

1 HB116
2 173394-1
3 By Representative Scott
4 RFD: Ways and Means General Fund
5 First Read: 03-FEB-16

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8 SYNOPSIS: This bill would allow eligible sellers to
9 continue to participate in the program, under
10 certain circumstances, even if the seller later
11 establishes a physical presence in Alabama. This
12 bill would also allow participating eligible
13 sellers to continue to participate in the program
14 unless federal legislation removes current federal
15 limitations on the ability of the State of Alabama
16 to enforce its sales and use tax jurisdiction
17 against businesses that lack an instate physical
18 presence.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

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24 To amend Sections 40-23-191 and 40-23-198, Code of
25 Alabama 1975, to update the definitions relating to simplified
26 sellers use tax; to update references to federal legislation

1 on the enforcement of sales and use tax as it relates to
2 eligible sellers remitting simplified sellers use tax.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 40-23-191 and 40-23-198, Code of
5 Alabama 1975, are amended to read as follows:

6 "§40-23-191.

7 "(a) This part shall be titled The Simplified Seller
8 Use Tax Remittance Act.

9 "(b) For the purpose of this part, the following
10 terms shall have the respective meanings ascribed to them in
11 this section:

12 "(1) DEPARTMENT. The Alabama Department of Revenue.

13 "(2) ELIGIBLE SELLER. An individual, trust, estate,
14 fiduciary, partnership, limited liability company, limited
15 liability partnership, corporation, or other legal entity that
16 sells tangible personal property or a service, but does not
17 have a physical presence in this state or is not otherwise
18 required to be subject to requirements for collecting and
19 remitting state and local sales or use tax for sales delivered
20 into the state. Such seller shall remain eligible for
21 participation in the Simplified Use Tax Remittance Program
22 unless the seller establishes a presence through a physical
23 business address for the purpose of making instate retail
24 sales within the state of Alabama or becomes otherwise
25 required to collect and remit sales or use tax pursuant to
26 Section 40-23-190 through an affiliate making retail sales at
27 a physical business address in Alabama, provided the seller

1 was a participant in the program for at least 6 months prior
2 to establishing such physical presence or filing obligation.

3 "(3) LOCALITY. A county, municipality, or other
4 local governmental taxing authority which levies a local sales
5 and/or use tax.

6 "(4) SIMPLIFIED SELLERS USE TAX. The eight percent
7 tax to be collected, reported, and remitted by eligible
8 sellers who are participating in the program pursuant to
9 requirements and procedures established pursuant to this part.

10 "(5) SIMPLIFIED USE TAX REMITTANCE PROGRAM or
11 PROGRAM. The program established in this part to provide a
12 mechanism for eligible sellers to collect, report, and remit
13 the simplified sellers use tax established pursuant to this
14 part.

15 "(6) STATE. The State of Alabama.

16 "§40-23-198.

17 "In the event that ~~a change in federal law, whether~~
18 ~~it be federal legislation or decision of the U.S. Supreme~~
19 ~~Court,~~ the enactment of federal legislation removes current
20 federal limitations on states' ability to enforce their sales
21 and use tax jurisdiction against businesses that lack an
22 instate physical presence, the provisions of this part shall
23 be inapplicable as to any eligible seller who is not
24 registered with the department as a participant in the program
25 at least six months prior to the date of such change in law.
26 In such event, the provisions of this part will continue to
27 apply to any eligible seller who has been approved by the

1 department as a participant in the program at least six months
2 prior to the change in law and to any taxpayer who has paid or
3 pays the simplified sellers use tax authorized under this part
4 provided the eligible seller continues to collect, report, and
5 remit the simplified sellers use tax and otherwise complies
6 with all procedures and requirements of the program. Eligible
7 sellers participating in the program pursuant to this
8 subsection may continue to receive a discount of two percent
9 (2%) on all simplified sellers use taxes properly remitted
10 under the provisions of this part and shall continue to report
11 sales under the conditions set out in Section 40-23-193."

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.