

1 HB553
2 165145-1
3 By Representative Johnson (K)
4 RFD: Ways and Means Education
5 First Read: 23-APR-15

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8 SYNOPSIS: Currently, an administrative discount is
9 provided for a supplier or permissive supplier who
10 timely files a return for aviation gasoline tax,
11 gasoline tax, motor fuels (diesel) tax and motor
12 carrier fuel tax. Also, a discount is provided for
13 aviation gasoline tax, gasoline tax, motor fuels
14 (diesel) tax and motor carrier fuel tax when a
15 licensed distributor or importer timely pays tax
16 due to supplier or permissive supplier. An
17 administrative discount is applied to aviation gas
18 tax, gasoline tax, motor fuels (diesel) tax and
19 motor carrier fuel taxes when a supplier or
20 permissive supplier timely files return for
21 payments not previously remitted.

22 Currently, authorized sales tax licensees
23 are also provided a discount. An administrative
24 discount is given on contractors' gross receipts to
25 contractors that file returns timely each month. A
26 discount is applied to timely filers for use tax.
27 Qualified wholesalers and jobbers are allowed a

1 discount on the sale of tobacco stamps. Currently,
2 a timely filing discount on lodgings tax is allowed
3 for qualifying vendors.

4 This bill would discontinue the
5 aforementioned discounts.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 40-17-340, 40-17-341, 40-17-343,
12 40-23-36, 40-23-77, 40-25-5, and 40-26-21, Code of Alabama
13 1975 to discontinue all discounts applicable to aviation
14 gasoline tax, gasoline tax, motor fuels (diesel) tax and motor
15 carrier fuel tax; to discontinue the discount applicable to
16 sales tax; to discontinue the discount applicable to
17 contractors' gross receipts; to discontinue the discount
18 applicable to use tax; to discontinue the discount on the sale
19 of tobacco stamps; and to discontinue the discount applicable
20 to lodgings tax.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 40-17-340, 40-17-341, 40-17-343,
23 40-23-36, 40-23-77, 40-25-5, and 40-26-21, Code of Alabama
24 1975 are amended to read as follows:

25 "§40-17-340.

26 "(a) Each supplier, importer, blender, permissive
27 supplier, and exporter shall file the monthly return required

1 herein, in a format prescribed by the commissioner, on or
2 before the 22nd day of each calendar month for the preceding
3 month.

4 "(b) Other than importers, the tax levied by this
5 article shall be paid to the department by each taxpayer on or
6 before the 22nd day of each calendar month for the preceding
7 month and shall be accompanied by any required returns. The
8 department may require all or certain taxpayers to file tax
9 returns and payments electronically.

10 "(c) Importers importing motor fuel from a bulk
11 plant or some other non-terminal storage location shall pay
12 the tax levied by this article to the department on or before
13 the 3rd business day following the day of importation, and the
14 payment shall be accompanied by any required returns. The
15 department may require all or certain taxpayers to file tax
16 returns and payments electronically.

17 "(d) Importers importing motor fuel acquired at an
18 out-of-state terminal from a supplier who has not precollected
19 the tax imposed under Section 40-17-325 at the time of such
20 removal shall pay the tax so levied to the department on or
21 before the 3rd business day following the day of importation,
22 and the payment shall be accompanied by any required returns.

23 "(e) A supplier or permissive supplier who timely
24 files a return with the payment due may deduct from the amount
25 of tax payable with the return an administrative discount of
26 one half of one percent (.005) of the amount of tax payable to
27 the state. Beginning October 1, 2015 and each fiscal year

1 thereafter, a supplier or permissive supplier who timely files
2 a return with payment shall no longer deduct from the amount
3 of tax payable with the return the administrative discount as
4 herein provided.

5 "§40-17-341.

6 "(a) Each distributor or importer shall remit to the
7 supplier or permissive supplier, as applicable, the motor fuel
8 tax levied by Section 40-17-325 due on motor fuel removed at a
9 terminal rack. At the election of a licensed distributor or
10 licensed importer, the supplier or permissive supplier may not
11 require the licensed distributor or licensed importer to pay
12 the tax levied by Section 40-17-325 earlier than one business
13 day before the date the supplier or permissive supplier is
14 required to pay the tax to this state. An election under this
15 subsection is subject to the condition that remittances by the
16 licensed distributor or licensed importer of all tax due to
17 the supplier or permissive supplier shall be paid by
18 electronic funds transfer. An election under this subsection
19 may be terminated by the supplier or permissive supplier if
20 the licensed distributor or licensed importer does not make
21 timely payments to the supplier or permissive supplier as
22 required by this subsection.

23 "(b) A licensed exporter shall remit destination
24 state tax due on motor fuel removed at a terminal rack to the
25 supplier of the motor fuel. If the laws of the destination
26 state prohibit the collection of the destination state's tax,
27 the tax levied by Section 40-17-325 shall be collected.

