



State of Tennessee

PUBLIC CHAPTER NO. 759

SENATE BILL NO. 2932

By Johnson, Stevens

Substituted for: House Bill No. 2924

By Lamberth, Gant, Lynn, Hicks, Matthew Hill, Hazlewood, White, Windle, Powell, Freeman, Gloria Johnson, Hodges, Thompson

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 10; Title 12; Title 13; Title 16; Title 17; Title 18; Title 29; Title 33; Title 36; Title 37; Title 38; Title 39; Title 40; Title 41; Title 42; Title 43; Title 44; Title 45; Title 47; Title 48; Title 49; Title 50; Title 53; Title 54; Title 55; Title 56; Title 57; Title 58; Title 59; Title 60; Title 61; Title 62; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 69; Title 70 and Title 71, relative to statutory revisions required for the implementation of the annual appropriations act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-3-1016(d), is amended by deleting the language "June 30, 2011 and June 30, 2014," and substituting instead the language "June 30, 2011, June 30, 2014, June 30, 2020, and June 30, 2021,".

SECTION 2. Tennessee Code Annotated, Section 4-3-1016(e), is amended by deleting the language "and June 30, 2011" and substituting instead the language "June 30, 2011, June 30, 2020, and June 30, 2021".

SECTION 3. Tennessee Code Annotated, Section 4-3-1016(i), is amended by deleting the language "In the fiscal year ending June 30, 2018" and substituting instead the language "In the fiscal years ending June 30, 2018, June 30, 2020, and June 30, 2021".

SECTION 4. Tennessee Code Annotated, Section 4-3-1016, is further amended by adding the following new subsection (j):

(j) In the fiscal years ending June 30, 2020, and June 30, 2021, in addition to the transfers authorized in subsections (d) and (k), transfers are authorized from the following additional funds, reserve accounts, and programs:

(1) Attorney general and reporter, litigation settlement funds reserve, except as otherwise provided by law;

(2) District attorneys general conference, district attorneys expunction fund, created or referenced in title 40, chapter 32, part 1;

(3) District public defenders conference, public defenders expunction fund, created or referenced in title 40, chapter 32, part 1;

(4) Tennessee public utility commission, underground damage prevention fund, created or referenced in title 65, chapter 31, part 1;

(5) Tennessee arts commission, reserve for new specialty earmarked license plates, created or referenced in title 55, chapter 4, part 3;

(6) Department of finance and administration, office of inspector general reserve, created or referenced in title 71, chapter 5, part 25;

(7) Department of finance and administration, victim notification fund, created or referenced in title 67, chapter 4, part 6;

- (8) Department of finance and administration, horse trailer specialty license plate reserve, created or referenced in title 55, chapter 4, part 3;
- (9) Bureau of TennCare, Cover Tennessee litigation settlement reserve, except as otherwise provided by law;
- (10) Department of agriculture, animal population specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;
- (11) Department of agriculture, agricultural specialty earmarked license plate reserve, created or referenced in title 55, chapter 4, part 2;
- (12) Department of environment and conservation, state parks specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;
- (13) Department of environment and conservation, state parks Ocoee River recreation and economic development fund, created or referenced in title 11, chapter 8, part 1;
- (14) Department of environment and conservation, Tennessee historical commission, Tennessee Civil War or War Between the States site preservation fund, created or referenced in chapter 11, part 1 of this title;
- (15) Department of environment and conservation, Tennessee historical commission, historic property land acquisition fund, created or referenced in chapter 11, part 1 of this title;
- (16) Department of environment and conservation, tire environmental fund, created or referenced in title 68, chapter 211, part 3;
- (17) Department of environment and conservation, state parks birds of prey specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;
- (18) Tennessee wildlife resources agency, wildlife resources fund, created or referenced in title 70, chapter 1, part 4;
- (19) Tennessee wildlife resources agency, boating safety act reserve, created or referenced in title 69, chapter 9, part 2;
- (20) Department of education, energy efficient schools initiative reserve, created or referenced in title 49, chapter 17, part 1;
- (21) Tennessee higher education commission, postsecondary licensure fee reserve, created or referenced in title 49, chapter 7, part 20;
- (22) Attorney general and reporter, consumer affairs division reserve, created or referenced in title 40, chapter 33, part 2;
- (23) Department of commerce and insurance, reduced cigarette ignition propensity and firefighter protection act enforcement fund, created or referenced in title 68, chapter 102, part 5;
- (24) Tennessee corrections institute, local correctional officer training fund, created or referenced in title 41, chapter 7, part 1;
- (25) Department of commerce and insurance, cemetery consumer protection account reserve, created or referenced in title 46, chapter 1, part 1;
- (26) Department of commerce and insurance, pre-need funeral consumer protection account reserve, created or referenced in title 62, chapter 5, part 4;
- (27) Department of commerce and insurance, securities industry education and enforcement fees, created or referenced in title 48, chapter 1, part 1;
- (28) Department of commerce and insurance, insurance industry education and enforcement fees, created or referenced in title 56, chapter 53, part 1;
- (29) Department of commerce and insurance, closed estate fund, created or referenced in title 56, chapter 9, part 3;

