

1 HB383
2 198753-2
3 By Representative McMillan
4 RFD: Ways and Means Education
5 First Read: 09-APR-19

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to sales, use, and lodgings taxes; to
9 provide for additional filing frequency options and amount
10 limits for the filing of sales, use, and lodgings tax reports.
11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 40-23-7, 40-23-68, 40-26-3, Code
13 of Alabama 1975, are amended to read as follows:

14 "§40-23-7.

15 "(a) The taxes levied under the provisions of this
16 division, except as otherwise provided in subsection (d),
17 shall be due and payable in monthly installments on or before
18 the 20th day of the month next succeeding the month in which
19 the tax accrues.

20 "(b) Except as otherwise provided in subsection (d)
21 on or before the 20th day of each month, every person on whom
22 the taxes levied by this division are imposed shall report to
23 the department, on a form prescribed by the department, a true
24 and correct statement showing such information as the
25 department may require, and shall pay to the department the
26 amount of taxes shown to be due.

1 "(c) Any taxpayer liable for taxes under the
2 provisions of this division whose average monthly state sales
3 tax liability was two thousand five hundred dollars (\$2,500)
4 or greater during the preceding calendar year shall make
5 estimated payments to the department on or before the 20th day
6 of the month in which the liability occurs as follows:

7 "(1) The amount of the first estimated payment shall
8 be 66 2/3 percent of the taxpayer's actual tax liability for
9 the month of October 1983; thereafter the amounts of the
10 payment shall be the lesser of 66 2/3 percent of the
11 taxpayer's actual tax liability for the same calendar month of
12 the preceding year or 66 2/3 percent of the current month's
13 estimated liability.

14 "(2) Any outstanding credit or deficit arising from
15 the taxpayer's overpayment or underpayment of his final
16 liability shall be applied to either increase or reduce, as
17 the case may be, that month's final tax liability which shall
18 be reported and paid not later than the 20th day of the month
19 next succeeding the month in which the tax accrues.

20 "(3) The provisions of this subsection shall not
21 apply to the provisions of Sections 11-51-180, 11-51-200,
22 40-12-4, nor to any municipal or county taxes levied by past
23 or future special or local acts of the Legislature.

24 ~~"(d) When the total state sales tax for which any~~
25 ~~person is liable under this division averages less than two~~
26 ~~hundred dollars (\$200) per month during the preceding calendar~~
27 ~~year, a quarterly return and remittance in lieu of the monthly~~

1 ~~returns may be made, by election of the taxpayer to the~~
2 ~~department, on or before the 20th day of the month next~~
3 ~~succeeding the end of the quarter for which the tax is due~~
4 ~~under any rules and regulations as may be prescribed. The~~
5 ~~election to file quarterly shall be made in writing no later~~
6 ~~than February 20 of each year and shall be filed with the~~
7 ~~department. Notwithstanding the above, no state sales tax~~
8 ~~return shall be due until January 20 of each year unless the~~
9 ~~total state sales tax for which any person is liable under~~
10 ~~this division during the preceding calendar year exceeds ten~~
11 ~~dollars (\$10). Taxpayers meeting the criteria set forth in the~~
12 subdivisions of this subsection may elect to file quarterly,
13 semi-annually, or annually. Any election to file quarterly,
14 semi-annually, or annually shall be made in writing no later
15 than February 20 of each year and shall be filed with the
16 department in the manner prescribed by the department.
17 Qualifying taxpayers electing to file quarterly,
18 semi-annually, or annually, shall report to the department, on
19 a form prescribed by the department, a true and correct
20 statement showing such information as the department may
21 require. Qualifying taxpayers shall pay to the department the
22 amount of tax shown to be due on or before the applicable
23 deadlines, under any rules and regulations as may be
24 prescribed, as follows:

25 "(1) When the total state sales tax for which any
26 person is liable under this division is less than \$2,400
27 during the preceding calendar year, the person may elect to

1 file quarterly returns. Quarterly returns and payments of the
2 amount of tax shown to be due shall be due on or before the
3 20th day of the month next succeeding the end of the quarter
4 for which the tax is due.

5 "(2) When the total state sales tax for which any
6 person is liable under this division is less than \$1,200
7 during the preceding calendar year, or the person liable for
8 the tax has made retail sales in this state during no more
9 than two, thirty consecutive day periods during the preceding
10 calendar year, the person may file semi-annual returns. The
11 semi-annual returns and payment of the amount of the tax shown
12 to be due shall be due on or before July 20 and January 20
13 following the end of the six-month period for which the tax is
14 due.

