

HB145 INTRODUCED



1 HB145
2 ZQ9F8RR-1
3 By Representative Lee
4 RFD: Ways and Means General Fund
5 First Read: 13-Jan-26
6 PFD: 09-Jan-26



4 SYNOPSIS:

5 Under existing law, a wholesaler, jobber,
6 semijobber, registered retailer, importer, or any other
7 person selling, receiving, or distributing tobacco
8 products in this state must be permitted by the
9 Department of Revenue. A permitted wholesaler or jobber
10 may sell tobacco products that are sold, shipped, or
11 delivered in interstate commerce to a person outside of
12 this state without the Alabama revenue stamps affixed.

13 This bill would provide that a wholesale dealer
14 and jobber permitted by the Department of Revenue and
15 at least four other states, who purchases tobacco
16 products directly from the manufacturer or an affiliate
17 of the manufacturer and only makes sales for resale to
18 a wholesale dealer, must register and be issued a
19 permit by the department as an interstate warehouser.
20 This bill would provide penalties for noncompliance.

21 This bill would also delete duplicative language
22 and make nonsubstantive, technical revisions to update
23 the existing code language to current style.

24
25
26 A BILL
27 TO BE ENTITLED
28 AN ACT



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Relating to interstate warehouser tobacco tax; to amend Sections 40-25-1, 40-25-4.1, 40-25-8, as last amended by Act 2025-448, 2025 Regular Session, 40-25-8.1, as last amended by Act 2025-448, 2025 Regular Session, 40-25-16.1, 40-25-18, as last amended by Act 2025-448, 2025 Regular Session, and 40-25-25, as last amended by Act 2025-448, 2025 Regular Session, Code of Alabama 1975; to define an interstate warehouser, to require an interstate warehouser permit issued by the Department of Revenue; to add Section 40-25-15.1 to the Code of Alabama 1975; to provide application and enforcement provisions; to provide for penalties for noncompliance; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-25-1, 40-25-4.1, 40-25-8, as last amended by Act 2025-448, 2025 Regular Session, 40-25-8.1, as last amended by Act 2025-448, 2025 Regular Session, 40-25-16.1, 40-25-18, as last amended by Act 2025-448, 2025 Regular Session, and 40-25-25, as last amended by Act 2025-448, 2025 Regular Session, Code of Alabama 1975, are amended to read as follows:

"§40-25-1

For the purposes of this article, the following terms ~~shall~~ have the ~~respective~~ following meanings ~~ascribed by this section~~:

~~(1)~~ (10) WHOLESALE DEALER AND JOBBER. Persons, ~~firms, or corporations who~~ that buy tobacco products direct from the



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manufacturer or an affiliate of the manufacturer and sell at wholesale only, any one or more of the articles taxed ~~herein~~ under this article to licensed wholesale dealers, jobbers, semijobbers, and retail dealers for the purpose of resale only.

~~(2)~~ (7) RETAIL DEALER. Every person, ~~firm, or corporation,~~ other than a wholesale dealer or jobber, ~~who~~ that sells or offers for sale any one or more of the articles taxed ~~herein~~ under this article, ~~irrespective~~ regardless of quantity or amount, or the number of sales; and all persons operating under a retail dealer's license.

~~(3)~~ (8) SEMIJOBBER. ~~Persons, firms, or corporations~~ A person who ~~buy~~ buys tobacco products from permitted wholesalers or ~~obtain~~ obtains tobacco from any other source and ~~sell~~ sells at wholesale any one or more of the articles taxed ~~herein~~ under this article to licensed retail dealers for ~~the purpose of~~ resale only.

~~(4)~~ (9) STAMPS. The ~~stamp or~~ stamps ~~by the use of~~ through which the tax levied under this article ~~is~~ are paid and shall be designated Alabama Revenue Stamps.

~~(5)~~ (3) CIGARS, CHERROOTS, or ~~STOGIES, ETC.~~ A roll for smoking that is of any size or shape, ~~and~~ that is made wholly or in part of tobacco or any tobacco substitute ~~therefor,~~ irrespective regardless of whether the tobacco is pure, ~~or~~ flavored, adulterated, or mixed with any other ingredient, ~~if~~ ~~the roll has~~ with a wrapper made wholly or in part of tobacco.

