

1 HB540
2 126217-3
3 By Representatives Warren, Vance, Tuggle, Bridges and Bandy (N
4 & P)
5 RFD: Lee County Legislation
6 First Read: 19-APR-11

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2 ENROLLED, An Act,

3 To further amend Section 1 of Act 1254 of the 1969
4 Special Session (Acts 1969, p. 2369), amended by Act 2005-306
5 of the 2005 First Special Session (Acts 2005, p. 2364) and
6 Sections 1 and 2 of Act 89-629 of the 1989 Regular Session
7 (Acts 1989, p. 1229), relating to local sales and use taxes
8 levied in Lee County to provide that the Lee County Commission
9 shall be authorized to levy sales and use taxes outside the
10 corporate limits of the Cities of Auburn, Opelika, and Phenix
11 City, generally paralleling the state sales and use taxes.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 1 of Act 1254 of the 1969 Special
14 Session (Acts 1969, p. 2369), amended by Act 2005-306 of the
15 2005 First Special Session (Acts 2005, p. 2364) is further
16 amended to read as follows:

17 "Section 1. There is hereby levied in that part of
18 Lee County outside the corporate limits of the Cities of
19 Auburn, Opelika, and Phenix City in addition to all other
20 taxes now imposed by law special county privilege license and
21 excise taxes paralleling state sales and use taxes. In that
22 part of Lee County lying outside the corporate limits but
23 within the police jurisdiction of the City of Phenix City,
24 such tax shall be levied in the manner and at one-half the
25 rate of such tax in that part of Lee County outside the

1 corporate limits of Auburn and Opelika, in which latter area
2 the tax shall be levied in the manner and at the rates
3 hereafter prescribed:

4 "(1) Upon every person, firm, or corporation engaged
5 or continuing within that part of Lee County outside the
6 police jurisdictions of the Cities of Auburn, Opelika, and
7 Phenix City in the business of selling at retail any tangible
8 personal property whatsoever, including merchandise and
9 commodities of every kind and character, but not including,
10 however, bonds or other evidence of debt or stocks, nor sale
11 or sales of material and supplies to any person for use in
12 fulfilling a contract for the painting, repair, or
13 reconditioning of vessels, barges, ships, and other watercraft
14 of over 50 tons burden, an amount equal to one percent of the
15 gross proceeds of sales of the business except where a
16 different amount is expressly provided herein. Provided,
17 however, that any person engaging or continuing in business as
18 a retailer and wholesaler or jobber shall pay the tax required
19 on the gross proceeds of retail sales of such businesses at
20 the rates specified, when his or her books are kept so as to
21 show separately the gross proceeds of sales of each business,
22 and when his or her books are not so kept he or she shall pay
23 the tax as retailer, on the gross sales of the business.
24 Provided that where all the sales of a company are single
25 sales of peanut products, milk products, coffee, and

1 confections sold in dispensing machines located in industrial
2 plants or on private property for employees where such
3 machines dispense exclusively articles not to exceed ten cents
4 (\$.10) per sale, and the person operating such machines shall
5 be engaged in the business of selling exclusively articles not
6 to exceed ten cents (\$.10) per sale and shall file with the
7 Department of Revenue a sworn statement to that effect and
8 shall keep and maintain records satisfactory to the Department
9 of Revenue, the gross receipts tax herein provided for shall
10 not be levied.

11 "(2) Upon every person, firm, or corporation engaged
12 or continuing within that part of Lee County outside the
13 police jurisdictions of the Cities of Auburn, Opelika, and
14 Phenix City in the business of conducting or operating places
15 of amusement or entertainment, billiard and pool rooms,
16 bowling alleys, amusement devices, theatres, opera houses,
17 moving picture shows, vaudevilles, amusement parks, athletic
18 contests, including wrestling matches, prize fights, boxing
19 and wrestling exhibitions, football and baseball games,
20 including athletic contests conducted by or under the auspices
21 of any educational institution within such part of Lee County,
22 or any athletic association thereof, or other association
23 whether such institution or association be denominational, a
24 state, county, or a municipal institution or association be
25 denominational, a state, county, or a city school, or other

1 institution, association, or school, skating rinks, race
2 tracks, golf courses, or any other place at which any
3 exhibition, display, amusement, or entertainment is offered to
4 the public or place or places where an admission fee is
5 charged, including public bathing places, public dance halls
6 of every kind and description, conducted or carried on within
7 such part of Lee County, an amount equal to one percent of the
8 gross receipts of any such business.

9 "(3) Upon every person, firm, or corporation engaged
10 or continuing within that part of Lee County outside the
11 police jurisdictions of the Cities of Auburn, Opelika, and
12 Phenix City in the business of selling at retail machines or
13 machinery used in mining, quarrying, compounding, processing,
14 and manufacturing of tangible personal property an amount
15 equal to three-eighths of one percent of the gross proceeds of
16 the sale of such machines, provided, that the term "machines,"
17 as herein used, shall include machinery which is used for
18 mining, quarrying, compounding, processing, or manufacturing
19 tangible personal property and the parts of such machines,
20 attachments, and replacements therefor, which are made or
21 manufactured for use on or in the operation of such machines
22 and which are necessary to the operation of such machines and
23 are customarily so used.

