

1 SB321  
2 219085-3  
3 By Senator Chesteen  
4 RFD: Governmental Affairs  
5 First Read: 17-MAR-22

1 SB321

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4 ENROLLED, An Act,

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

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "§11-51-194.

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

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

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

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

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

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

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

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB321

Senate 31-MAR-22

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 06-APR-22

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By: Senator Chesteen