1 "(c) All tax payments received by a supplier or
2 permissive supplier shall be held in trust by the supplier or
3 permissive supplier until the supplier or permissive supplier
4 remits the tax payment to this state or to another state, and
5 the supplier or permissive supplier shall constitute the
6 trustee for the tax payments.

7 "(d) A licensed distributor or importer that timely
8 pays the tax due a supplier or permissive supplier as required
9 in this section, may deduct from the amount otherwise due to
10 the supplier or permissive supplier a discount of four tenths
11 of one percent (.004) of the amount of tax payable. The
12 discount covers the expense of furnishing a bond and losses
13 due to shrinkage and evaporation. ~~A supplier or permissive
14 supplier may not directly or indirectly deny the discount to a
15 licensed distributor or licensed importer that timely pays the
16 tax due the supplier or permissive supplier as required by
17 this section. Beginning October 1, 2015 and each fiscal year
18 thereafter, a licensed distributor or importer that timely
19 pays the tax due a supplier or permissive supplier as required
20 in this section, shall no longer deduct from the amount
21 otherwise due to the supplier or permissive supplier a
22 discount as herein provided.~~

23 "§40-17-343.

24 "(a) The supplier or permissive supplier may deduct
25 from the next monthly return those tax payments that were not
26 remitted for the previous month to the supplier or permissive
27 supplier by any licensed distributor or any licensed importer

1 who removed motor fuel on which the tax is due from the
2 supplier's or permissive supplier's terminal. The licensed
3 supplier or permissive supplier is eligible to take this
4 deduction if the licensed supplier or permissive supplier
5 notifies the state within 20 business days after a return is
6 due of any licensed distributor, importer, or exporter who did
7 not pay to the supplier or permissive supplier the tax due
8 this state by the time the supplier or permissive supplier
9 filed the monthly return and if, when a licensed distributor
10 or licensed importer fails to remit the tax to the licensed
11 supplier or permissive supplier, the licensed supplier or
12 permissive supplier is not eligible to take the deduction for
13 any tax payments that accrue after the 20 business day period
14 referenced above for delinquent distributors or importers. The
15 notice shall be transmitted to the state in the form required
16 by the department. If a licensee later pays to a supplier or
17 permissive supplier the tax owed, but the payment occurs after
18 the supplier or permissive supplier has deducted the amount of
19 the tax on a return, the supplier or permissive supplier shall
20 remit the payment to the department with the next monthly
21 return filed subsequent to receipt of the tax.

22 "(b) A supplier or permissive supplier who timely
23 files a return with the payment due may deduct, from the
24 amount of tax payable with the return, an administrative
25 discount of one tenth of one percent of the amount of tax
26 payable to this state, not to exceed two thousand dollars
27 (\$2,000) per month. Beginning October 1, 2015 and each fiscal

1 year thereafter, a supplier or permissive supplier who timely
2 files a return with the payment due shall no longer deduct,
3 from the amount of tax payable with the return, an
4 administrative discount as herein provided.

5 "§40-23-36.

6 "(a) The Governor may, by executive order, authorize
7 the Department of Revenue to provide by proper rules and
8 regulations for the allowance of a discount, not to exceed
9 five percent of the first \$100 of taxes levied and two percent
10 of the taxes levied over \$100 by this division and due and
11 payable to the state by any person licensed under the
12 provisions hereof; provided, that no discount shall be
13 authorized or allowed upon any taxes which are not paid before
14 delinquency, as in this division provided. Beginning on
15 October 1, 2015 and each fiscal year thereafter, any person
16 licensed under the provisions hereof shall no longer be
17 allowed a discount as herein provided and as provided by
18 executive order.

19 "(b) For any taxes collected by the license holder
20 on or after June 1, 1996, the Governor may, by executive
21 order, authorize the Department of Revenue to provide by
22 proper rules and regulations for a maximum discount amount or
23 rate to any license holder and shall be limited to that amount
24 or rate for each retail license holder regardless of the
25 number of retail locations of that license holder within the
26 state.

27 "§40-23-77.

1 "A discount of three percent of the taxes levied by
2 this article due and payable to the state shall be allowed to
3 the seller or vendor; provided, that the taxes due by such
4 seller are paid before same becomes delinquent, as in this
5 article provided. Beginning October 1, 2015 and each fiscal
6 year thereafter, the seller or vendor shall no longer be
7 allowed a discount of taxes levied by this article.

8 "Effective June 1, 2001, the Governor may, by
9 executive order, authorize the Department of Revenue to
10 provide by proper rules and regulations for the allowance of a
11 discount, not to exceed three percent (3%) of the taxes levied
12 by this article due and payable to the state by the seller or
13 vendor; provided that the taxes due by such seller are paid
14 before same becomes delinquent, as in this article provided.

15 "For any taxes collected by the seller or vendor on
16 or after June 1, 2001, the Governor may, by executive order,
17 authorize the Department of Revenue to provide by proper rules
18 and regulations for a maximum discount amount or rate for each
19 seller or vendor regardless of the number of locations of that
20 seller or vendor within the state.