15 "(3) When the total state sales tax for which any
16 person is liable under this division during the preceding
17 calendar year is less than six hundred dollars (\$600), or the
18 person liable for the tax has made retail sales in this state
19 during no more than one, thirty consecutive day period during
20 the preceding calendar year, the person may elect to file an
21 annual return. The annual return and payment of the tax shown
22 to be due shall be due on or before January 20 following the
23 end of the annual period for which the tax is due.

24 "(e) The department, for good cause, may extend the
25 time for making any state or state-administered return
26 required under the provisions of this division, but the time
27 for filing any such return shall not be extended for a period

1 greater than 30 days from the date such return is due to be
2 made.

3 "§40-23-68.

4 "(a) Except as otherwise provided in subsection (f),
5 the tax imposed by this article shall be due and payable to
6 the department monthly on or before the 20th day of the month
7 next succeeding each month during which the storage, use or
8 other consumption of tangible personal property became taxable
9 hereunder.

10 "(b) Every seller or person engaged in making retail
11 sales of tangible personal property for storage, use or other
12 consumption in this state, who alternatively:

13 "(1) Maintains, occupies, or uses, permanently or
14 temporarily, directly or indirectly, or through a subsidiary,
15 or agent by whatever name called, an office, place of
16 distribution, sales or sample room or place, warehouse or
17 storage place or other place of business;

18 "(2) Qualifies to do business or registers with the
19 state to collect the tax levied by this chapter;

20 "(3) Employs or retains under contract any
21 representative, agent, salesman, canvasser, solicitor or
22 installer operating in this state under the authority of the
23 person or its subsidiary for the purpose of selling,
24 delivering, or the taking of orders for the sale of tangible
25 personal property or any services taxable under this chapter
26 or otherwise solicits and receives purchases or orders by any
27 agent or salesman;

1 "(4) Solicits, pursuant to a contract with a
2 broadcaster or publisher located in this state, orders for
3 tangible personal property by means of advertising which is
4 disseminated primarily to consumers located in this state and
5 only secondarily to bordering jurisdiction;

6 "(5) Solicits orders for tangible personal property
7 by mail if the solicitations are substantial and recurring and
8 if the retailer benefits from any banking, financing, debt
9 collection, telecommunication, or marketing activities
10 occurring in this state or benefits from the location in this
11 state of authorized installation, servicing, or repair
12 facilities. Notwithstanding the previous sentence, a seller
13 who contracts with a provider of call center services shall
14 not be deemed to benefit from telecommunication activities
15 occurring in this state or from the location in this state of
16 authorized installation, servicing, or repair facilities
17 merely as a result of contracting for and receiving only call
18 center services from a call center located in this state. The
19 preceding sentence shall only apply for call centers, as
20 authorized or specified in Division 3 of Article 17 of Chapter
21 10 of Title 41, and placed in service in this state on or
22 before October 1, 2003;

23 "(6) Has, under a franchise or licensing arrangement
24 or contract, a franchisee or licensee operating under its
25 trade name;

26 "(7) Solicits, pursuant to a contract with a cable
27 television operator located in this state, orders for tangible

1 personal property by means of advertising which is transmitted
2 or distributed over a cable television system in this state;

3 "(8) Solicits orders for tangible personal property
4 by means of a telecommunication or television shopping system
5 which is intended by the person to be broadcast by cable
6 television or other means of broadcasting, to consumers
7 located in this state;

8 "(9) Maintains any other contact with this state
9 that would allow this state to require the seller to collect
10 and remit the tax due under the provisions of the Constitution
11 and laws of the United States; or

12 "(10) Distributes catalogs or other advertising
13 matter and by reason thereof receives and accepts orders from
14 residents, within the State of Alabama,
15 shall be subject to all the provisions of this chapter and
16 shall, except as otherwise provided in subsection (f), on or
17 before the 20th day of the month following the close of each
18 month file with the department a return for the preceding
19 month in such form as may be prescribed by the department
20 showing the total sales price of the tangible personal
21 property sold by such seller, the storage, use, or consumption
22 of which became subject to the tax imposed by this article
23 during the preceding month and such other information as the
24 department may deem necessary for the proper administration of
25 this article.

26 "(c) The return shall be accompanied by a remittance
27 of the amount of tax herein required to be collected by the

1 seller during the period covered by the return. Returns shall
2 be signed by the seller or his duly authorized agent but need
3 not be verified by oath.

