

1 SB487
2 135679-5
3 By Senator Dial (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 05-APR-12

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Chambers County; to amend Section
14 45-9-244, Code of Alabama 1975; to provide further for the
15 distribution of the tobacco tax.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 45-9-244, Code of Alabama 1975,
18 is amended to read as follows:

19 "§45-9-244.

20 "(a) Upon adoption of the Legislature, there is
21 hereby imposed on every person, firm, or corporation that
22 sells, stores, delivers, uses, or otherwise consumes tobacco
23 or tobacco products in Chambers County, a county privilege,
24 license, or excise tax in the following amounts:

25 "(1) Twenty-five cents (\$.25) for each package of
26 cigarettes made of tobacco or any substitute therefor.

1 "(2) Twelve cents (\$.12) for each cigar of any
2 description made of tobacco or any substitute therefor, but
3 not including cigarette sized and near cigarette sized cigars
4 which shall be taxed in the same manner as cigarettes under
5 subdivision (1).

6 "(3) Twenty-five cents (\$.25) for each sack, can,
7 package, or other container of smoking tobacco, including
8 granulated, plug cut, crimp cut, ready rubbed, and other kinds
9 and forms of tobacco which are prepared in such manner
10 suitable for smoking in a pipe or cigarette.

11 "(4) Twenty-five cents (\$.25) for each sack, plug,
12 package, or other container of chewing tobacco, which tobacco
13 is prepared in such manner suitable for chewing only and not
14 suitable for smoking as described in subdivision (3).

15 "(5) Twenty-five cents (\$.25) for each can, bottle,
16 glass, tumbler, package, or other container of snuff made of
17 tobacco or any substitute therefor.

18 "(6) Twenty-five cents (\$.25) for each package of
19 tobacco paper, both gummed and ungummed.

20 "The privilege, license, or excise tax shall be in
21 addition to all other taxes imposed by law and shall be
22 collected in the same manner as other taxes on tobacco, except
23 that when the license tax required by this section has been
24 paid by a wholesaler or seller of the products, that payment
25 shall be sufficient. The legislative intent is that the tax
26 shall be paid only once on each package of cigarettes, chewing
27 tobacco, snuff, cigars of every description, and smoking

1 tobacco of every description, and for each package of tobacco
2 paper, whether gummed or ungummed.

3 "(b) Every person, firm, corporation, club, or
4 association that sells, stores, or receives for the purpose of
5 selling or storing in Chambers County, any cigarettes, cigars,
6 snuff, and smoking tobacco products shall add the amount of
7 the license or privilege tax levied and assessed to the price
8 of the cigarettes, cigars, snuff, and smoking tobacco
9 products. It is the purpose and intent of this subsection that
10 the tax levied is, in fact, a levy on the consumer with the
11 person, firm, corporation, club, or association that sells or
12 stores or receives for the purpose of distributing the
13 cigarettes, cigars, snuff, and smoking tobacco products acting
14 merely as an agent for the collection of the tax. The dealer,
15 storer, or distributor shall state the amount of the tax
16 separately from the price of the cigarettes, cigars, snuff,
17 and smoking tobacco products on all price display signs, sales
18 or delivery slips, bills, and statements which advertise or
19 indicate the price of the cigarettes, cigars, snuff, and
20 smoking tobacco products.

21 "(c) It shall be unlawful for any dealer, storer,
22 distributor, or any person, firm, or corporation that sells,
23 delivers, uses, or otherwise consumes tobacco products in
24 Chambers County, for which the tax is levied, to fail or
25 refuse to add to the sales price and collect from the
26 purchaser the amount due to Chambers County on account of the
27 tax herein provided, to refund or offer to refund all or any

1 part of the amount collected or absorbed, or advertise
2 directly or indirectly, the absorption of the tax or any
3 portion thereof. Any person, firm, corporation, club, or
4 association violating this subsection shall be subject to a
5 civil penalty of not less than twenty-five dollars (\$25) nor
6 more than five hundred dollars (\$500). Each section in
7 violation of this subsection shall constitute a separate
8 offense.

9 "(1) The State Department of Revenue may collect all
10 taxes levied pursuant to this section at the same time and in
11 the same manner as state sales and use taxes are collected.

12 "(2) The tax levied herein shall be paid by affixing
13 stamps that are required for the payment of the tax imposed by
14 Section 40-25-1 to 40-25-28, inclusive.

15 "(3) The county shall, in conjunction with the
16 District Community Service Office, contract with the State
17 Department of Revenue to purchase stamps to be affixed. The
18 department may have the same duties relative to the
19 preparation and sale of stamps to evidence the payment of the
20 tax that it has relative to the preparation and sale of stamps
21 under Section 40-25-1 to 40-25-28, inclusive.

