

1 HB26  
2 164145-1  
3 By Representative Johnson (R)  
4 RFD: State Government  
5 First Read: 03-MAR-15  
6 PFD: 02/18/2015

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8 SYNOPSIS: Under existing law, when a used automotive  
9 part or vehicle is taken as a credit on a new or  
10 rebuilt part or a vehicle, sales tax is due on the  
11 net difference in price, or when the used  
12 automotive part or core is later returned, the  
13 purchaser is generally refunded the value of the  
14 returned used part or core plus any sales tax  
15 originally paid. However, by exception in the law,  
16 when a used automotive battery is taken as a credit  
17 on a new battery, this provision does not apply and  
18 sales tax is due on the full purchase price of the  
19 new battery without regard to any credit for the  
20 return of the old battery.

21 This bill would delete the above exception  
22 on the trade-in of a used automotive battery for a  
23 new battery. The sales tax due would be based on  
24 the net price of a new automotive battery less any  
25 credit for return of the old battery.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to sales tax; to amend Section 40-23-2 of  
5 the Code of Alabama 1975, providing generally that sales tax  
6 is levied on the net difference in the price when a used  
7 automotive part is taken in an exchange in the purchase of a  
8 new part or rebuilt part, to delete an exception on the  
9 purchase of a new automotive battery requiring sales tax to be  
10 paid on the full purchase price when an old battery is  
11 exchanged or returned.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 40-23-2 of the Code of Alabama  
14 1975, is amended to read as follows:

15 "§40-23-2.

16 "There is levied, in addition to all other taxes of  
17 every kind now imposed by law, and shall be collected as  
18 herein provided, a privilege or license tax against the person  
19 on account of the business activities and in the amount to be  
20 determined by the application of rates against gross sales, or  
21 gross receipts, as the case may be, as follows:

22 "(1) Upon every person, firm, or corporation,  
23 (including the State of Alabama and its Alcoholic Beverage  
24 Control Board in the sale of alcoholic beverages of all kinds,  
25 the University of Alabama, Auburn University, and all other  
26 institutions of higher learning in the state, whether the  
27 institutions be denominational, state, county, or municipal

1 institutions, any association or other agency or  
2 instrumentality of the institutions) engaged or continuing  
3 within this state, in the business of selling at retail any  
4 tangible personal property whatsoever, including merchandise  
5 and commodities of every kind and character, (not including,  
6 however, bonds or other evidences of debts or stocks, nor  
7 sales of material and supplies to any person for use in  
8 fulfilling a contract for the painting, repair, or  
9 reconditioning of vessels, barges, ships, other watercraft,  
10 and commercial fishing vessels of over five tons load  
11 displacement as registered with the U.S. Coast Guard and  
12 licensed by the State of Alabama Department of Conservation  
13 and Natural Resources), an amount equal to four percent of the  
14 gross proceeds of sales of the business except where a  
15 different amount is expressly provided herein. Provided,  
16 however, that any person engaging or continuing in business as  
17 a retailer and wholesaler or jobber shall pay the tax required  
18 on the gross proceeds of retail sales of the business at the  
19 rates specified, when his or her books are kept so as to show  
20 separately the gross proceeds of sales of each business, and  
21 when his or her books are not kept he or she shall pay the tax  
22 as a retailer, on the gross sales of the business.

23 "Where any used part including tires of an  
24 automotive vehicle or a truck trailer, semitrailer, or house  
25 trailer is taken in trade, or in a series of trades, as a  
26 credit or part payment on the sale of a new or rebuilt part or  
27 tire, the tax levied herein shall be paid on the net

1 difference, that is, the price of the new or used part or tire  
2 sold less the credit for the used part or tire taken in trade,  
3 ~~provided, however, this provision shall not be construed to~~  
4 ~~include batteries.~~

5 "(2) Upon every person, firm, or corporation engaged  
6 or continuing within this state in the business of conducting  
7 or operating places of amusement or entertainment, billiard  
8 and pool rooms, bowling alleys, amusement devices, musical  
9 devices, theaters, opera houses, moving picture shows,  
10 vaudevilles, amusement parks, athletic contests, including  
11 wrestling matches, prize fights, boxing and wrestling  
12 exhibitions, football and baseball games, (including athletic  
13 contests, conducted by or under the auspices of any  
14 educational institution within this state, or any athletic  
15 association thereof, or other association whether the  
16 institution or association be a denominational, a state, or  
17 county, or a municipal institution, or association or a state,  
18 county, or city school, or other institution, association or  
19 school), skating rinks, race tracks, golf courses, or any  
20 other place at which any exhibition, display, amusement, or  
21 entertainment is offered to the public or place or places  
22 where an admission fee is charged, including public bathing  
23 places, public dance halls of every kind and description  
24 within the State of Alabama, an amount equal to four percent  
25 of the gross receipts of any such business. Provided, however,  
26 notwithstanding any language to the contrary in the prior  
27 portion of this subdivision, the tax provisions so specified

1 shall not apply to any athletic event conducted by a public or  
2 nonpublic primary or secondary school or any athletic event  
3 conducted by or under the auspices of the Alabama High School  
4 Athletic Association. The tax amount which would have been  
5 collected pursuant to this subdivision shall continue to be  
6 collected by the public or nonpublic primary or secondary  
7 school, but shall be retained by the school which collected it  
8 and shall be used by the school for school purposes.