- (30) Department of military, station commander's upkeep and maintenance fund, created or referenced in title 58, chapter 1, part 5;
- (31) Department of health, St. Jude Children's Research Hospital specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;
- (32) Department of safety, electronic citation fee reserve, created or referenced in title 55, chapter 10, part 2;
- (33) Department of environment and conservation, underground storage tank settlement funds, except as otherwise provided by law;
- (34) Department of environment and conservation, solid waste settlement funds, except as otherwise provided by law;
- (35) Department of environment and conservation, superfund settlement funds, except as otherwise provided by law;
- (36) Department of environment and conservation, leaking underground storage tank settlement funds, except as otherwise provided by law;
- (37) Court system, access to justice program reserve, created or referenced in Supreme Court Rule 50 and title 16, chapter 1, part 1;
- (38) Court system, board of professional responsibility reserve, created or referenced in Supreme Court Rule 9 and title 16, chapter 1, part 1;
- (39) Court system, Tennessee lawyers assistance program reserve, created or referenced in Supreme Court Rule 33 and title 16, chapter 1, part 1;
- (40) Court system, commission on continuing legal education program reserve, created or referenced in Supreme Court Rule 21 and title 16, chapter 1, part 1;
- (41) Court system, judicial commissioner continuing education account reserve, created or referenced in title 67, chapter 4, part 6;
- (42) District attorneys general conference, fraud and economic crimes reserve, created or referenced in title 40, chapter 3, part 2;
- (43) State treasurer, state pooled investment fund administrative reserve, created or referenced in title 9, chapter 4, part 6;
- (44) State treasurer, educator liability fund, created or referenced in title 9, chapter 8, part 2;
- (45) Department of correction, TDOC confiscated cash fund, created, or referenced in title 4, chapter 6, part 1;
- (46) Public defenders conference, indigent defense local litigation tax reserve, created or referenced in title 40, chapter 14, part 2;
- (47) Secretary of state, fantasy sports fund, created or referenced in title 47, chapter 18, part 16;
- (48) State treasurer, financial literacy program reserve, created or referenced in title 49, chapter 6, part 17;
- (49) State treasurer, electronic monitoring indigency fund, created or referenced in title 55, chapter 10, part 4;
- (50) Department of finance and administration, electronic monitoring indigency fund, created or referenced in title 55, chapter 10, part 4;
- (51) Department of finance and administration, child abuse fund, created or referenced in title 39, chapter 13, part 5;
- (52) Department of finance and administration, anti-human trafficking fund, created or referenced in title 39, chapter 13, part 3;

(53) TennCare, maintenance of coverage trust fund, created or referenced in title 71, chapter 5, part 1;

(54) TennCare, nursing home assessment trust fund, created or referenced in title 71, chapter 5, part 10;

(55) Department of environment and conservation, settlement funds from *Lenoir v. Porters Creek Watershed District*, 586 F.2d 1081 (1978), except as otherwise provided by law;

(56) Department of environment and conservation, state lands acquisition compensation fund, created or referenced in title 67, chapter 4, part 4;

(57) Department of environment and conservation, settlement funds from *Tennessee v. Roane Holdings, Ltd.*, 835 F.Supp.2d 527 (2011), except as otherwise provided by law;

(58) Department of correction, Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004 reserve, created or referenced in title 40, chapter 39, part 2;

(59) Department of commerce and insurance, Professional Employee Organization Act reserve, created or referenced in title 62, chapter 43, part 1;

(60) Department of labor and workforce development, employee misclassification education and enforcement fund, created or referenced in title 50, chapter 6, part 9;

(61) Department of health, trauma system fund, created or referenced in title 68, chapter 59, part 1; and

(62) Department of revenue, uninsured motorist identification restricted fund, created or referenced in title 55, chapter 12, part 2.

