

# HB105 INTRODUCED



1 HB105  
2 L3ZCWWW-1  
3 By Representative Lee  
4 RFD: Ways and Means General Fund  
5 First Read: 06-Feb-24



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SYNOPSIS:

Under existing law, the state levies a transient occupancy tax on the furnishing of rooms, lodging, or accommodations to transients for consideration.

This bill would exclude certain registered vehicles and vessels from this tax under certain conditions.

Also under existing law, the state levies a tax for the lease or rental of certain vehicles. This bill would exclude certain vehicles and vessels from this tax under certain conditions.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the transient occupancy tax; to amend Section 40-26-1, Code of Alabama 1975, to exempt certain registered vehicles and vessels from the transient occupancy tax under certain conditions; relating to the rental or lease tax; to amend Section 40-12-223, Code of Alabama 1975, to exempt certain vehicles and vessels from the rental or lease tax under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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29           Section 1. Sections 40-26-1 and 40-12-223, Code of  
30 Alabama 1975, are amended to read as follows:

31           "§40-26-1

32           (a) There is levied and imposed, in addition to all  
33 other taxes of every kind now imposed by law, a privilege or  
34 license tax upon every person, firm, or corporation engaging  
35 in the business of renting or furnishing any room or rooms,  
36 lodging, or accommodations to transients in any hotel, motel,  
37 inn, tourist camp, tourist cabin, marine slip, place or space  
38 for tent camping, place or space provided for a motor home,  
39 travel trailer, self-propelled camper or house car, truck  
40 camper, or similar recreational vehicle commonly known as a  
41 R.V., or any other place in which rooms, lodgings, or  
42 accommodations are regularly furnished to transients for a  
43 consideration, in any county which is located in the  
44 geographic region comprising the Alabama mountain lakes area,  
45 those being Blount, Cherokee, Colbert, Cullman, DeKalb,  
46 Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone,  
47 Madison, Marion, Marshall, Morgan, and Winston, in an amount  
48 to be determined by the application of the rate of five  
49 percent of the charge for such room, rooms, lodgings, or  
50 accommodations, including the charge for use or rental of  
51 personal property and services furnished in such room, and the  
52 rate of four percent of the charge in every other county.  
53 There is exempted from the tax levied under this chapter any  
54 rentals or services taxed under Division 1 of Article 1 of  
55 Chapter 23 of this title.

56           (b) The tax shall not apply to rooms, lodgings, or



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57 accommodations supplied: (i) For a period of 180 continuous  
58 days or more in any place; (ii) by camps, conference centers,  
59 or similar facilities operated by nonprofit organizations  
60 primarily for the benefit of, and in connection with,  
61 recreational or educational programs for children, students,  
62 or members or guests of other nonprofit organizations during  
63 any calendar year; or (iii) by privately operated camps,  
64 conference centers, or similar facilities that provide lodging  
65 and recreational or educational programs exclusively for the  
66 benefit of children, students, or members or guests of  
67 nonprofit organizations during any calendar year.

68 (c) For purposes of subsection (b): "Children" means  
69 individuals under age 21; "student" is defined in accordance  
70 with 26 U.S.C. § 151(c)(4), as in effect from time to time or  
71 by any successor law; "nonprofit organization" is an  
72 organization exempt from federal income tax under 26 U.S.C. §  
73 501(c)(3), as in effect from time to time or any successor  
74 law; and "privately operated" refers to any camp, conference  
75 center, or similar facility other than those operated by a  
76 nonprofit organization as herein defined.

77 (d) For transactions entered into on or after  
78 ~~October~~September 1, ~~2019~~2024, the tax shall not apply to any  
79 of the following which are supplied for a period of 60  
80 continuous days or more:

81 (1) Marine~~marine~~ slips~~.~~.

82 (2) Places~~places~~ or spaces for tent camping~~.~~or.

83 (3) Places~~places~~ or spaces provided for motor homes,  
84 travel trailers, self-propelled campers or house cars, truck



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85 campers, or similar recreational vehicles commonly known as  
86 R.V.-s~~r~~.