9 "(3) Upon every person, firm, or corporation engaged  
10 or continuing within this state in the business of selling at  
11 retail machines used in mining, quarrying, compounding,  
12 processing, and manufacturing of tangible personal property an  
13 amount equal to one and one-half percent of the gross proceeds  
14 of the sale of the machines. The term "machine," as herein  
15 used, shall include machinery which is used for mining,  
16 quarrying, compounding, processing, or manufacturing tangible  
17 personal property, and the parts of the machines, attachments,  
18 and replacements therefor, which are made or manufactured for  
19 use on or in the operation of the machines and which are  
20 necessary to the operation of the machines and are customarily  
21 so used.

22 "(4) Upon every person, firm, or corporation engaged  
23 or continuing within this state in the business of selling at  
24 retail any automotive vehicle or truck trailer, semitrailer,  
25 or house trailer, or mobile home set-up materials and supplies  
26 including but not limited to steps, blocks, anchoring, cable  
27 pipes, and any other materials pertaining thereto an amount

1 equal to two percent of the gross proceeds of sale of the  
2 automotive vehicle or truck trailer, semitrailer, or house  
3 trailer, or mobile home set-up materials and supplies  
4 provided, however, where a person subject to the tax provided  
5 for in this subdivision withdraws from his or her stock in  
6 trade any automotive vehicle or truck trailer, semitrailer, or  
7 house trailer for use by him or her or by his or her employee  
8 or agent in the operation of the business, there shall be  
9 paid, in lieu of the tax levied herein, a fee of five dollars  
10 (\$5) per year or part thereof during which the automotive  
11 vehicle, truck trailer, semitrailer, or house trailer shall  
12 remain the property of the person. Each year or part thereof  
13 shall begin with the day or anniversary date, as the case may  
14 be, of such withdrawal and shall run for the 12 succeeding  
15 months or part thereof during which the automotive vehicle,  
16 truck trailer, semitrailer, or house trailer shall remain the  
17 property of the person.

18 "Where any used automotive vehicle or truck trailer,  
19 semitrailer, or house trailer is taken in trade or in a series  
20 of trades, as a credit or part payment on the sale of a new or  
21 used vehicle, the tax levied herein shall be paid on the net  
22 difference, that is, the price of the new or used vehicle sold  
23 less the credit for the used vehicle taken in trade.

24 "Sales of automobiles, motorcycles, trucks, truck  
25 trailers, or semitrailers that will be registered or titled  
26 outside Alabama, that are exported or removed from Alabama  
27 within 72 hours by the purchaser or his or her agent for first

1 use outside Alabama are not subject to the Alabama sales tax.  
2 Sales of other vehicles such as mobile homes, motor bikes, all  
3 terrain vehicles, and boats do not qualify for the export  
4 exemption provision and are taxable unless the dealer can  
5 provide factual evidence that the vehicle was delivered  
6 outside of Alabama or to a common carrier for transportation  
7 outside Alabama. In order for the sale to be exempt from  
8 Alabama tax, the information relative to the exempt sale shall  
9 be documented on forms approved by the Revenue Department.

10 "Of the total \$.02 tax on each dollar of sale  
11 provided hereunder, 58 percent of the total tax generated by  
12 this subdivision (4) shall be deposited to the credit of the  
13 Education Trust Fund; and 42 percent of the total tax  
14 generated by this subdivision (4) shall be deposited to the  
15 credit of the State General Fund.

16 "(5) Upon every person, firm, or corporation engaged  
17 or continuing within this state in the business of selling  
18 through coin-operated dispensing machines, food and food  
19 products for human consumption, not including beverages other  
20 than coffee, milk, milk products, and substitutes therefor,  
21 there is levied a tax equal to three percent of the cost of  
22 the food, food products, and beverages sold through the  
23 machines, which cost for the purpose of this subdivision shall  
24 be the gross proceeds of sales of the business."

25 Section 2. This act shall become effective on the  
26 first day of the third month following its passage and  
27 approval by the Governor, or its otherwise becoming law.