SECTION 5. Tennessee Code Annotated, Title 67, Chapter 6, Part 5, is amended by adding the following new sections:

67-6-543.

(a) Dealers with a physical presence in this state shall register with the department to collect and remit tax in accordance with this chapter.

(b) Dealers with no physical presence in this state shall register with the department to collect and remit tax in accordance with this chapter if the dealer engages in the regular or systematic solicitation of consumers in this state through any means and made sales that exceeded one hundred thousand dollars (\$100,000) to consumers in this state during the previous twelve-month period. Such dealers shall begin to collect and remit the tax by the first day of the third calendar month following the month in which this threshold was met; provided, however, that this subsection (b) does not require a dealer to collect the tax for sales made before October 1, 2020.

67-6-544.

The general assembly finds that the sales threshold standard required by § 67-6-543(b) matches the benchmark established by South Dakota that was analyzed and found to support it being upheld as constitutional by the supreme court of the United States in *South Dakota v. Wayfair*, 138 S.Ct. 2080 (2018).

67-6-545.

Section 67-6-543 does not change the substantial nexus criteria for determining when a person is required to pay the business tax under § 67-4-717, excise tax under § 67-4-2007, or franchise tax under § 67-4-2105.

SECTION 6. Tennessee Code Annotated, Section 67-6-501(a), is amended by deleting the language "Every dealer making sales" and substituting instead the language "Except as otherwise provided in § 67-6-543(b), every dealer making sales".

SECTION 7. Tennessee Code Annotated, Section 67-6-501(f)(1), is amended by deleting the following language:

The marketplace facilitator made or facilitated total sales to consumers in this state of five hundred thousand dollars (\$500,000) or less during the previous twelve-month period;

and substituting instead the following:

The marketplace facilitator made or facilitated total sales to consumers in this state of one hundred thousand dollars (\$100,000) or less during the previous twelve-month period;

SECTION 8. Tennessee Code Annotated, Section 67-6-509(a), is amended by deleting the language "An out-of-state person making sales in Tennessee, who cannot be required to register for sales and use tax under applicable law" and substituting instead the language "An out-of-state person making sales in Tennessee, who is not required to register for sales and use tax under applicable law".

SECTION 9. Tennessee Code Annotated, Section 67-4-3204(c), is amended by deleting the subsection in its entirety.

SECTION 10. Tennessee Code Annotated, Section 3-1-107(c), is amended by deleting the language "For the fiscal year beginning in 2005," and substituting instead the language "Except as provided in subdivision (c)(2), for the fiscal year beginning in 2005,".

SECTION 11. Tennessee Code Annotated, Section 3-1-107(c), is amended by designating the existing language as subdivision (1) and adding the following as a new subdivision (2):

(2) Notwithstanding this section to the contrary, beginning with the election of the One Hundred Twelfth General Assembly, the base salary of each member shall not be adjusted pursuant to subdivision (c)(1) for fiscal year 2020-2021.

SECTION 12. Tennessee Code Annotated, Section 4-3-1016(d), is amended by deleting subdivisions (46), (47), (48), (49), (50), and (60) and renumbering the remaining subdivisions accordingly.

SECTION 13. Tennessee Code Annotated, Section 4-3-1016, is amended by adding the following new subsections:

(k) In the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011 and June 30, 2014, transfers are authorized from the following funds, reserve accounts and programs:

(1) Department of commerce and insurance, state board of accountancy fund, created or referenced in title 62, chapter 1, part 1;

(2) Department of commerce and insurance, division of regulatory boards fund, created or referenced in title 56, chapter 1, part 3;

(3) Department of health, health-related boards fund, created or referenced in title 63, chapter 1, part 1;

(4) Department of commerce and insurance, real estate education and recovery education fund, created or referenced in title 62, chapter 13, part 2;

(5) Department of commerce and insurance, real estate education and recovery claims fund, created or referenced in title 62, chapter 13, part 2; and

(6) Department of commerce and insurance, auctioneer education and recovery account, created or referenced in title 62, chapter 19.