21 "Beginning June 1, 2001, until September 30, 2002,
22 the balance of the sum equal to the increase in receipts due
23 to any maximum discount amount or rate as provided herein
24 shall first be credited to the Department of Conservation and
25 Natural Resources for (1) the sum equal to the interest the
26 Game and Fish Fund and the Seafood Fund would have earned on
27 the sale of hunting and/or fishing licenses, which is required

1 to be credited to the funds by Federal Regulation 50 CFR
2 80.4a(3), and (2) a sum equal to one million dollars
3 (\$1,000,000) for the Coastal Programs; and any remaining
4 balance shall be credited to the State General Fund.

5 "Beginning October 1, 2002, and each fiscal year
6 thereafter the lesser of five hundred thousand dollars
7 (\$500,000) or the entire amount of the sum equal to the
8 increase in receipts due to any maximum discount amount or
9 rate as provided herein shall be credited to the Department of
10 Human Resources and expended for the foster children program.
11 Any remaining balance shall first be credited to the
12 Department of Conservation and Natural Resources to be
13 allocated in whole or in part to the following: (1) To the
14 Game and Fish Fund and the Seafood Fund in an amount at least
15 equal to the interest that each fund would have earned on the
16 sale of hunting and/or fishing licenses which is required to
17 be credited to the funds by the Federal Regulation 50 CFR
18 80.4a(3), and (2) to the Coastal Programs, a sum equal to one
19 million dollars (\$1,000,000); and any remaining balance shall
20 be credited to the State General Fund. Notwithstanding the
21 foregoing, for the fiscal years ending September 30, 2012, and
22 September 30, 2013, only, the one million dollars (\$1,000,000)
23 that would otherwise be distributed to the Coastal Programs
24 shall instead be distributed to the State General Fund.
25 Beginning October 1, 2015 and each fiscal year thereafter, all
26 proper rules and regulations and distribution of the discount

1 of taxes levied in this article and by executive order shall
2 no longer apply.

3 "§40-25-5.

4 "The Department of Revenue is hereby authorized and
5 directed to have prepared and distributed stamps suitable for
6 denoting the tax on all articles enumerated herein. Any
7 person, firm, corporation, or association of persons, other
8 than the Department of Revenue, who sells tobacco tax stamps
9 not affixed to tobacco sold and delivered by them, whether the
10 said stamps be genuine or counterfeit, shall be guilty of a
11 felony and punishable as set out in Section 40-25-6. When
12 wholesalers or jobbers have qualified as such with the
13 Department of Revenue, as provided in Section 40-25-16, and
14 desire to purchase stamps as prescribed herein for use on
15 taxable tobaccos sold and delivered by them, the Department of
16 Revenue shall allow on such sales of tobacco tax stamps a
17 discount of seven and one-half percent on the entire amount of
18 the sale. Where wholesalers or jobbers are entitled to
19 purchase stamps at a discount as herein provided, instead of
20 the Department of Revenue selling such stamps to such jobbers
21 or wholesalers for cash, it may consign such stamps, if and
22 when such wholesaler or jobber shall give to the Department of
23 Revenue a good and sufficient bond executed by some surety
24 company authorized to do business in this state, conditioned
25 to secure the payment for the stamps so consigned when and as
26 they are used on manufactured tobacco products by such
27 wholesaler or jobber. Every wholesaler or jobber purchasing

1 stamps on consignment as described herein, shall be required
2 to make a full and complete accounting and remittance on or
3 before the twentieth of each month for all stamps used on
4 taxable tobaccos during the preceding month. Every wholesaler
5 or jobber refusing or failing to comply with this section
6 shall forfeit the commission or discount on stamps used which
7 he failed or refused to account or remit for in the time
8 allowed, and in addition shall be charged interest on such
9 delinquent amount for each day delinquent at the rate of eight
10 percent per annum. Beginning October 1, 2015 and each fiscal
11 year thereafter, wholesalers or jobbers shall no longer be
12 entitled to purchase stamps at a discount as herein provided.

13 "§40-26-21.

14 "The Governor may, by executive order, authorize the
15 state Department of Revenue to provide by proper rules and
16 regulations for the allowance of a discount of taxes due and
17 payable to the state by persons subject to the lodgings tax
18 levied by this chapter, in the same manner and to the same
19 extent as the discount allowed persons licensed under the
20 provisions of Division 1 of Article 1 of Chapter 23 of this
21 title. The discount provided for herein shall not exceed five
22 percent of the first \$100 of taxes levied and two percent of
23 the taxes levied over \$100 and due and payable to the state by
24 persons subject to this chapter. It is provided, however, that
25 the discount provided for herein shall be authorized or
26 allowed only upon taxes which are paid before delinquency.
27 Beginning October 1, 2015 and each fiscal year thereafter,

1 persons subject to the lodgings tax levied by this chapter
2 shall no longer be allowed a discount of taxes due and payable
3 to the state as herein provided."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.