

1 SB400
2 150746-1
3 By Senator McGill
4 RFD: Governmental Affairs
5 First Read: 04-APR-13

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8 SYNOPSIS: Under existing law, each taxpayer who is
9 engaged in a business or does business in a
10 municipality is required to purchase a business
11 license.

12 This bill would provide that if a business
13 license tax is levied within a municipality, the
14 amount of tax levied for the initial license shall
15 not exceed a certain amount.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 11-51-90.2, Code of Alabama 1975,
22 relating to municipal business license taxes, to provide that
23 if a business license tax is levied within a municipality, the
24 amount of tax levied for the initial license shall not exceed
25 a certain amount.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 11-51-90.2, Code of Alabama 1975,
2 is amended to read as follows:

3 "§11-51-90.2.

4 "(a) Every taxpayer required to purchase a business
5 license under this chapter shall:

6 "(1) Purchase a business license for each location
7 at which it does business in the municipality, except as
8 otherwise provided by the municipality.

9 "(2) Except as provided in Section 11-51-193, with
10 respect to taxpayers subject to state licensing board over-
11 sight, be classified into one or more of the following 2002
12 North American Industrial Classification System (NAICS) sec-
13 tors and applicable sub-sectors, industry groups, industries,
14 and U.S. industries thereunder:

15	"SECTOR	NAICS	TITLE	SUGGESTED BUSINESS LICENSE	BASIS FOR LICENSE
				CODE GROUPING BY SAMPLE	CALCULATION
				TOPIC OR CATEGORY	
16	111		Crop Produc- tion	Agriculture, farming, nurs- ery, fruit, growers	Gross Receipts and/or Flat Rate
17	112		Animal Pro- duction	Animal, dairy, cattle, ranching, sheep, chicken	Gross Receipts and/or Flat Rate
18	113		Forestry and Logging	Forestry, logging, timber	Gross Receipts and/or Flat Rate
19	114		Fishing, Hunting, and	Fishing, hunting, supplies and equipment	Gross Receipts and/or Flat Rate

		Trapping		
20	115	Support for Agriculture and Forestry	Cotton ginning, farm management, post-harvest activities	Gross Receipts and/or Flat Rate State Regulated
21	211	Oil and Gas Extraction	Oil, gas, extraction, natural gas, crude	[See, e.g. Section 40-20-2(c)] Gross Receipts and/or Flat Rate
22	212	Mining (except Oil and Gas)	Mining activities	Where not State Regulated Gross Receipts and/or Flat Rate
23	213	Support for Mining Activities	Support activities for oil and gas wells	Where not State Regulated State Regulated
24	221	Utilities	Utilities, gas, electric, water, sewage, steam	(See Section 11-51-129)
25	236	Building, Developing and General Contracting	Construction, building, general, residential, subdivisions	Gross Receipts and/or Flat Rate
26	237	Heavy Construction	Construction, heavy construction, highway, bridge, street	Gross Receipts and/or Flat Rate

		Special		
1	238	Trade Contractors	Construction, all special trades	Gross Receipts and/or Flat Rate
2	311	Food Manufacturing	Food manufacturing, animal, grain, fruit, dairy, meat, seafood	Gross Receipts, Flat Rate, or Value of Goods Produced
3	312	Beverage and Tobacco Products Manufacturing	Beverage manufacturing, soft drink, bottled water, breweries, ice	Gross Receipts and/or Flat Rate Where Not State Regulated, or Value of Goods Produced
4	313	Textile Mills	Mills, textile, fabric, yarn, carpet, canvas, rope, twine	Gross Receipts, Flat Rate, or Value of Goods Produced
5	314	Textile Product Mills	Other mill operations not covered in 313	Gross Receipts, Flat Rate, or Value of Goods Produced
6	315	Apparel Manufacturing	Apparel manufacturing, hosiery, men, women, children, lingerie	Gross Receipts, Flat Rate, or Value of Goods Produced