~~(6)~~ (5) HEATED TOBACCO PRODUCT. A product other than a



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cigarette intended to be heated, containing tobacco that produces an inhalable aerosol by heating the tobacco by means of a device without combustion of the tobacco or by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

~~(7)~~ (1) CIGARETTE ~~or CIGARETTES~~. The same meaning as defined in Section 6-12-2 ~~and includes~~ including a cigarette ~~or cigarettes~~ intended to be heated.

~~(8)~~ (2) CIGARETTE ~~OR CIGARETTES~~ INTENDED TO BE HEATED. A cigarette containing tobacco that produces an inhalable aerosol: (i) by heating the tobacco by means of an electronic device without combustion of the tobacco; or (ii) by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

(4) DEPARTMENT. The Alabama Department of Revenue.

(6) INTERSTATE WAREHOUSER. A person who purchases tobacco products directly from the manufacturer or an affiliate of the manufacturer and, solely for resale, sells any one or more of the articles taxed under this article to a permitted wholesale dealer who is qualified under Section 40-25-16."

"§40-25-4.1

(a) Notwithstanding any other laws, the only persons or businesses who may be licensed to buy and affix ~~the~~ tax stamps of the Alabama Department of Revenue required by law to packages of tobacco products are: (i) wholesalers and distributors who buy the tobacco products direct from the manufacturer, or an affiliate of the manufacturer ~~;~~ or (ii)



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wholesalers who purchase tobacco products directly from an interstate warehouser permitted by the State of Alabama.

~~except that the~~ The manufacturer of the product may be allowed to affix the stamps to a tobacco product for the following purposes:

- (1) Trademark registration.
- (2) Promotions of the product.
- (3) Test-marketing the product.

(b) ~~In order for~~ For a manufacturer to affix tax stamps to a tobacco product for a purpose described in subsection (a), the manufacturer shall give at least four weeks' prior written notice to the Commissioner of the ~~Department of Revenue~~ department of ~~such~~ the manufacturer's intention, along with full details of the ~~exceptional event~~ purpose, including, but not limited to:

- (1) The nature of the promotion.
- (2) The location and length of the promotion.
- (3) The estimated number of tobacco products to be offered for sale during the promotion.

(c) The ~~Department of Revenue~~ department shall notify all self-administered counties and municipalities of the manufacturer's request within seven days of receiving notice from the manufacturer by forwarding to each self-administered county and municipality a copy of the written notice, including the full details of the ~~exceptional event~~ purpose as set out above.

(d) Any person who violates this section shall be guilty of a Class A misdemeanor ~~and, upon conviction thereof,~~



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shall be punished as prescribed by law."

"§40-25-8

(a) Any cigarettes, smoking tobacco, heated tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article found at any point within the State of Alabama, which ~~the cigarettes, smoking tobacco, heated tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article shall~~ have been within the State of Alabama for a period of two hours, or longer, in possession of any retailer or semijobber ~~not having~~ without the stamps required by this article affixed to the package ~~the stamps as provided in this article~~, or, in the case of products not requiring a stamp to be affixed, where purchase invoices do not itemize the applicable tobacco taxes, are declared to be contraband goods and may be seized by the ~~Department of Revenue~~ department, ~~its~~ agents of the department, or by any peace officer of the State of Alabama, without a warrant. ~~and the goods~~ Goods confiscated pursuant to this subsection shall be delivered to the ~~Department of Revenue~~ department for destruction.

(b) Any ~~of the~~ goods, wares, or merchandise ~~when~~ offered for sale, either at wholesale or retail without the stamps having been first affixed, or, in the case of products not requiring a stamp to be affixed, where purchase invoices do not itemize the applicable tobacco taxes, shall be subject to confiscation as hereinabove provided.

(c) Any untaxed cigarettes, smoking tobacco, heated



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tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article found at any location within the State of Alabama, other than the primary location of the permitted wholesaler or jobber, registered semijobber, registered retailer, or tobacco products manufacturer who stores tobacco products at a bonded warehouse in this state for resale, are declared to be contraband goods, and those goods may be seized by the ~~Department of Revenue~~ department, ~~or its~~ agents of the department, or by any peace officer of the State of Alabama, without a warrant. ~~and the goods~~ Goods confiscated pursuant to this subsection shall be delivered to the ~~Department of Revenue~~ department for destruction.

