

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

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8 SYNOPSIS: Under existing law, Alabama does not levy a
9 license or privilege tax on cigar wrappers
10 manufactured using tobacco.

11 This bill would add a new Chapter 25B to
12 Title 40 of the Code of Alabama 1975, to include
13 cigar wrappers manufactured using tobacco as a
14 tobacco product subject to Alabama's levy of
15 license or privilege taxes on articles containing
16 tobacco.

17 This bill would provide for civil
18 enforcement of the chapter and criminal penalties
19 for failing to comply with the requirements of the
20 chapter.

21 Amendment 621 of the Constitution of Alabama
22 of 1901, now appearing as Section 111.05 of the
23 Official ReCompilation of the Constitution of
24 Alabama of 1901, as amended, prohibits a general
25 law whose purpose or effect would be to require a
26 new or increased expenditure of local funds from
27 becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote
2 unless: it comes within one of a number of
3 specified exceptions; it is approved by the
4 affected entity; or the Legislature appropriates
5 funds, or provides a local source of revenue, to
6 the entity for the purpose.

7 The purpose or effect of this bill would be
8 to require a new or increased expenditure of local
9 funds within the meaning of the amendment. However,
10 the bill does not require approval of a local
11 governmental entity or enactment by a 2/3 vote to
12 become effective because it comes within one of the
13 specified exceptions contained in the amendment.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Relating to taxation of tobacco products; to add new
20 Chapter 25B to Title 40 of the Code of Alabama 1975; to levy a
21 tax on cigar wrappers; to require a business license; to
22 require monthly reports; to provide penalties; to provide for
23 distribution of proceeds; to provide for operation expenses;
24 and in connection therewith would have as its purpose or
25 effect the requirement of a new or increased expenditure of
26 local funds within the meaning of Amendment 621 of the
27 Constitution of Alabama of 1901, now appearing as Section

1 111.05 of the Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Chapter 25B is added to Title 40 of the
5 Code of Alabama 1975, to read as follows:

6 §40-25B-1.

7 For the purposes of this chapter, the following
8 terms shall have the respective meanings ascribed to them by
9 this section:

10 (1) COMMISSIONER. The Commissioner of the Department
11 of Revenue of the State of Alabama.

12 (2) DEPARTMENT. The Department of Revenue of the
13 State of Alabama.

14 (3) NET TAX PROCEEDS. The entire proceeds from the
15 tax herein levied less costs of collection, refunds, grants,
16 and credits as may be authorized by law.

17 (4) PERSON. Individuals, firms, corporations,
18 partnerships, companies, or other agencies, associations,
19 incorporated or otherwise, singular or plural.

20 (5) STATE. The State of Alabama.

21 (6) WHOLESALE SALE. A sale of tangible personal
22 property by wholesalers to licensed retail merchants, jobbers,
23 dealers, or other wholesalers for resale and shall not include
24 a sale by wholesalers to users or consumers, not for resale.

25 §40-25B-2.

26 There is hereby levied a tax upon all cigar wrappers
27 manufactured using tobacco sold at wholesale in this state or

1 imported into this state for use, consumption, or sale at
2 retail. The tax shall be levied upon each package in the
3 following amounts: Weighing not more than one and one-eighth
4 ounces, four cents (\$.04); over one and one-eighth ounces, not
5 exceeding two ounces, ten cents (\$.10); over two ounces, not
6 exceeding three ounces, sixteen cents (\$.16); over three
7 ounces, not exceeding four ounces, twenty-one cents (\$.21);
8 and six cents (\$.06) additional tax for each ounce or
9 fractional part thereof over four ounces.

10 §40-25B-3.

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

18 §40-25B-4.

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

26 §40-25B-5.

1 Any person subject to this chapter who shall fail to
2 make any report required of them by the department or shall
3 fail to keep any of the records required herein shall be
4 guilty of a Class B misdemeanor. Each month of such failure
5 shall constitute a separate offense.

6 §40-25B-6.

7 The tax imposed by this chapter shall be in addition
8 to all other licenses and taxes levied by law as a condition
9 precedent to engaging in any business taxable hereunder.

10 §40-25B-7.

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

17 §40-25B-8.

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

23 §40-25B-9.

24 The department for good cause may grant up to a
25 30-day extension for the time for making any return required
26 under this chapter.

1 §40-25B-10. All revenue collected under the
2 provisions of this chapter shall be paid to the department and
3 shall be distributed as is provided for the distribution of
4 funds in Section 40-25-23.

5 §40-25B-11. The amount of money as shall be
6 appropriated for each fiscal year by the Legislature to the
7 department with which to pay the salaries and the cost of
8 operation and management of the department shall be deducted,
9 as a first charge thereon, from the taxes collected under the
10 provisions of this chapter; provided, however, that the
11 expenditure of said sum so appropriated shall be budgeted and
12 allotted pursuant to Sections 41-4-80 to 41-4-96, inclusive,
13 and limited to the amount appropriated to defray the expenses
14 of operating the department for each fiscal year.

15 Section 2. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

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