

1 SB165
2 181628-2
3 By Senator Whatley
4 RFD: Finance and Taxation Education
5 First Read: 09-FEB-17

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8 SYNOPSIS: Under existing law, a sales and use tax of
9 1.5 percent is levied by the state on the sale or
10 the use of agricultural machinery and equipment.

11 This bill would provide that the sale or the
12 use of agricultural machinery and equipment would
13 be exempt from state sales or use tax. The
14 exemptions would be phased in over a three-year
15 period.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to agriculture; to amend Sections 40-23-37
22 and 40-23-63 of the Code of Alabama 1975, to provide that the
23 sale or the use, storage, and consumption of agricultural
24 machinery and equipment for use on a farm would be exempt from
25 state sales and use tax; to provide that the exemptions would
26 be phased in over a three-year period; and to repeal Sections
27 40-23-38 and 40-23-64 of the Code of Alabama 1975, relating to

1 the administration of sales and use tax on agricultural
2 machinery and equipment.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 40-23-37 and 40-23-63 of the
5 Code of Alabama 1975, are amended to read as follows:

6 "§40-23-37.

7 "(a) There is hereby levied, ~~in lieu of the exempt~~
8 ~~from the~~ state sales tax levied by Section 40-23-2, ~~a~~
9 ~~privilege or license tax against the~~ on any person on account
10 of the business activities engaged in and in the amount to be
11 determined by the application of rates against gross sales, or
12 gross receipts, as the case may be as follows:

13 "~~Upon every~~ Any person, firm, L or corporation engaged
14 or continuing within this state in the business of selling at
15 retail any machine, machinery, L or equipment which is used in
16 planting, cultivating, L and harvesting farm products or for
17 agriculture or agricultural purposes, or used in connection
18 with the production of agricultural produce or products,
19 livestock, L or poultry on farms, and the parts of such
20 machines, machinery, L or equipment, attachments, L and
21 replacements therefor which are made or manufactured for use
22 on or in the operation of such machine, machinery, L or
23 equipment, and which are necessary to and customarily used in
24 the operation of such machine, machinery, L or equipment, ~~an~~
25 ~~amount equal to one and one-half percent of the gross proceeds~~
26 ~~of the sale thereof; provided, that the one and one-half~~
27 ~~percent rate~~ exemption provided herein prescribed with respect

1 to parts, attachments, and replacements shall not apply to any
2 automotive vehicle or trailer designed primarily for public
3 highway use, except farm trailers used primarily in the
4 production and harvesting of agricultural commodities.

5 ~~"Where any used machine, machinery or equipment
6 which is used in planting, cultivating and harvesting farm
7 products, or used in connection with the production of
8 agricultural produce or products, livestock and poultry on
9 farms is taken in trade or in a series of trades as a credit
10 or part payment on a sale of a new or used machine, machinery
11 or equipment, the tax levied herein shall be paid on the net
12 difference, that is, the price of the new or used machine,
13 machinery or equipment sold, less the credit for the used
14 machine, machinery or equipment taken in trade.~~

15 "(b) This exemption shall not apply to a local sales
16 tax unless previously exempted by local law or approved by
17 resolution of the local governing body.

18 "(c) For the purposes of this section, the terms
19 "agriculture or agricultural" shall have the same meaning as
20 those terms are defined in subdivision (1) of Section
21 41-14-51.

22 "(d) The exemption provided in subsection (a) shall
23 be phased in over a three-year period as follows: For the
24 first year after the effective date of the act adding this
25 amendatory language, the sales shall be taxed at one percent;
26 for the second year, the sales shall be taxed at one-half of
27 one percent; and commencing on the first day of the third year

1 after the effective date of the act adding this language, the
2 sales shall be fully exempt pursuant to subsection (a).

3 "§40-23-63.

4 "(a) There is hereby ~~levied and imposed an exempt~~
5 from the state excise tax on the storage, use, or other
6 consumption in this state of any machine, machinery, or
7 equipment which is used in planting, cultivating, and
8 harvesting farm products or for agriculture or agricultural
9 purposes, or used in connection with the production of
10 agricultural produce or products, livestock, or poultry, or
11 farms, and the parts of such machines, machinery or equipment,
12 attachments, and replacements therefor which are made or
13 manufactured for use on or in the operation of such machine,
14 machinery, or equipment, and which are necessary to and
15 customarily used in the operation of such machine, machinery, or
16 equipment, which is purchased at retail ~~after October 1,~~
17 ~~1966,~~ for storage, use, or other consumption in this state, ~~at~~
18 ~~the rate of one and one-half percent of the sales price of~~
19 ~~such property or the amount of tax collected by the seller,~~
20 ~~whichever is greater, provided, however, when the seller~~
21 ~~follows the Department of Revenue's suggested use tax brackets~~
22 ~~and his records prove that his following said brackets~~
23 ~~resulted in a net undercollection of tax for the month, he may~~
24 ~~report the tax due or tax collected whichever is less,~~
25 ~~regardless of whether the retailer is or is not engaged in~~
26 ~~business in this state. The tax herein levied and imposed~~
27 ~~shall be in lieu of the excise tax levied and imposed by~~

1 ~~Section 40-23-61~~; provided, that the ~~one and one-half percent~~
2 ~~rate exemption~~ herein prescribed with respect to parts,
3 attachments, and replacements shall not apply to any
4 automotive vehicle or trailer designed primarily for public
5 highway use except farm trailers used primarily in the
6 production and harvesting of agricultural commodities.

7 ~~"Every person storing, using or otherwise consuming~~
8 ~~in this state such tangible personal property purchased at~~
9 ~~retail shall be liable for the tax imposed by this article,~~
10 ~~and the liability shall not be extinguished until the tax has~~
11 ~~been paid to this state; provided, that a receipt from a~~
12 ~~retailer maintaining a place of business in this state or a~~
13 ~~retailer authorized by the Department of Revenue under such~~
14 ~~rules and regulations as the Commissioner of Revenue may~~
15 ~~prescribe, to collect the tax imposed hereby and who shall for~~
16 ~~the purpose of this article be regarded as a retailer~~
17 ~~maintaining a place of business in this state, given to the~~
18 ~~purchaser in accordance with the provisions of Section~~
19 ~~40-23-67, shall be sufficient to relieve the purchaser from~~
20 ~~further liability for a tax to which such receipt may refer.~~

21 "(b) This exemption shall not apply to a local use
22 tax unless previously exempted by local law or approved by
23 resolution of the local governing body.

24 "(c) For the purposes of this section, the terms
25 "agriculture or agricultural" shall have the same meaning as
26 those terms are defined in subdivision (1) of Section
27 41-14-51.

1 "(d) The exemption provided in subsection (a) shall
2 be phased in over a three-year period as follows: For the
3 first year after the effective date of the act adding this
4 amendatory language, the storage, consumption, or use shall be
5 taxed at one percent; for the second year, the storage,
6 consumption, or use shall be taxed at one-half of one percent;
7 and commencing on the first day of the third year after the
8 effective date of the act adding this language, the storage,
9 consumption, or use shall be fully exempt pursuant to
10 subsection (a)."

11 Section 2. Sections 40-23-38 and 40-23-63 of the
12 Code of Alabama 1975, are repealed, effective the first day of
13 the third year after the effective date of this act.

14 Section 3. This act shall become effective on
15 October 1, 2017, following its passage and approval by the
16 Governor, or its otherwise becoming a law.