(d) Any vehicle, that is not a common carrier, or owned by an interstate warehouser permittee and that is used for the transportation for the purpose of ~~sale of~~ selling unstamped tobacco articles ~~as hereinabove enumerated~~ described in this section shall ~~likewise~~ be subject to confiscation and sale at public auction to the highest bidder after ~~due~~ advertisement and notice to the title owner of the vehicle. The proceeds of sale for any vehicle sold ~~hereunder~~ pursuant to this subsection shall be deposited into the State Treasury by the ~~Department of Revenue~~ department to be credited in the same manner as the tax otherwise due on the tobacco products being transported. The cost of confiscation and sale shall be paid out of the sales proceeds ~~derived from the sale~~ before making remittance to the State Treasurer. Should any unstamped ~~tobaccoes~~ tobacco products be found in any vehicle that is



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engaged in the sale, distribution, or delivery of taxable ~~tobaccoes~~ tobacco products, the same shall be prima facie evidence that ~~it was there~~ the tobacco products were for sale."

"§40-25-8.1

(a) Each person, firm, corporation, club, or association that transports products upon the public highways, roads, or streets of this state which are required to be stamped as provided in Section 40-25-8, and which are not stamped, or on which the tax has not been paid in accordance with this chapter and Chapter 25A, ~~upon the public highways, roads, or streets of this state~~ is required to have an active instate warehouse permit, tobacco permit, or transporters permit under this chapter. Failure to obtain a permit ~~prior to~~ before transporting the products is a violation of this section. A violation of this section may result in the products being declared contraband goods that may be seized without warrant by any law enforcement officer in this state. The contraband goods may be disposed of or destroyed by the law enforcement officer in accordance with this chapter. In addition, a vehicle used in the transportation of confiscated products may be subject to confiscation by the law enforcement officer and sold at public auction to the highest bidder after ~~due~~ advertisement pursuant to Chapter 13 of Title 32.

(b) The owner ~~or~~, driver, or both, of a vehicle used in ~~a~~ violation of this section is guilty of a Class A misdemeanor unless the tobacco products being transported ~~exceeds~~ exceed any of the following quantities: (i) 25,000 cigars, (ii)



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225 50,000 filtered cigars~~;~~ (iii) 50,000 little cigars~~;~~ (iv)
226 50,000 cigarettes~~;~~ (v) 50,000 heated tobacco products~~;~~
227 (vi) 25,000 cigar wraps~~;~~ or (vii) 2,500 individual
228 containers of loose or smokeless tobacco, in which case the
229 owner or driver is guilty of a Class C felony. Any person
230 convicted of a second or subsequent offense for a violation of
231 this section is guilty of a Class C felony, regardless of the
232 amount of tobacco products involved in the violation.

233 (c) This section shall not apply to individuals
234 transporting tobacco for personal consumption as provided in
235 Section 40-25-25."

236 "§40-25-11

237 All interstate warehouses, common carriers, contract
238 carriers, buses, and trucks transporting tobacco products may
239 be required, under ~~regulations to be prescribed~~ rules adopted
240 by the ~~Department of Revenue~~ department, to transmit to the
241 Department of Revenue a periodic statement of ~~such~~
242 consignments or deliveries of tobacco products showing date,
243 point of origin, point of delivery ~~and to whom delivered,~~
244 recipient, and time of delivery. ~~and all~~ All interstate
245 warehouses, common carriers, buses, ~~or~~ and trucks shall
246 permit examination by the ~~Department of Revenue~~ department or
247 ~~its~~ the department's agents of their records relating to
248 shipment or receipt of tobacco products. The interstate
249 warehouser, common carriers, buses, and trucks shall permit
250 the examination and investigation of their records of shipment
251 or receipts relating to tobacco products, when and ~~wherever~~
252 where it is deemed advisable and necessary by the ~~Department~~



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~~of Revenue department~~ or ~~its~~ the department's agents in the enforcement of this article. Inspectors, stamp deputies, and other ~~duly authorized~~ agents of the ~~Department of Revenue, department shall conduct these examinations~~ on upon proper identification ~~from~~ and authorization ~~by~~ from the ~~Department of Revenue, shall make such examination~~ department. Any person, firm, corporation, partnership, or association of persons who refuses to ~~transmit to the Department of Revenue the statements hereinabove provided for, or who refuses to permit the examination of his records by~~ submit the statements required by this section to the department, or who refuses to permit the ~~Department of Revenue department~~ or ~~its~~ duly an authorized agent of the department to examine its records, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each ~~such~~ offense."

