

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

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 1 of Act 1254 of the 1969 Special
24 Session (Acts 1969, p. 2369), amended by Act 2005-306 of the
25 2005 First Special Session (Acts 2005, p. 2364) is further
26 amended to read as follows:

1 "Section 1. There is hereby levied in that part of
2 Lee County outside the corporate limits of the Cities of
3 Auburn, Opelika, and Phenix City in addition to all other
4 taxes now imposed by law special county privilege license and
5 excise taxes paralleling state sales and use taxes. In that
6 part of Lee County lying outside the corporate limits but
7 within the police jurisdiction of the City of Phenix City,
8 such tax shall be levied in the manner and at one-half the
9 rate of such tax in that part of Lee County outside the
10 corporate limits of Auburn and Opelika, in which latter area
11 the tax shall be levied in the manner and at the rates
12 hereafter prescribed:

13 "(1) 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 any tangible
17 personal property whatsoever, including merchandise and
18 commodities of every kind and character, but not including,
19 however, bonds or other evidence of debt or stocks, nor sale
20 or sales of material and supplies to any person for use in
21 fulfilling a contract for the painting, repair, or
22 reconditioning of vessels, barges, ships, and other watercraft
23 of over 50 tons burden, an amount equal to one percent of the
24 gross proceeds of sales of the business except where a
25 different amount is expressly provided herein. Provided,
26 however, that any person engaging or continuing in business as
27 a retailer and wholesaler or jobber shall pay the tax required

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

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

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

14 "(3) Upon every person, firm, or corporation engaged
15 or continuing within that part of Lee County outside the
16 police jurisdictions of the Cities of Auburn, Opelika, and
17 Phenix City in the business of selling at retail machines or
18 machinery used in mining, quarrying, compounding, processing,
19 and manufacturing of tangible personal property an amount
20 equal to three-eighths of one percent of the gross proceeds of
21 the sale of such machines, provided, that the term "machines,"
22 as herein used, shall include machinery which is used for
23 mining, quarrying, compounding, processing, or manufacturing
24 tangible personal property and the parts of such machines,
25 attachments, and replacements therefor, which are made or
26 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
26 house trailer is taken in trade, or in a series of trades, as
27 a credit or part payment on the sale of a new or used vehicle,

1 the tax levied herein shall be paid on the net difference,
2 that is, the price of the new or used vehicle sold less a
3 credit for the used vehicle taken in trade.

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

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

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

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

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

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

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

24 "Section 2. In order to provide funds for the
25 benefit of Lee County, the Lee County Commission is hereby
26 authorized to levy and to provide for the assessment and
27 collection of sales and use taxes outside the corporate limits

1 of the Cities of Auburn, Opelika, and Phenix City generally
2 paralleling the state sales and use taxes in the county at a
3 rate not to exceed one percent. Notwithstanding anything to
4 the contrary herein, the Lee County Commission shall not levy
5 any tax hereunder measured by gross receipts, except a sales
6 or use tax which generally parallels, except for the rate of
7 tax, that imposed by the state under applicable law."

8 Section 3. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.