87 (4) Any vehicle or vessel required to be registered  
88 pursuant to Title 40 or Title 32, respectively, continuously  
89 occupying any slip, place, or space provided in subdivisions  
90 (1) through (3) ~~which are supplied for a period of 90~~  
91 ~~continuous days or more in any place.~~

92 (e) (1) Charges made for the rental of a ballroom,  
93 dining room, club room, sample room, conference room, wedding  
94 chapel, or similar room or space that is not intended nor  
95 suitable for overnight sleeping purposes and that is not used  
96 for overnight sleeping purposes is not subject to the tax  
97 levied pursuant to this chapter if the charges for the rental  
98 are separately stated by the facility and the room or space is  
99 used exclusively as a room or space for a meeting, conference,  
100 seminar, club meeting, private party, or similar activity.

101 (2) The exclusion provided in subdivision (1) applies  
102 solely to the transient occupancy tax levied under this  
103 chapter and does not apply to any other taxes, licenses, or  
104 fees except a separately stated rental charge for a meeting  
105 room or other space excluded pursuant to subdivision (1) is  
106 also excluded from the tax levied by Chapter 23 of Title 40."

107 "§40-12-223

108 There are exempted from the computation of the amount  
109 of the tax levied, assessed, or payable under this article all  
110 of the following:

111 (1) The gross proceeds accruing from the leasing or  
112 rental of a film or films to a lessee who charges, or proposes



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113 to charge, admission for viewing the film or films.

114 (2) The gross proceeds accruing from any charge in  
115 respect to the use of docks or docking facilities furnished  
116 for boats or other craft operated on waterways.

117 (3) The gross proceeds accruing from any charge made by  
118 a landlord to a tenant in respect of the leasing or furnishing  
119 of tangible personal property to be used on the premises of  
120 real property leased by the same landlord to the same tenant  
121 for use as a residence or dwelling place, including mobile  
122 homes.

123 (4) The gross proceeds accruing from the leasing or  
124 rental of tangible personal property to a lessee who acquires  
125 possession of the property for the purpose of leasing or  
126 renting to another the same property under a leasing or rental  
127 transaction subject to this article.

128 (5) The gross proceeds accruing from any charge made by  
129 a landlord to a tenant in respect to the leasing or furnishing  
130 of tangible personal property to be used on the premises of  
131 any room or rooms, lodging, or accommodations leased or rented  
132 to transients in any hotel, motel, inn, tourist camp, tourist  
133 cabin, or any other place in which rooms, lodgings, or  
134 accommodations are regularly furnished to transients for a  
135 consideration.

136 (6) The gross proceeds accruing from the leasing or  
137 rental of tangible personal property which the state is  
138 prohibited from taxing under the Constitution or laws of the  
139 United States or under the constitution of the state.

140 (7) The gross proceeds accruing from the leasing or



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141 rental of nuclear fuel assemblies together with the nuclear  
142 material contained therein and other nuclear material used or  
143 useful in the production of electricity and assemblies  
144 containing ionizing radiation sources together with the  
145 ionizing radiation sources contained therein used or useful in  
146 medical treatment or scientific research.

147 (8) A transaction in which the lessor leases a truck or  
148 tractor-trailer or semitrailer for operation over the public  
149 roads and highways and such lessor furnishes a driver or  
150 drivers for each vehicle, and the transaction shall be deemed  
151 to constitute the rendition of service and not a "leasing or  
152 rental" within the meaning of this article.

153 (9) The gross proceeds accruing from the leasing or  
154 rental of vehicles in interchange between regulated motor  
155 carriers on a per diem basis.

156 (10) The gross proceeds accruing from the leasing or  
157 rental of all structures, devices, facilities, and  
158 identifiable components of any thereof acquired primarily for  
159 the control, reduction, or elimination of air or water  
160 pollution, and the gross proceeds accruing from the leasing or  
161 rental of all materials used or intended for use in structures  
162 built primarily for the control, reduction, or elimination of  
163 air and water pollution.