"§40-25-16.1

(a) (1) Each interstate warehouser, wholesaler, jobber, semijobber, registered retailer, importer, or any other person selling, receiving, or distributing tobacco products in this state for resale shall file a report of its activity with the ~~Department of Revenue~~ department between the first and the twentieth of each month. The ~~information~~ report shall include, but not be limited to, the customer's name, address, invoice number, invoice date, ~~a~~ description of the tobacco products, the itemized tax, and any other information required by the department.



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281 ~~(1)~~ (2) This subsection is enacted to aid the ~~Department~~
282 ~~of Revenue~~ department in the enforcement of Section 40-23-260,
283 which requires a seller of tobacco products selling or
284 distributing to retailers in this state to report the sale of
285 tobacco products if an exemption from the sales or use tax is
286 claimed at the time of sale.

287 ~~(2)~~ (3) Any sale of tobacco products to a purchaser
288 using a sales tax number to purchase the products is declared
289 to be a purchase for resale, and the seller is required to
290 obtain a tobacco account and report the sale on the monthly
291 tobacco sales for resale report.

292 ~~(3)~~ (4) If a non-registered seller or a non-permitted
293 interstate warehouser fails to obtain a tobacco account as
294 required, the department may assess the following penalties:

295 a. On the first violation, ~~the non-registered seller~~
296 ~~shall be issued~~ a written warning notice from the department.
297 The notice shall ~~advise the non-registered seller of~~ state the
298 penalty due ~~if the seller continues to fail to comply for~~
299 continued noncompliance with this section.

300 b. On a second violation of this section, ~~the~~
301 ~~non-registered seller shall be assessed~~ a civil penalty of one
302 hundred dollars (\$100).

303 c. On a third or subsequent violation, ~~the~~
304 ~~non-registered seller shall be assessed~~ a civil penalty of one
305 hundred dollars (\$100) multiplied by the total number of
306 violations that have been imposed under this section.

307 (b) The commissioner of the department shall establish
308 a ~~web site~~ website for listing each interstate warehouser,



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309 wholesaler, jobber, semijobber, retailer, importer, or
310 distributor of tobacco products ~~that has~~ qualified or
311 registered with the ~~Department of Revenue~~ department.
312 Purchases of tobacco products made from ~~an entity~~ entities
313 other than ~~the above~~ those listed as permitted or registered
314 ~~entities appearing~~ on the ~~department~~ department's website
315 ~~listing~~ shall be subject to confiscation, as ~~provided for~~
316 specified in this chapter."

317 "§40-25-18

318 (a) Persons failing to properly affix the required
319 stamps to any cigars, cheroots, stogies, cigarettes, smoking
320 tobacco, heated tobacco products, chewing tobacco, and snuff
321 shall be required to pay, as part of the tax imposed ~~hereunder~~
322 under this article, a penalty of not less than twenty-five
323 dollars (\$25) ~~nor more than~~ per article on the first
324 violation, two hundred fifty dollars (\$250) per article on the
325 second violation, and five hundred dollars (\$500) per article
326 on the third and subsequent violations. Each article or
327 commodity ~~not having without the~~ proper stamps affixed ~~thereto~~
328 ~~as herein~~ as required shall be ~~deemed~~ considered a separate
329 offense. Any cigars, cheroots, stogies, cigarettes, smoking
330 tobacco, heated tobacco products, chewing tobacco, and snuff
331 ~~in the~~ at a place of business of any person required by this
332 article to stamp ~~the same~~ the products shall be prima facie
333 evidence that they are intended for sale. The Department of
334 Revenue, upon good cause shown, may waive or ~~remit~~ reduce any
335 penalty or any part ~~thereof~~ of a penalty provided for in this
336 section. Any person, ~~firm, corporation, club, or association~~



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~~of persons~~ who has been found guilty of violating this article and who, after being punished by fine, penalty, assessment, or imprisonment, is found guilty of a second or subsequent violation of this article shall have his or her license, as provided in Sections 40-12-72 and 40-12-73, revoked by the department, and no further license or permit shall be issued or granted to that person, ~~firm, corporation, club, or association of persons~~ for a period of one year from the date ~~their~~ the license or permit has been revoked. Notice of the revocation shall be mailed to the ~~probate~~ judge of probate and license inspector of the county in which the revocation was made.

