

1 HB305
2 217670-3
3 By Representative Lee
4 RFD: Commerce and Small Business
5 First Read: 08-FEB-22

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to municipal business licenses; to amend
9 Section 11-51-194, Code of Alabama 1975; to clarify that a
10 business that provides rental services in a municipality, but
11 has no other physical presence in the municipality, may be
12 required to purchase a delivery license to deliver rented
13 property.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 11-51-194, Code of Alabama 1975,
16 is amended to read as follows:

17 "§11-51-194.

18 "(a) (1) Each municipality ~~shall allow~~ may require
19 the purchase of a delivery license by any business that has no
20 other physical presence within the municipality or its police
21 jurisdiction for the privilege of delivering its merchandise, whether for rental or final sale,
22 therein. The amount of the
23 delivery license for the business shall not exceed one hundred
24 dollars (\$100). Nothing ~~herein~~ in this subsection shall
25 prohibit a municipality from requiring by ordinance the
26 purchase of a decal by the taxpayer for each delivery vehicle
27 making deliveries within the municipality or its police

1 jurisdiction. The charge for ~~such~~ the decal shall not exceed
2 the municipality's actual cost of the decal.

3 "(2) Notwithstanding any other law, a municipality
4 may charge a taxpayer an issuance fee not to exceed ten
5 dollars (\$10) for a business delivery license.

6 "(b) As used in this section, a delivery license
7 ~~shall mean~~ means a fixed rate business license issued by a
8 municipality for the limited privilege of delivering and
9 requisite set-up and installation, by the taxpayer's employees
10 or agents, of the taxpayer's own merchandise in that
11 municipality, by means of delivery vehicles owned, leased, or
12 contracted by the taxpayer; provided that the gross receipts
13 derived from the sale and any requisite set-up or installation
14 of all merchandise so delivered into the municipality shall
15 not exceed seventy-five thousand dollars (\$75,000) during the
16 license year, and any set-up or installation shall relate only
17 to: (1) ~~that~~ That required by the contract between the
18 taxpayer and the customer or as may be required by state or
19 local law; and (2) the merchandise so delivered. Mere
20 delivery of the taxpayer's merchandise by common carrier shall
21 not allow the taxing jurisdiction to assess a business license
22 tax or a delivery license tax against the taxpayer, but the
23 gross receipts derived from any sale and delivery accomplished
24 by means of a common carrier shall be counted against the
25 seventy-five thousand dollar (\$75,000) limitation described in
26 the preceding sentence if the taxpayer also during the same
27 license year sells and delivers into the taxing jurisdiction

1 using a delivery vehicle other than a common carrier. The
2 dollar limitation prescribed above shall be increased, but not
3 decreased, every five years under the standards prescribed by
4 Section 11-51-90 with respect to the uniform license issuance
5 fee and may be increased by a municipality at any time, up to
6 one hundred fifty thousand dollars (\$150,000), by adoption of
7 an ordinance. A common carrier, contract carrier, or similar
8 delivery service making deliveries on behalf of others shall
9 not be entitled to purchase a delivery license ~~hereunder~~.

10 "(c) A taxpayer that otherwise meets the criteria
11 for the purchase of a delivery license pursuant to subsections
12 (a) and (b) is not required to purchase a delivery license or
13 a regular business license if the following criteria apply:

14 (1) The taxpayer's gross receipts that are derived from within
15 the municipality or its police jurisdiction do not exceed ten
16 thousand dollars (\$10,000) during the preceding license year;
17 and (2) the taxpayer has no other physical presence within the
18 municipality or its police jurisdiction during the year. Any
19 other taxpayer that meets the criteria for the purchase of a
20 delivery license, as provided in subsections (a) and (b), and
21 meets those criteria during the current license year as well,
22 shall purchase either a delivery license or a regular business
23 license otherwise applicable to the taxpayer, at its option.

24 "(d) Notwithstanding Section 11-51-90.2, the
25 delivery license purchased pursuant to subsections (a) and (b)
26 shall be calculated in arrears, based on the related gross
27 receipts during the preceding license year.

1 "(e) The purchase of a delivery license or the
2 exemption from the purchase of a delivery license pursuant to
3 subsection (c), in and of itself, shall not establish nexus
4 between the taxpayer and the municipality for purposes of the
5 taxes levied by or under the authority of Title 40 or other
6 provisions of this title, nor does the purchase of a delivery
7 license, in and of itself, establish that nexus does not exist
8 between the taxpayer and the municipality.

9 "(f) If at any time during the current license year
10 the taxpayer fails to meet the criteria specified in
11 subsections (a) and (b), then within 45 days after any of the
12 criteria have been violated or exceeded, the taxpayer shall
13 purchase a business delivery license or other appropriate
14 license from the municipality and may be subject to a penalty
15 not to exceed ten dollars (\$10)."

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 08-FEB-22

Read for the second time and placed
on the calendar with 1 substitute
and..... 16-FEB-22

Read for the third time and passed
as amended..... 24-FEB-22

Yeas 102, Nays 0, Abstains 0

Jeff Woodard
Clerk