tourist camp,  
17 tourist cabin, or any other place in which rooms,  
18 lodgings, or accommodations are regularly furnished  
19 to transients which is not used as a temporary  
20 living quarter or abode in which to live in and use  
21 as sleeping accommodations for a short period would  
22 not be subject to the lodging tax.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
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1           To amend Section 40-26-1, Code of Alabama 1975,  
2 relating to lodging tax; to provide that the rental of any  
3 portion of a hotel, motel, inn, tourist camp, tourist cabin,  
4 or any other place which is not a part of a room, lodging, or  
5 accommodation regularly furnished to a transient would not be  
6 subject to the lodging tax.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8           Section 1. Section 40-26-1, Code of Alabama 1975, is  
9 amended to read as follows:

10           "§40-26-1.

11           "(a) There is levied and imposed, in addition to all  
12 other taxes of every kind now imposed by law, a privilege or  
13 license tax upon every person, firm, or corporation engaging  
14 in the business of renting or furnishing any room or rooms,  
15 lodging, or accommodations to transients in any hotel, motel,  
16 inn, tourist camp, tourist cabin, or any other place in which  
17 rooms, lodgings, or accommodations are regularly furnished to  
18 transients for a consideration, in any county which is located  
19 in the geographic region comprising the Alabama mountain lakes  
20 area, those being Blount, Cherokee, Colbert, Cullman, DeKalb,  
21 Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone,  
22 Madison, Marion, Marshall, Morgan, and Winston, in an amount  
23 to be determined by the application of the rate of five  
24 percent of the charge for such room, rooms, lodgings, or  
25 accommodations, including the charge for use or rental of  
26 personal property and services furnished in such room, and the  
27 rate of four percent of the charge in every other county.

1 There is exempted from the tax levied under this chapter any  
2 rentals or services taxed under Division 1 of Article 1 of  
3 Chapter 23 of this title.

4 "(b) The tax shall not apply to rooms, lodgings, or  
5 accommodations supplied: (i) For a period of 180 continuous  
6 days or more in any place; (ii) by camps, conference centers,  
7 or similar facilities operated by nonprofit organizations  
8 primarily for the benefit of, and in connection with,  
9 recreational or educational programs for children, students,  
10 or members or guests of other nonprofit organizations during  
11 any calendar year; ~~or~~ (iii) by privately operated camps,  
12 conference centers, or similar facilities that provide lodging  
13 and recreational or educational programs exclusively for the  
14 benefit of children, students, or members or guests of  
15 nonprofit organizations during any calendar year.

16 "(c) For purposes of subsection (b): "Children"  
17 means individuals under age 21; "student" is defined in  
18 accordance with 26 U.S.C. § 151(c) (4), as in effect from time  
19 to time or by any successor law; "nonprofit organization" is  
20 an organization exempt from federal income tax under 26 U.S.C.  
21 § 501(c) (3), as in effect from time to time or any successor  
22 law; and "privately operated" refers to any camp, conference  
23 center, or similar facility other than those operated by a  
24 nonprofit organization as herein defined.

25 "(d) The rental of any portion of a hotel, motel,  
26 inn, tourist camp, tourist cabin, or any other place in which  
27 rooms, lodgings, or accommodations are regularly furnished to

1 transients which is not used as a temporary living quarter or  
2 abode in which to live and use as sleeping accommodations for  
3 a short period is not subject to the tax levied by this  
4 chapter or any other lodging tax levied by law, nor shall the  
5 rental of a portion of a facility which is not a room,  
6 lodging, or accommodation be considered an amusement or sale  
7 under Chapter 23 of this title. This subsection shall  
8 specifically apply to convention facilities, banquet halls,  
9 and meeting rooms in a facility to which this chapter  
10 applies."

11           Section 2. All laws or parts of laws which conflict  
12 with this act are repealed.

13           Section 3. This act shall become effective on the  
14 first day of the third month following its passage and  
15 approval by the Governor, or its otherwise becoming law.