4 "(d) Except as otherwise provided in subsection (f),
5 every person purchasing tangible personal property, the
6 storage, use, or other consumption of which is subject to the
7 tax imposed by this article, and who has not paid the tax due
8 with respect thereto to a seller required or authorized
9 hereunder to collect the tax, shall on or before the 20th day
10 of the month following the close of each month file with the
11 department a return for the preceding month in such form as
12 may be prescribed by the department showing the total sales
13 price of the tangible personal property purchased by such
14 person, the storage, use, or other consumption of which became
15 subject to the tax imposed by this article during the
16 preceding month and with respect to which the tax was not paid
17 to a seller required or authorized hereunder to collect the
18 tax, and such other information as the department may deem
19 necessary for the proper administration of this article. The
20 return shall be accompanied by a remittance of the amount of
21 tax herein imposed and not paid to a seller required or
22 authorized hereunder to collect the tax during the period
23 covered by the return. Returns shall be signed by the person
24 liable for the tax or his duly authorized agent, but need not
25 be verified by oath.

26 "(e) For the purpose of the proper administration of
27 this article and to prevent evasion of the tax and the duty to

1 collect the same herein imposed, it shall be presumed that
2 tangible personal property sold by any person for delivery in
3 this state is sold for storage, use, or other consumption in
4 this state unless the person selling such property has taken
5 from the purchaser a certificate signed by and bearing the
6 name and address of the purchaser to the effect that the
7 property was purchased for resale, and it shall be further
8 presumed that tangible personal property shipped to this state
9 by the purchaser thereof was purchased from a retailer on and
10 after March 1, 1939, for storage, use, or other consumption in
11 this state. Except as otherwise provided in subsection (f),
12 any seller making cash and credit sales for storage, use, or
13 other consumption in Alabama may report such cash sales and
14 shall thereafter include in each monthly report all credit
15 collections made during the preceding month, and shall pay the
16 taxes due thereon at the time of filing such report, but in no
17 event shall the gross proceeds of credit sales be included in
18 the measure of the tax to be paid until collections of such
19 credit sales shall have been made.

20 ~~"(f) When the total state use tax for which any~~
21 ~~person is liable under this division averages less than two~~
22 ~~hundred dollars (\$200) per month during the preceding calendar~~
23 ~~year, a quarterly return and remittance in lieu of the monthly~~
24 ~~returns may be made, by election of the taxpayer to the~~
25 ~~department, on or before the 20th day of the month next~~
26 ~~succeeding the end of the quarter for which the tax is due~~
27 ~~under such rules and regulations as may be prescribed by the~~

1 ~~department. The election~~ Taxpayers meeting the criteria set
2 forth in the subdivisions of this subsection may elect to file
3 quarterly, semi-annually, or annually. Any election to file
4 quarterly, semi-annually, or annually shall be made in writing
5 no later than February 20 of each year and shall be filed with
6 the department in the manner prescribed by the department. The
7 department, for good cause, may extend the time for making any
8 return required under the provisions of this chapter, but the
9 time for filing any such return shall not be extended for a
10 period greater than 30 days from the date such return is due
11 to be made. Qualifying taxpayers electing to file quarterly,
12 semi-annually, or annually, shall report to the department, on
13 a form prescribed by the department, a true and correct
14 statement showing such information as the department may
15 require. Qualifying taxpayers shall pay to the department the
16 amount of tax shown to be due on or before the applicable
17 deadlines, under any rules and regulations as may be
18 prescribed, as follows: ~~Notwithstanding the above, no state~~
19 ~~use tax return shall be due until January 20 of each year~~
20 ~~unless the total state use tax for which any person is liable~~
21 ~~under this division during the preceding calendar year exceeds~~
22 ~~ten dollars (\$10).~~

23 "(1) When the total state use tax for which any
24 person is liable under this article is less than \$2,400 during
25 the preceding calendar year, the person may elect to file
26 quarterly returns. Quarterly returns and payment of the amount
27 of tax shown to be due shall be due on or before the 20th day

1 of the month next succeeding the end of the quarter for which
2 the tax is due under such rules and regulations as may be
3 prescribed by the department.

4 "(2) When the total state use tax for which any
5 person is liable under this article is less than \$1,200 for
6 the preceding calendar year or the person liable for the tax
7 has made no more than two transactions subject to use tax
8 during the preceding calendar year, the person may elect to
9 file semi-annual returns. The semi-annual returns and payment
10 of the tax shown to be due shall be due on or before July 20
11 and January 20 following the end of the six-month period for
12 which the tax is due.

