

1 HB180
2 204139-1
3 By Representative McMillan
4 RFD: State Government
5 First Read: 06-FEB-20

SYNOPSIS: This bill would authorize the Commissioner of the Department of Revenue to temporarily waive requirements associated with the International Fuel Tax Agreement and the International Registration Plan during a declared state of emergency or disaster to help affected areas.

A BILL
TO BE ENTITLED
AN ACT

To authorize the Commissioner of the Department of Revenue to temporarily waive requirements for the International Fuel Tax Agreement and the International Registration Plan during a declared state of emergency or disaster.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-2-11, Code of Alabama 1975, is amended to read as follows:

"§40-2-11.

1 "It shall be the duty of the Department of Revenue,
2 and it shall have the power and authority, in addition to the
3 authority now in it vested by law:

4 "(1) To have and exercise general and complete
5 supervision and control of the valuation, equalization, and
6 assessment of property, privilege, or franchise and of the
7 collection of all property, privilege, license, excise,
8 intangible, franchise, or other taxes for the state and
9 counties, and of the enforcement of the tax laws of the state,
10 and of the several county tax assessors and county tax
11 collectors, probate judges, and each and every state and
12 county official, board, or commission charged with any duty in
13 the enforcement of tax laws, to the end that all taxable
14 property in the state shall be assessed and taxes shall be
15 imposed and collected thereon in compliance with the law and
16 that all assessments on property, privileges, intangibles, and
17 franchises in the state shall be made in exact proportion to
18 the fair and reasonable market value thereof in substantial
19 compliance with the law.

20 "(2) To equalize, value, and assess or cause to be
21 equalized, valued, and assessed any property subject to
22 taxation, and such valuations and assessments it shall enter
23 or cause to be entered in the proper assessment book, record,
24 or minutes of the proper official, board, or tribunal; to set
25 aside all assessments so entered in any assessment book,
26 record, or minutes within any time before the end of the
27 assessment year and, after 10 days' notice given the taxpayer,

1 which notice shall be given by certified or registered mail,
2 return receipt demanded, of the time and place of hearing,
3 revalue and reassess said property and cause such revaluation
4 and reassessment to be entered in the proper assessment book,
5 record, or minutes in lieu of the original valuation and
6 assessment; provided, that no reassessment or revaluation
7 shall be made of any particular assessment from which an
8 appeal is then pending, or if the valuation of the property
9 for that year has been fixed on appeal by the circuit court or
10 Supreme Court; provided further, that parties may appeal from
11 such revaluation and assessment to the circuit court within
12 like time and in like manner as from the valuation and
13 assessment as fixed by the board of equalization.

14 "(3) To confer with, advise, and direct the several
15 county tax assessors, county tax collectors, probate judges,
16 boards, or commissions and each and every state and county
17 official charged with the assessment and collection of taxes
18 as to their duties under the laws of this state.

19 "(4) To direct actions to be instituted by the
20 Attorney General, district attorneys, or attorneys especially
21 employed for such purposes, with the approval of the Attorney
22 General for the collection of any taxes or penalties due the
23 state or any county, or to compel any officer or taxpayer to
24 comply with the provisions of the tax laws; to direct actions,
25 prosecutions, and proceedings to be instituted to enforce the
26 laws of this state relating to taxes, penalties, forfeitures,
27 and liabilities, and for the punishment of any public officers

1 or any person or any officer or agent of any corporation,
2 company, or association, trustee, or receiver for failure or
3 neglect to comply with the provisions of the tax laws, and to
4 cause complaints, informations, actions, or prosecutions to be
5 made or instituted against any tax assessor, tax collector,
6 probate judge, or other public official for the removal of
7 such officers for official misconduct or neglect of duty and
8 to further direct actions as may become necessary to obtain an
9 order from a circuit court enjoining or restraining a taxpayer
10 from continuing in business in Alabama whenever such taxpayer
11 fails to collect, account for, and/or pay over any trust fund
12 tax imposed by Sections 40-17-220, 40-17-325, 40-18-71,
13 40-21-82, 40-21-102, 40-21-121, 40-23-2, 40-23-61, 40-23-193,
14 40-26-1, or any other local sales, use, and gross receipts
15 taxes collected by the department. Such actions and
16 proceedings may be instituted in the circuit court of any
17 county in which the taxpayer resides or does business, or in
18 the Circuit Court of Montgomery County, Alabama, and shall
19 remain in effect until such time as the taxpayer has come into
20 full compliance with the tax laws.

21 "(5) To require district attorneys and the Attorney
22 General of the state to commence and prosecute, within the
23 respective jurisdictions or spheres of official duty of the
24 officers, actions, proceedings, and prosecutions for
25 penalties, forfeitures, impeachments, and punishments for
26 violations of the tax laws of the state, to enter into
27 agreements with district attorneys and the Attorney General of

1 the state to reimburse those offices for reasonable fees or
2 costs of actions, proceedings, and prosecutions, and to fund
3 the reimbursements, in whole or in part, from penalties
4 assessed and collected pursuant to Section 40-2A-11.

5 "(6) To require any public official in the state to
6 report information as to valuation, equalization, and
7 assessment of property, privileges, franchises or intangibles,
8 gross receipts, collections of taxes, receipts from licenses
9 and other sources, methods of taxation, values or franchises,
10 or intangible property, or assets subject to taxation, and
11 such other information as may be needful in the work of the
12 Department of Revenue in such forms and upon such blanks as
13 the department may prescribe and furnish.