22 "(4) In accordance with Section 40-25-2(g), in the
23 event the aforementioned tobacco stamps are not available for
24 affixing to tobacco products packages and containers, or by
25 the authority of a duly promulgated regulation eliminating the
26 requirement of affixing county tobacco stamps, the entity,
27 including the Commissioner of the Department of Revenue, may

1 require a monthly report in lieu of stamps to report the
2 amount of tax due. The monthly report shall be in a form
3 approved by the commissioner and adopted by the department
4 under the Alabama Administrative Procedure Act, Chapter 22,
5 Title 41. If monthly reports are not required to be filed by a
6 person, firm, or corporation that sells, stores, delivers,
7 uses, or otherwise consumes tobacco products in Chambers
8 County with the State Department of Revenue, these reports
9 shall be filed with the Chambers County Commission.

10 "(d) All laws, rules, and regulations of the
11 department relating to the manner and time of payment of the
12 tax levied by Sections 40-25-1 to 40-25-28, inclusive,
13 requiring reports from dealers and prescribing penalties for
14 violations shall apply with equal force to the tax levied by
15 this section as provided for in this section.

16 "(e) There is hereby created the District Community
17 Service Office serving Randolph, Clay, and Chambers Counties.
18 Office space and sufficient personnel, office furniture,
19 office equipment, telephone service, and accommodation for the
20 members of the legislative delegation serving the respective
21 counties may be provided by the respective counties. Personnel
22 for the office shall be selected by the members of the
23 legislative delegation. The members of the legislative
24 delegation may contract for services or employment with the
25 personnel. The personnel shall serve at the pleasure of the
26 members of the legislative delegation. The office shall be
27 charged with serving the constituents of the district and

1 disbursing any and all funding from the community grant
2 programs and any other grant funding authorized by the
3 Legislature.

4 " ~~(e)~~ (f) (1) The proceeds from the tax authorized,
5 less two percent of the actual cost of collection shall be
6 distributed to the Chambers County General Fund to be expended
7 as follows:

8 ~~"a. Fifteen percent shall be retained in the~~
9 ~~Chambers County General Fund to be utilized as are other~~
10 ~~county funds.~~

11 ~~"b.~~ a. Twenty-five percent of the proceeds shall be
12 distributed to a special account to be utilized exclusively
13 for county fire and rescue protection purposes, as provided in
14 subdivision (2).

15 ~~"c.~~ b. Forty-eight percent of the proceeds shall be
16 distributed to the Chambers County Industrial Development
17 Council.

18 "c. Eighteen percent of the proceeds shall be
19 utilized exclusively to fund the District Community Service
20 Office serving Chambers, Clay, and Randolph Counties as
21 provided in subdivision (3).

22 "d. Four percent of the proceeds shall be
23 distributed to the Chattahoochee Valley Humane Society to be
24 used for small animal control on a countywide basis.

25 ~~"d.~~ e. ~~Two~~ Three percent of the proceeds shall be
26 distributed to Valley Haven School.

1 ~~"e. Eight percent of the proceeds shall be~~
2 ~~distributed to the Chambers County Commission to be deposited~~
3 ~~into a separate fund in the county treasury and, subject to an~~
4 ~~application process developed by the county commission,~~
5 ~~disbursed to water districts in the county for the purpose of~~
6 ~~installing feeder lines. The county commission may develop~~
7 ~~guidelines, promulgate rules, and institute an application~~
8 ~~process to provide for disbursement of the funds.~~

9 "f. Two percent of the proceeds shall be deposited
10 into a fund in the county treasury earmarked for scholarships
11 for residents of Chambers County to be administered and
12 awarded by a scholarship board consisting of three persons
13 appointed by the legislative delegation representing Chambers
14 County.

15 "(2) The county commission may enter into a service
16 contract with the Chambers County Volunteer Fire and Rescue
17 Association which represents more than one fire and/or rescue
18 department to provide fire and rescue protection to a part or
19 all of the county. The county commission may develop criteria
20 which shall be met by the association with which it enters
21 into contract. The compensation for the contract shall be paid
22 from funds in the special account. The association may be
23 composed of volunteer fire and rescue departments which are
24 located within the county. Compensation paid to the
25 association pursuant to the service contract shall be
26 distributed by the association to the volunteer fire and
27 rescue departments in the manner the association's governing

1 body deems appropriate. The association shall develop
2 standards and criteria which shall be met by all its member
3 fire and rescue departments. Each officer of the association
4 shall be a member in good standing of a volunteer fire
5 department. Any member fire and rescue department which fails
6 to meet the standards and criteria shall be denied its share
7 of the funding. The association shall give noncomplying member
8 fire and rescue departments proper notice of all deficiencies
9 and a reasonable time period to correct the deficiencies
10 before any funds shall be denied.

11 "(3) The District Community Service Office shall be
12 charged with serving the constituents of the district and
13 disbursing any and all funding from community grant programs
14 and any other grant funding authorized by the Legislature.

15 "~~(f)~~ (g) This section shall not be construed to apply
16 to cigarettes, cigars, snuff, smoking tobacco, and like
17 tobacco products stored by a wholesale dealer for the purpose
18 of resale or reshipment outside of the county which are
19 actually resold or reshipped."

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