13 "(3) When the total state use tax for which any
14 person is liable under this article during the preceding
15 calendar year is less than six hundred dollars (\$600) or the
16 person liable for the tax has made no more than one
17 transaction subject to use tax during the preceding calendar
18 year, the person may elect to file an annual return. The
19 annual return and payment of the tax shown to be due shall be
20 due on or before January 20 following the end of the annual
21 period for which the tax is due.

22 "§40-26-3.

23 "(a) The taxes levied under the provisions of this
24 chapter, except as otherwise provided in paragraph (b), shall
25 be due and payable in monthly installments on or before the
26 twentieth day of the month next succeeding the month in which
27 the tax accrues. On or before the twentieth day of each month

1 after this chapter has taken effect, every person, firm or
2 corporation on whom the taxes levied by this chapter are
3 imposed shall render to the Department of Revenue, hereinafter
4 referred to as the department, on a form prescribed by the
5 department, a true and correct statement showing the gross
6 proceeds of the business for the next preceding month,
7 together with such other information as the department may
8 demand and require, and at the time of making such monthly
9 report the taxpayer shall compute the taxes due and shall pay
10 to the department the amount of taxes shown to be due. ~~The~~
11 ~~department, for good cause, may extend the time for making any~~
12 ~~return required under the provisions of this chapter, but the~~
13 ~~time for filing any such return shall not be extended for a~~
14 ~~period greater than 30 days from the date such return is due~~
15 ~~to be made.~~

16 "(b) Taxpayers meeting the criteria set forth in the
17 subdivisions of this subsection may elect to file quarterly,
18 semi-annually, or annually. Any such election to file
19 quarterly, semi-annually, or annually shall be made in writing
20 no later than February 20 of each year and shall be filed with
21 the department in the manner prescribed by the department. The
22 department, for good cause, may extend the time for making any
23 return required under the provisions of this chapter, but the
24 time for filing any such return shall not be extended for a
25 period greater than 30 days from the date such return is due
26 to be made. Qualifying taxpayers electing to file quarterly,
27 semi-annually, or annually, shall report to the department, on

1 a form prescribed by the department, a true and correct
2 statement showing such information as the department may
3 require. Qualifying taxpayers shall pay to the department the
4 amount of tax shown to be due on or before the applicable
5 deadlines, under any rules and regulations as may be
6 prescribed, as follows:

7 "(1) When the total state transient occupancy tax
8 for which any person is liable under this chapter is less than
9 \$2,400 during the preceding calendar year, the person may
10 elect to file quarterly returns. Quarterly returns and the
11 amount of tax shown to be due shall be due on or before the
12 20th day of the month next succeeding the end of the quarter
13 for which the tax is due.

14 "(2) When the total state transient occupancy tax
15 for which any person is liable under this chapter is less than
16 \$1,200 during the preceding calendar year or the person liable
17 for the tax has provided accommodations during no more than
18 two, thirty consecutive day periods during the preceding
19 calendar year, the person may elect to file semi-annual
20 returns. The semi-annual returns and payment of the tax shown
21 to be due shall be due on or before July 20 and January 20
22 following the end of the six-month period for which the tax is
23 due. (3) When the total state transient occupancy tax for
24 which any person is liable under this chapter is less than six
25 hundred dollars (\$600) for the preceding calendar year or the
26 person liable for the tax provides accommodations during no
27 more than one, thirty consecutive day period during the

1 preceding calendar year, the person may elect to file an
2 annual return. The annual return and payment of the tax shown
3 to be due shall be due on or before January 20 following the
4 end of the annual period for which the tax is due.

5 Section 2. Section 40-23-6.1, is hereby added to the
6 Code of Alabama 1975, as follows:

7 §40-23-6.1

8 The commissioner may, subject to the appeal
9 provisions allowed in Chapter 2A of Title 40, suspend or
10 revoke a license, or deny a license application or renewal,
11 issued under Sections 40-12-221, 40-23-6, or 40-23-66 for
12 reasonable cause including the following:

13 (1) Fraud practiced or any material misstatement in
14 the license application.

15 (2) Changes of conditions in ownership or business
16 structure after a license is granted or the failure to engage
17 in or continue to engage in business for which the license is
18 issued.

19 (3) Failure to comply with the provisions of Chapter
20 12 and Chapter 23 of Title 40, or any rule promulgated
21 thereunder.

22 (4) Failure to provide or maintain a surety bond as
23 required in section 40-23-6.

24 (c) The Department of Revenue may adopt rules to
25 administer this section.

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
Education..... 09-APR-19

Read for the second time and placed
on the calendar..... 25-APR-19

Read for the third time and passed
as amended..... 30-APR-19

Yeas 97, Nays 0, Abstains 3

Jeff Woodard
Clerk