

1 SB378  
2 126217-2  
3 By Senator Whatley (N & P)  
4 RFD: Local Legislation No. 1  
5 First Read: 12-APR-11

1 SB378

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4 With Notice and Proof

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6 ENROLLED, An Act,

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 1 of Act 1254 of the 1969 Special  
18 Session (Acts 1969, p. 2369), amended by Act 2005-306 of the  
19 2005 First Special Session (Acts 2005, p. 2364) is further  
20 amended to read as follows:

21 "Section 1. There is hereby levied in that part of  
22 Lee County outside the corporate limits of the Cities of  
23 Auburn, Opelika, and Phenix City in addition to all other  
24 taxes now imposed by law special county privilege license and  
25 excise taxes paralleling state sales and use taxes. In that

1 part of Lee County lying outside the corporate limits but  
2 within the police jurisdiction of the City of Phenix City,  
3 such tax shall be levied in the manner and at one-half the  
4 rate of such tax in that part of Lee County outside the  
5 corporate limits of Auburn and Opelika, in which latter area  
6 the tax shall be levied in the manner and at the rates  
7 hereafter prescribed:

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

1 and when his or her books are not so kept he or she shall pay  
2 the tax as retailer, on the gross sales of the business.  
3 Provided that where all the sales of a company are single  
4 sales of peanut products, milk products, coffee, and  
5 confections sold in dispensing machines located in industrial  
6 plants or on private property for employees where such  
7 machines dispense exclusively articles not to exceed ten cents  
8 (\$.10) per sale, and the person operating such machines shall  
9 be engaged in the business of selling exclusively articles not  
10 to exceed ten cents (\$.10) per sale and shall file with the  
11 Department of Revenue a sworn statement to that effect and  
12 shall keep and maintain records satisfactory to the Department  
13 of Revenue, the gross receipts tax herein provided for shall  
14 not be levied.

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

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

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

1 and which are necessary to the operation of such machines and  
2 are customarily so used.

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

1 house trailer is taken in trade, or in a series of trades, as  
2 a credit or part payment on the sale of a new or used vehicle,  
3 the tax levied herein shall be paid on the net difference,  
4 that is, the price of the new or used vehicle sold less a  
5 credit for the used vehicle taken in trade.

6 "(5) An excise tax is hereby imposed on the  
7 following:

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

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

1 "machine" as herein used, shall include machinery which is  
2 used for mining, quarrying, compounding, processing, or  
3 manufacturing tangible personal property, and the parts of  
4 such machines, attachments, and replacements therefor, which  
5 are made or manufactured for use on or in the operation of  
6 such machines and which are necessary to the operation of such  
7 machines and are customarily so used.

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

22 Section 2. Sections 1 and 2 of Act 89-629 of the  
23 1989 Regular Session (Acts 1989, p. 1229) are amended to read  
24 as follows:



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

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

15           Section 3. This act shall become effective  
16 immediately following its passage and approval by the  
17 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

SB378

Senate 19-APR-11

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

Patrick Harris  
Secretary

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House of Representatives  
Passed: 31-MAY-11

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By: Senator Whatley