(b) In addition to the penalty levied by the department pursuant to subsection (a), the county license inspector, license commissioner, revenue commissioner, tax assessor, or tax collector of the county in which the untaxed tobacco product is located may assess a penalty against any person failing to affix the required stamps to any cigars, cheroots, stogies, cigarettes, smoking tobacco, heated tobacco products, and or snuff. The ~~amount of the~~ additional penalty shall ~~be~~ not be less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(c) The department and the local taxing official may assess the tax levied by this chapter pursuant to the assessment procedures set out in Chapter 2A of this title."

"§40-25-25

If any person, ~~firm, or corporation~~ who is not a regularly licensed dealer in tobacco products ~~shall have~~ or a



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permitted interstate warehouser has in his or her possession ~~within the state~~ more than 30 packages of unstamped cigarettes or heated tobacco products or more than one box of ~~unstamped~~ untaxed cigars within the state, ~~such possession it~~ shall be presumed that the possession is ~~to be~~ for the purpose of evading the payment of the taxes due ~~thereon~~."

Section 2. Section 40-25-15.1, is added to the Code of Alabama 1975, to read as follows:

§40-25-15.1

(a) Before an interstate warehouser may ship tobacco products into this state, the interstate warehouser must possess a current interstate warehouser permit.

(b) (1) The annual application for an interstate warehouser permit must include the following items and any other information required by the department:

a. A copy of the current wholesale license or permit, or its equivalent, issued by at least four states other than Alabama.

b. A current Certificate of Authority issued by the Alabama Secretary of State if the applicant is not registered in Alabama as a domestic entity.

c. The name and address of each permitted wholesaler within this state to whom the applicant will be delivering tobacco products.

d. A copy of any contracts between the applicant and the permitted wholesalers in Alabama regarding the potential sale of tobacco products within this state.

e. A copy of the most recent audited financial



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statements from a certified public accountant or a firm regularly engaged in the auditing of financial records.

f. A permit fee of two thousand dollars (\$2,000) for the initial application.

(2) An annual permit renewal fee of five hundred dollars (\$500) shall be due on October 1 of each following year with the annual renewal application. Failure to submit the required renewal application and fee by October 1 shall constitute a voluntary dismissal of the interstate wholesaler permit.

(3) Permit fees may be retained and used by the Department of Revenue for the enforcement of this chapter.

(c) An interstate warehouser permit is non-transferable, and the annual fees paid are non-refundable.

(d) The department may refuse to issue a permit to an applicant under this section if any of the following conditions exist:

(1) The application is incomplete or contains inaccurate information.

(2) The applicant has been convicted of any criminal offense involving fraud or misrepresentation.

(3) The applicant's wholesale license, permit, or equivalent, has been revoked by any other state.

(4) The applicant or its predecessor in business previously held an interstate warehouser permit that was revoked by Alabama and was not pending reinstatement by the Alabama Tax Tribunal within the past 12 months.

(5) The applicant has failed to file or pay any tax



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421 administered by the department.

422 (6) The application is denied for other good cause
423 which shall be detailed in a written response to the applicant
424 by the Department of Revenue.

425 (e) The department may revoke the permit if the
426 interstate warehouser has violated any provisions of this
427 chapter or any rules of the department adopted under authority
428 of this article.

429 (f) An interstate warehouser with the required permit
430 may sell cigarettes and tobacco products without applying the
431 taxes imposed by this article or attaching the state or county
432 revenue stamps, provided that the products are sold to a
433 wholesale dealer who is licensed by the State of Alabama.
434 Additionally, the interstate warehouser must keep in its
435 possession a record of the sale, the original purchase order,
436 a copy of the invoice, a receipt from a common carrier or
437 contract carrier showing shipment for delivery, or, if the
438 interstate warehouser delivers directly to the qualified
439 wholesale dealer, a receipt showing delivery along with the
440 record, original purchase order, and invoice copy related to
441 the sale.

442 (g) Any person who violates this section shall be
443 subject to a penalty of one thousand dollars (\$1,000)
444 multiplied by the total number of violations. This penalty is
445 in addition to any other penalties that may be imposed under
446 this chapter.

447 (h) Any unstamped tobacco product brought into the
448 state other than by an interstate warehouser, a manufacturer,



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449 or an affiliate of a manufacturer for wholesale or retail sale
450 shall be deemed contraband and subject to confiscation and
451 applicable penalties.

452 (h) The department may adopt rules to implement and
453 administer this section.

454 Section 3. This act shall become effective on October
455 1, 2026.