164 (11) The gross proceeds derived by the lessor, which  
165 term includes a sublessor, from the leasing or rental of  
166 tangible personal property when the lessor and lessee, which  
167 term includes a sublessee, are wholly-owned subsidiary  
168 corporations of the same parent corporation or one is the



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169 wholly-owned subsidiary of the other; provided, that the  
170 appropriate sales or use tax, if any was due, has been paid on  
171 the item of personal property; and provided further, that in  
172 the event of any subsequent subleasing of the tangible  
173 personal property to any person other than any sister, parent,  
174 or subsidiary corporation, any privilege or license tax due  
175 and payable with respect to that subsequent subleasing under  
176 the provisions of this article shall be paid.

177 (12) The gross proceeds accruing from a transaction  
178 which involves the leasing or rental of vessels or railroad  
179 equipment which are engaged in interstate or foreign commerce,  
180 or both.

181 (13) The gross proceeds accruing from the leasing or  
182 rental of aircraft, replacement parts, components, systems,  
183 sundries, and supplies affixed or used on the aircraft and all  
184 ground support equipment and vehicles used by or for the  
185 aircraft to or by a certificated or licensed air carrier with  
186 a hub operation within this state, for use in conducting  
187 intrastate, interstate, or foreign commerce for transporting  
188 people or property by air. For the purpose of this  
189 subdivision, the words "hub operation within this state" shall  
190 be construed to have both of the following criteria:

191 a. There originates from the location 15 or more flight  
192 departures and five or more different first-stop destinations  
193 five days per week for six or more months during the calendar  
194 year.

195 b. Passengers, property, or both, are regularly  
196 exchanged at the location between flights of the same or a





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197 different certificated or licensed air carrier.

198 (14) The gross proceeds derived by the lessor, which  
199 term includes a sublessor, from the leasing of tangible  
200 personal property under all of the following conditions:

201 a. Prior to being leased under the lease subject to  
202 this exemption, the leased tangible personal property shall  
203 have been owned, or considered to be owned for either Alabama  
204 or federal income tax purposes or both, or subject to  
205 acquisition pursuant to a binding contract, by the lessee or  
206 by a corporation, partnership, or other entity controlled by,  
207 or under common control with, the lessee.

208 b. The leased tangible personal property, or the right  
209 to ownership thereof, shall have been acquired by the lessor  
210 from the lessee or a corporation, partnership, or other entity  
211 controlled by, or under common control with, that lessee and  
212 leased back to the lessee under a lease that is considered a  
213 lease and not a sale for either Alabama or federal income tax  
214 purposes, or both, and that has a term of not less than 15  
215 years, except that the lessor and the lessee may agree in the  
216 lease or any subsequent amendment thereof for the termination  
217 of the lease on any date through purchase of the leased  
218 tangible personal property by the lessee, which right to  
219 purchase the property shall be exercisable solely at the  
220 option of the lessee.

221 c. The appropriate sales or use tax levied by the state  
222 shall have been paid with respect to the acquisition or use of  
223 the leased tangible personal property, or, alternatively, the  
224 acquisition or use of that property shall be exempt by law



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225 from such sales or use tax.

226 d. The leased tangible personal property shall be  
227 installed in or about an industrial plant or other real  
228 property that was specially constructed or modified for the  
229 location and use of the tangible personal property and that is  
230 owned, or considered to be owned, for either Alabama or  
231 federal income tax purposes or both, by a corporation,  
232 partnership, or other entity controlled by, or under common  
233 control with, the lessee of such tangible personal property.

234 e. The leased tangible property shall be used only by a  
235 lessee engaged in the iron and steel industry, and the  
236 exemption from the tax levied by this article shall apply only  
237 to the gross proceeds derived from leases that become binding  
238 contracts of the parties thereto within 180 calendar days  
239 following the date on which the act adding the exemption  
240 contained in this subsection (14) shall become effective.

241 (15) The gross proceeds accruing from a motor vehicle  
242 lease transaction for a duration of at least 180 days with the  
243 federal government, or any state, county, or municipal entity  
244 within the state, including a public school board or an  
245 individual public school, or any entity eligible for a sales  
246 tax exemption under federal law or Section 40-23-5.

247 (16) The gross proceeds accruing from the leasing or  
248 rental of a vehicle or vessel exempt from taxation pursuant to  
249 of Section 40-26-1(d)."

250 Section 2. This act shall become effective on September  
251 1, 2024.