(l) In the fiscal years ending June 30, 2020, and June 30, 2021, transfers shall not be made from the following funds, reserve accounts or programs:

(1) Tennessee board of court reporting fund, created or referenced in title 20, chapter 9, part 6;

(2) Department of agriculture, beef promotion board reserve, created or referenced in title 43, chapter 29, part 1; and

(3) Department of agriculture, cotton growers' organization reserve, created or referenced in title 43, chapter 6, part 4.

SECTION 14. Tennessee Code Annotated, Section 9-4-5111, is amended by adding the following as a new subsection:

(c) During fiscal year 2020-2021, before requiring each head to set aside a reserve pursuant to subsection (a) or otherwise reserving allotments pursuant to this section, the commissioner of finance and administration shall submit written notice of the proposed reserve allotment to the speakers of the senate and the house of representatives and to the chairs of the finance, ways and means committees of the senate and house of representatives. No such allotments shall be reserved until the speakers and chairs have acknowledged in writing receipt of such written notice. When submitted, a copy of the notice shall be provided to the fiscal review committee executive director and the office of legislative budget analysis directors for information purposes. A proposed reserve allotment shall not be acknowledged by the chairs during a time that the general assembly is in regular, annual session until each finance, ways and means committee has held a hearing on the proposed allotment, or the committees have held a joint hearing.

SECTION 15. Tennessee Code Annotated, Section 67-6-393, is amended by deleting subsections (a) and (b) and substituting instead the following:

(a) Any exemption provided by this section shall be known as a "sales tax holiday."

(b)(1) There is exempt from the tax imposed by this chapter the following items of tangible personal property, if sold between 12:01 a.m. on the last Friday of July and 11:59 p.m. the following Sunday:

(A) Clothing with a sales price of one hundred dollars (\$100) or less per item;

(B) School supplies with a sales price of one hundred dollars (\$100) or less per item;

(C) School art supplies with a sales price of one hundred dollars (\$100) or less per item; and

(D) Computers with a sales price of one thousand five hundred dollars (\$1,500) or less per item.

(2) The exemption provided by this subsection (b) does not apply to the following:

(A) Computer software;

(B) Clothing accessories or equipment;

(C) Protective equipment;

(D) Sport or recreational equipment;

(E) School instructional material;

(F) School computer supplies;

(G) Any item for use in a trade or business;

(H) The lease or rental of any item; or

(I) Video game consoles.

SECTION 16. Tennessee Code Annotated, Section 67-6-393, is amended by adding the following as new subsections:

(f)(1) Notwithstanding subsection (b), there is exempt from the tax imposed by this chapter the following items of tangible personal property, if sold between 12:01 a.m. on Friday, July 31, 2020, and 11:59 p.m. on Sunday, August 2, 2020:

(A) Clothing with a sales price of two hundred dollars (\$200) or less per item;

(B) School supplies with a sales price of two hundred dollars (\$200) or less per item;

(C) School art supplies with a sales price of two hundred dollars (\$200) or less per item; and

(D) Electronic devices, including, but not limited to, computers and televisions, with a sales price of three thousand dollars (\$3,000) or less per item.

(2) The exemption provided by this subsection (f) does not apply to the following:

(A) Computer software;

(B) Clothing accessories or equipment;

(C) Protective equipment;

(D) Sport or recreational equipment;

(E) School instructional material;

(F) School computer supplies;

(G) Any item for use in a trade or business; or

(H) The lease or rental of any item.

(g) There is exempt from the tax imposed by this chapter the retail sale of food and drink by restaurants and limited service restaurants, as defined in § 57-4-102, if sold between 12:01 a.m. on Friday, August 7, 2020, and 11:59 p.m. on Sunday, August 9, 2020.

SECTION 17. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 18. Sections 5, 6, 7, 8, and 9 shall take effect at 12:01 a.m. on October 1, 2020, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2932

PASSED: June 19, 2020




RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30 day of June 2020



BILL LEE, GOVERNOR