

1 SB69  
2 155388-2  
3 By Senator Whatley  
4 RFD: Finance and Taxation Education  
5 First Read: 14-JAN-14  
6 PFD: 01/06/2014

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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.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to agriculture; to amend Sections 40-23-37  
20 and 40-23-63 of the Code of Alabama 1975, to provide that the  
21 sale or the use, storage, and consumption of agricultural  
22 machinery and equipment for use on a farm would be exempt from  
23 state sales and use tax; and to repeal Sections 40-23-38 and  
24 40-23-64 of the Code of Alabama 1975, relating to the  
25 administration of sales and use tax on agricultural machinery  
26 and equipment.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3           "§40-23-37.

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

10           "~~Upon every~~ Any person, firm, L or corporation engaged  
11 or continuing within this state in the business of selling at  
12 retail any machine, machinery or equipment which is used in  
13 planting, cultivating and harvesting farm products, or used in  
14 connection with the production of agricultural produce or  
15 products, livestock, L or poultry on farms, and the parts of  
16 such machines, machinery, L or equipment, attachments, L and  
17 replacements therefor which are made or manufactured for use  
18 on or in the operation of such machine, machinery, L or  
19 equipment, and which are necessary to and customarily used in  
20 the operation of such machine, machinery, L or equipment, ~~an~~  
21 ~~amount equal to one and one-half percent of the gross proceeds~~  
22 ~~of the sale thereof; provided, that the one and one-half~~  
23 ~~percent rate~~ exemption provided herein prescribed with respect  
24 to parts, attachments, L and replacements shall not apply to any  
25 automotive vehicle or trailer designed primarily for public  
26 highway use, except farm trailers used primarily in the  
27 production and harvesting of agricultural commodities.

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

11           "This exemption shall not apply to a local sales tax  
12 unless previously exempted by local law or approved by  
13 resolution of the local governing body.

14           "\$40-23-63.

15           ~~"There is hereby levied and imposed an exempt from~~  
16 ~~the state excise tax on the storage, use, or other consumption~~  
17 ~~in this state of any machine, machinery, or equipment which is~~  
18 ~~used in planting, cultivating, and harvesting farm products,~~  
19 ~~or used in connection with the production of agricultural~~  
20 ~~produce or products, livestock, or poultry, or farms, and the~~  
21 ~~parts of such machines, machinery or equipment, attachments,~~  
22 ~~and replacements therefor which are made or manufactured for~~  
23 ~~use on or in the operation of such machine, machinery, or~~  
24 ~~equipment, and which are necessary to and customarily used in~~  
25 ~~the operation of such machine, machinery, or equipment, which~~  
26 ~~is purchased at retail ~~after October 1, 1966,~~ for storage,~~  
27 ~~use, or other consumption in this state, at the rate of one~~

1 and one-half percent of the sales price of such property or  
2 the amount of tax collected by the seller, whichever is  
3 greater, provided, however, when the seller follows the  
4 Department of Revenue's suggested use tax brackets and his  
5 records prove that his following said brackets resulted in a  
6 net undercollection of tax for the month, he may report the  
7 tax due or tax collected whichever is less, regardless of  
8 whether the retailer is or is not engaged in business in this  
9 state. The tax herein levied and imposed shall be in lieu of  
10 the excise tax levied and imposed by Section 40-23-61;  
11 provided, that the one and one-half percent rate exemption  
12 herein prescribed with respect to parts, attachments, and  
13 replacements shall not apply to any automotive vehicle or  
14 trailer designed primarily for public highway use except farm  
15 trailers used primarily in the production and harvesting of  
16 agricultural commodities.

17 "Every person storing, using or otherwise consuming  
18 in this state such tangible personal property purchased at  
19 retail shall be liable for the tax imposed by this article,  
20 and the liability shall not be extinguished until the tax has  
21 been paid to this state; provided, that a receipt from a  
22 retailer maintaining a place of business in this state or a  
23 retailer authorized by the Department of Revenue under such  
24 rules and regulations as the Commissioner of Revenue may  
25 prescribe, to collect the tax imposed hereby and who shall for  
26 the purpose of this article be regarded as a retailer  
27 maintaining a place of business in this state, given to the

1 ~~purchaser in accordance with the provisions of Section~~  
2 ~~40-23-67, shall be sufficient to relieve the purchaser from~~  
3 ~~further liability for a tax to which such receipt may refer.~~

4 "This exemption shall not apply to a local use tax  
5 unless previously exempted by local law or approved by  
6 resolution of the local governing body."

7 Section 2. Sections 40-23-38 and 40-23-63 of the  
8 Code of Alabama 1975, are repealed.

9 Section 3. This act shall become effective on  
10 October 1, 2014.