24 "(4) Upon every person, firm, or corporation engaged
25 or continuing within that part of Lee County outside the

1 police jurisdictions of the Cities of Auburn, Opelika, and
2 Phenix City in the business of selling at retail any
3 automotive vehicle or truck trailer, semi-trailer, or house
4 trailer an amount equal to three-eighths of one percent of the
5 gross proceeds of the sale of the automotive vehicle or truck
6 trailer, semi-trailer, or house trailer, provided, however,
7 where a person subject to the tax provided for in this
8 subsection withdraws from his or her stock in trade any
9 automotive vehicle or truck trailer, semi-trailer, or house
10 trailer for use by him or her or by his or her employee or
11 agent in the operation of such business, there shall be paid,
12 in lieu of the tax levied herein a fee of one dollar and
13 twenty-five cents (\$1.25) per year or part thereof during
14 which such automotive vehicle, truck trailer, semi-trailer, or
15 house trailer shall remain the property of such person. Each
16 such year or part thereof shall begin with the day or
17 anniversary date, as the case may be, of such withdrawal, and
18 shall run for the 12 succeeding months or part thereof during
19 which such automotive vehicle, truck trailer, semi-trailer, or
20 house trailer shall remain the property of such person. Where
21 any used automotive vehicle or truck trailer, semi-trailer, or
22 house trailer is taken in trade, or in a series of trades, as
23 a credit or part payment on the sale of a new or used vehicle,
24 the tax levied herein shall be paid on the net difference,

1 that is, the price of the new or used vehicle sold less a
 2 credit for the used vehicle taken in trade.

3 "(5) An excise tax is hereby imposed on the
 4 following:

5 "a. The storage, use, or other consumption in that
 6 part of Lee County outside the police jurisdictions of the
 7 Cities of Auburn, Opelika, and Phenix City of tangible
 8 personal property, not including, however, materials and
 9 supplies bought for use in fulfilling a contract for the
 10 painting, repairing, or reconditioning of vessels, barges,
 11 ships, and other watercraft of more than 50 tons burden,
 12 purchased at retail, for storage, use, or other consumption in
 13 such part of Lee County, at the rate of one percent of the
 14 sale price of such property, except as provided in subsections
 15 (b) and (c).

16 "b. The storage, use, or other consumption in that
 17 part of Lee County outside the police jurisdictions of the
 18 Cities of Auburn, Opelika, and Phenix City of any machines
 19 used in mining, quarrying, compounding, processing, and
 20 manufacturing of tangible personal property purchased at
 21 retail at the rate of three-eighths of one percent of the
 22 sales price of such machine; provided, however, that the term
 23 "machine" as herein used, shall include machinery which is
 24 used for mining, quarrying, compounding, processing, or
 25 manufacturing tangible personal property, and the parts of

1 such machines, attachments, and replacements therefor, which
2 are made or manufactured for use on or in the operation of
3 such machines and which are necessary to the operation of such
4 machines and are customarily so used.

5 "c. The storage, use, or other consumption in that
6 part of Lee County outside the police jurisdictions of the
7 Cities of Auburn, Opelika, and Phenix City of any automotive
8 vehicle or truck trailer, semi-trailer, or house trailer
9 purchased at retail for storage, use, or other consumption in
10 such part of Lee County, at the rate of three-eighths of one
11 percent of the sales price of such automotive vehicle, truck
12 trailer, semi-trailer, or house trailer. Where any used
13 automotive vehicle or truck trailer, semi-trailer, or house
14 trailer is taken in trade, or in a series of trades, as a
15 credit or part payment on the sale of a new or used vehicle,
16 the tax levied shall be paid on the net difference, that is,
17 the price of the new or used vehicle sold less a credit for
18 the used vehicle taken in trade."

19 Section 2. Sections 1 and 2 of Act 89-629 of the
20 1989 Regular Session (Acts 1989, p. 1229) are amended to read
21 as follows:

22 "Section 1. The provisions of this act shall apply
23 only to Lee County in those areas outside the corporate limits
24 of the Cities of Auburn, Opelika, and Phenix City.

1 "Section 2. In order to provide funds for the
2 benefit of Lee County, the Lee County Commission is hereby
3 authorized to levy and to provide for the assessment and
4 collection of sales and use taxes outside the corporate limits
5 of the Cities of Auburn, Opelika, and Phenix City generally
6 paralleling the state sales and use taxes in the county at a
7 rate not to exceed one percent. Notwithstanding anything to
8 the contrary herein, the Lee County Commission shall not levy
9 any tax hereunder measured by gross receipts, except a sales
10 or use tax which generally parallels, except for the rate of
11 tax, that imposed by the state under applicable law."

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 31-MAY-11.

Greg Pappas
Clerk

Senate

02-JUN-11

Passed