

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

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

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

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 ~~§40-25B-1.~~ §40-25-2.1

23 For the purposes of this ~~chapter~~ section, the
24 following terms shall have the respective meanings ascribed to
25 them by this section:

26 (1) CIGAR WRAP. An individual tobacco wrapper that
27 is made wholly or in part from tobacco, including

1 reconstituted tobacco, whether in the form of tobacco leaf,
2 sheet, or tube, if the wrap is designed to be offered to or
3 purchased by a consumer.

4 ~~(1)~~ (2) COMMISSIONER. The Commissioner of the
5 Department of Revenue of the State of Alabama.

6 ~~(2)~~ (3) DEPARTMENT. The Department of Revenue of the
7 State of Alabama.

8 ~~(3)~~ (4) NET TAX PROCEEDS. The entire proceeds from
9 the tax herein levied less costs of collection, refunds,
10 grants, and credits as may be authorized by law.

11 ~~(4)~~ (5) PERSON. Individuals, firms, corporations,
12 partnerships, companies, or other agencies, associations,
13 incorporated or otherwise, singular or plural.

14 ~~(5)~~ (6) STATE. The State of Alabama.

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

19 ~~§40-25B-2.~~

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

1 three ounces, not exceeding four ounces, twenty-one cents
2 (\$.21); and six cents (\$.06) additional tax for each ounce or
3 fractional part thereof over four ounces.

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

8 ~~§40-25B-3.~~

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

16 ~~§40-25B-4.~~

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

24 ~~§40-25B-5.~~

25 (e) Any person subject to this ~~chapter~~ section who
26 shall fail to make any report required of them by the
27 department or shall fail to keep any of the records required

1 herein shall be guilty of a Class B misdemeanor. Each month of
2 such failure shall constitute a separate offense.

3 ~~§40-25B-6.~~

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

8 ~~§40-25B-7.~~

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

15 ~~§40-25B-8.~~

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

22 ~~§40-25B-9.~~

23 (i) The department for good cause may grant up to a
24 30-day extension for the time for making any return required
25 under this ~~chapter~~ section.

26 ~~§40-25B-10.~~

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

6 ~~§40-25B-11.~~

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

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

25 Section 3. This act shall become effective on the
26 first day of the third month following its passage and
27 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
General Fund..... 09-FEB-12

Read for the second time and placed
on the calendar 2 amendments 16-FEB-12

Read for the third time and passed
as amended..... 28-FEB-12

Yeas 60, Nays 32, Abstains 3

Greg Pappas
Clerk