

1 HB277
2 136006-5
3 By Representatives Barton, Ison and McClurkin
4 RFD: Ways and Means General Fund
5 First Read: 09-FEB-12

1
2 ENROLLED, An Act,

3 Relating to taxation of tobacco products; to add new
4 Section 40-25-2.1 to Title 40 of the Code of Alabama 1975; to
5 levy a tax on cigar wrappers; to require a business license;
6 to require monthly reports; to provide penalties; to provide
7 for distribution of proceeds; to provide for operation
8 expenses; and in connection therewith would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds within the meaning of Amendment 621
11 of the Constitution of Alabama of 1901, now appearing as
12 Section 111.05 of the Official Recompilation of the
13 Constitution of Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. ~~Chapter 25B~~ Section 40-25-2.1 is added to
16 Title 40 of the Code of Alabama 1975, to read as follows:

17 ~~§40-25B-1.~~ §40-25-2.1

18 For the purposes of this ~~chapter~~ section, the
19 following terms shall have the respective meanings ascribed to
20 them by this section:

21 (1) CIGAR WRAP. An individual tobacco wrapper that
22 is made wholly or in part from tobacco, including
23 reconstituted tobacco, whether in the form of tobacco leaf,
24 sheet, or tube, if the wrap is designed to be offered to or
25 purchased by a consumer.

1 ~~(1)~~ (2) COMMISSIONER. The Commissioner of the
2 Department of Revenue of the State of Alabama.

3 ~~(2)~~ (3) DEPARTMENT. The Department of Revenue of the
4 State of Alabama.

5 ~~(3)~~ (4) NET TAX PROCEEDS. The entire proceeds from
6 the tax herein levied less costs of collection, refunds,
7 grants, and credits as may be authorized by law.

8 ~~(4)~~ (5) PERSON. Individuals, firms, corporations,
9 partnerships, companies, or other agencies, associations,
10 incorporated or otherwise, singular or plural.

11 ~~(5)~~ (6) STATE. The State of Alabama.

12 ~~(6)~~ (7) WHOLESALE SALE. A sale of tangible personal
13 property by wholesalers to licensed retail merchants, jobbers,
14 dealers, or other wholesalers for resale and shall not include
15 a sale by wholesalers to users or consumers, not for resale.

16 ~~§40-25B-2.~~

17 (a) There is hereby levied a tax upon all cigar
18 wrappers manufactured using tobacco sold at wholesale in this
19 state or imported into this state for use, consumption, or
20 sale at retail. The tax shall be levied upon each package in
21 the following amounts: Weighing not more than one and
22 one-eighth ounces, four cents (\$.04); over one and one-eighth
23 ounces, not exceeding two ounces, ten cents (\$.10); over two
24 ounces, not exceeding three ounces, sixteen cents (\$.16); over
25 three ounces, not exceeding four ounces, twenty-one cents

1 (\$.21); and six cents (\$.06) additional tax for each ounce or
 2 fractional part thereof over four ounces.

3 (b) Notwithstanding subsection (a), nothing in this
 4 section shall be construed to apply to a cigar manufacturer
 5 using wrappers made from tobacco applying those wrappers on a
 6 finished cigar for sale at retail.

7 ~~§40-25B-3.~~

8 (c) Before any person engages in the business of
 9 selling any of the items on which the tax levied by this
 10 ~~chapter~~ section has not been paid to the department, the
 11 person shall make application to the department upon forms
 12 prepared by the department for a license. The license shall be
 13 a condition precedent to engaging or continuing in the
 14 business of selling the items taxed under this chapter.

15 ~~§40-25B-4.~~

16 (d) On or before the 20th day of each month, each
 17 person on whom the tax levied by this chapter is imposed shall
 18 render to the department on forms prescribed by the department
 19 a true and correct statement showing the amounts utilized in
 20 the measurement of the tax and all other information as the
 21 department may require and shall pay to the department the
 22 amount of tax shown due.

23 ~~§40-25B-5.~~

24 (e) Any person subject to this ~~chapter~~ section who
 25 shall fail to make any report required of them by the

1 department or shall fail to keep any of the records required
 2 herein shall be guilty of a Class B misdemeanor. Each month of
 3 such failure shall constitute a separate offense.

4 ~~§40-25B-6.~~

5 (f) The tax imposed by this ~~chapter~~ section shall be
 6 in addition to all other licenses and taxes levied by law as a
 7 condition precedent to engaging in any business taxable
 8 hereunder.

9 ~~§40-25B-7.~~

10 (g) Any taxpayer who shall violate this ~~chapter~~
 11 section may be restrained from continuing in business, and the
 12 proper prosecution shall be instituted in the name of the
 13 State of Alabama by its Attorney General or by the counsel of
 14 the department until such person shall have complied with this
 15 chapter.

16 ~~§40-25B-8.~~

17 (h) The department shall enforce this ~~chapter~~
 18 section and may prescribe, adopt, promulgate, and enforce
 19 rules relating to any matter or thing pertaining to the
 20 administration and enforcement of this ~~chapter~~ section and the
 21 collection of taxes, penalties, and interest imposed by this
 22 ~~chapter~~ section.

23 ~~§40-25B-9.~~

1 (i) The department for good cause may grant up to a
2 30-day extension for the time for making any return required
3 under this ~~chapter~~ section.

4 ~~§40-25B-10.~~

5 (j) All revenue collected under the provisions of
6 this ~~chapter~~ section shall be paid to the department and shall
7 be distributed as is provided for the distribution of ~~funds in~~
8 ~~Section 40-25-23.~~ funds received from tobacco products other
9 than cigarettes in Section 40-25-23(3).

10 ~~§40-25B-11.~~

11 (k) The amount of money as shall be appropriated for
12 each fiscal year by the Legislature to the department with
13 which to pay the salaries and the cost of operation and
14 management of the department shall be deducted, as a first
15 charge thereon, from the taxes collected under the provisions
16 of this chapter; provided, however, that the expenditure of
17 said sum so appropriated shall be budgeted and allotted
18 pursuant to Sections 41-4-80 to 41-4-96, inclusive, and
19 limited to the amount appropriated to defray the expenses of
20 operating the department for each fiscal year.

21 Section 2. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 3. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 28-FEB-12, as amended.

Greg Pappas
Clerk

Senate

10-MAY-12

Passed