14 "(7)a. To require individuals, partnerships,
15 associations, corporations, trustees, and receivers, and the
16 agents, officers, and employees thereof, to furnish
17 information concerning their capital, funded or otherwise,
18 gross receipts, net profits or income, excess profits, current
19 assets and liabilities, values of franchises, intangibles,
20 value of property, earnings, operating and other expenses,
21 bonds, deeds, conduct of business, and all other facts,
22 records, books, papers, documents, and other information of
23 any kind demanded which may be needful in order to enable the
24 department to ascertain the value and relative burden to be
25 borne by every kind of property in this state and to ascertain
26 the proper amount of license, privilege, excise, corporation,
27 franchise, income, or ad valorem taxes.

1 "b. To require reporting of retail sales and
2 customer notification, within constitutional limitations, when
3 the seller does not collect sales, use, or simplified sellers
4 use tax on Alabama sales transactions, and to provide for
5 penalties pursuant to Section 40-2A-11.

6 "c. To require reporting of rental transactions of
7 tangible personal property as defined in Section 40-12-220,
8 when the property is classified as Class II or Class IV
9 property under Section 40-8-1, by persons facilitating the
10 transactions and to require notifications to the lessor when
11 the lessor has not furnished evidence that it has acquired a
12 license as required under Section 40-12-221, and to provide
13 for penalties pursuant to Section 40-2A-11.

14 "(8) To cause the deposition of witnesses residing
15 within or without the state to be taken upon such notice to
16 the interested party, if any, as the department may prescribe,
17 in like manner as depositions of witnesses are taken in
18 actions pending in circuit court, in any matter which the
19 department has authority to investigate and determine. The
20 depositions shall be taken upon a commission issued by the
21 Department of Revenue, or the secretary thereof, in the name
22 of the department, and returnable to the department.

23 "(9) To visit, by the commissioner or by duly
24 authorized agents, the several counties in the state for the
25 purpose of investigating the work and methods of county tax
26 assessors, tax collectors, probate judges, or other officers
27 or boards charged with the duty of administering the tax laws

1 of the state; to examine carefully into all cases where
2 evasions or violations of the tax laws are alleged, complained
3 of, or discovered, and to ascertain wherein existing laws are
4 defective or are improperly or negligently administered and to
5 report the result of the investigation and the facts
6 ascertained to the Governor from time to time when required by
7 the Governor.

8 "(10) To investigate the tax system of other states;
9 to thoroughly inform itself upon the subject of taxation and
10 of the progress made in other states and counties in improving
11 their tax system, to formulate and recommend such legislation
12 as may be deemed expedient to prevent evasion of existing tax
13 laws and to secure just and equal taxation and improvements in
14 the system of taxation in this state.

15 "(11) To consult and confer with the Governor upon
16 the subject of taxation and the administration of the laws and
17 progress of the work of the department, and to furnish to the
18 Governor from time to time such information as the Governor
19 may require.

20 "(12) To transmit to the Governor, 30 days before
21 the meeting of the Legislature, a written report showing all
22 the taxable property in the state and the value of the same,
23 in tabulated form, with recommendations for improvements in
24 the system of taxation in the state, together with suggestions
25 of such measures as the department may formulate for the
26 consideration of the Legislature in regard thereto.

1 "(13) To, for good reason shown and entered on the
2 minutes of the department, do either of the following:

3 "a. Extend the time for filing any report or written
4 statement required to be filed with the department.

5 "b. Temporarily waive the motor fuel importer,
6 exporter, or transporter licensing requirements under Section
7 40-17-332, during a state of emergency or disaster. A waiver
8 authorized by this subdivision shall be effective only for
9 persons importing, exporting, or transporting motor fuel to
10 areas within a state or territory of the United States for
11 which the President of the United States or the governor of
12 that state or territory has declared a state of emergency or
13 disaster, and only where the import, export, or transport
14 takes place during the time the declaration is in effect. A
15 temporary waiver of the motor fuel importer, exporter, or
16 transporter licensing requirements under this subdivision
17 shall not be construed to permit any waiver of any additional
18 requirements or payment of any taxes due under the Alabama
19 Terminal Excise Tax.

20 "c. Temporarily waive the requirements associated
21 with the International Registration Plan under Section 32-6-56
22 and the International Fuel Tax Agreement under Section
23 40-17-272, during a state of emergency or disaster. A waiver
24 authorized by this subdivision shall be effective only for
25 motor vehicles engaged in interstate disaster relief efforts
26 traveling to areas within a state or territory of the United
27 States for which the President of the United States or

1 governor of that state or territory has declared a state of
2 emergency or disaster, and only when the travel takes place
3 during the time the declaration is in effect. A temporary
4 waiver of the requirements under the International
5 Registration Plan or International Fuel Tax Agreement under
6 this subdivision shall not be construed to allow a motor
7 vehicle to operate in the State of Alabama without valid
8 registration and insurance from its base state, nor allow any
9 motor vehicle to exceed weight limits posted for bridges and
10 like structures, or relieve any vehicle or the carrier, owner,
11 or driver of any vehicle from compliance with any other
12 restrictions, statutes, orders, or other legal requirements.

13 "(14) To inspect and examine at all reasonable
14 business hours any books, documents, records, or papers kept
15 by any person, firm, corporation, trustee, or receiver.

16 "(15) To make all assessments of taxes or penalties
17 which it is authorized to enforce or collect and report the
18 same to the Attorney General.

19 "(16) To issue executions and writs of garnishment
20 directed to any sheriff of Alabama, on any final assessment or
21 judgment made or rendered by it, and upon such executions the
22 sheriff shall proceed as in cases issued out of the circuit
23 court and shall make return thereof to the Department of
24 Revenue within 60 days after the receipt thereof.

25 "(17) To perform such other duties as are or may be
26 imposed on it by law."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.