1	316	Leather and Allied Product Manufacturing	Leather manufacturing, shoes, luggage, handbag, related products	Gross Receipts, Flat Rate, or Value of Goods Produced
2	321	Wood Products Manufacturing	Wood products, sawmills, wood, preservation, veneer, trusses, millwork	Gross Receipts, Flat Rate, or Value of Goods Produced
3	322	Paper Manufacturing	Paper manufacturing, pulp, paper, converted products	Gross Receipts, Flat Rate, or Value of Goods Produced
4	323	Printing and Related Support Activities	Printing, lithographic, screen, quick, digital, books, handbills	Gross Receipts, Flat Rate, or Value of Goods Produced
5	324	Petroleum and Coal Products Manufacturing	Petroleum manufacturing, asphalt, roofing, paving, grease	Gross Receipts, Flat Rate, or Value of Goods Produced
6	325	Chemical Manufacturing	Chemical manufacturing, wood, fertilizer, pesticide, paint, soap, other	Gross Receipts, Flat Rate, or Value of Goods Produced

		Plastics and Rubber Product Manufacturing	Plastic and tire manufacture, pipe, hoses, belts, bottle, sheet, foam	Gross Receipts, Flat Rate, or Value of Goods Produced
1	326			
		Nonmetallic Mineral Product Manufacturing	Nonmetallic manufacturing, clay, glass, cement, lime, gypsum, other	Gross Receipts, Flat Rate, or Value of Goods Produced
2	327			
		Primary Metal Manufacturing	Metal manufacturing, iron, steel, aluminum, copper, other nonferrous	Gross Receipts, Flat Rate, or Value of Goods Produced
3	331			
		Fabricated Metal Product Manufacturing	Fabricated metal, cutlery, structural, ornamental, wire, machine shops	Gross Receipts, Flat Rate, or Value of Goods Produced
4	332			
		Machinery Manufacturing	Machinery manufacturing, farm, HVAC, office, industrial, engine, other	Gross Receipts, Flat Rate, or Value of Goods Produced
5	333			
		Computer and Electronic Product Manufacturing	Computers and electronics, peripherals, audio, video, circuit boards	Gross Receipts, Flat Rate, or Value of Goods Produced
6	334			
7	335	Electrical	Electrical equipment,	Gross Receipts,

		Equipment		
		Appliance		
		Component		Flat Rate, or
		Manufactur-	lighting, small appliance,	Value of Goods
		ing	battery, other	Produced
		Transporta-	Transportation manufactur-	Gross Receipts,
		tion Equip-	ing, auto, truck, trailer,	Flat Rate, or
		ment Manu-	motor home, ship, boat, mo-	Value of Goods
8	336	facturing	torcycle	Produced
		Furniture		
		and Related		Gross Receipts,
		Products	Furniture manufacturing,	Flat Rate, or
		Manufacturin	cabinets, office furniture,	Value of Goods
9	337	g	beds, kitchen	Produced
			Misc. manufacturing, medi-	Gross Receipts,
			cal, dental, jewelry,	Flat Rate, or
		Misc. Manu-	sporting goods, toys,	Value of Goods
10	339	facturing	signs, all other	Produced
		Wholesale	Wholesale trade-durable,	
		Trade, Dura-	motor vehicle, home furni-	Gross Receipts
11	421	ble Goods	ture, machinery, equipment	and/or Flat Rate
		Wholesale		
		Trade,	Wholesale trade-nondurable,	
		Non-Durable	paper, apparel, grocery,	Gross Receipts
12	422	Goods	dairy, farm, beverages	and/or Flat Rate

1	441	Motor Vehicle and Parts Dealer	Motor vehicles, automobiles, motorcycles, boats, parts, accessories	Gross Receipts and/or Flat Rate
2	442	Furniture and Home Furnishing Stores	Furniture stores, home, floor, furnishings, window, special products	Gross Receipts and/or Flat Rate
3	443	Electronics and Appliance Stores	Electronic and appliance store, household, radio, television, computer	Gross Receipts and/or Flat Rate
4	444	Building Material and Gardening Equipment Dealers	Building materials, hardware, paint, home center, wallpaper	Gross Receipts and/or Flat Rate
5	445	Food and Beverage Stores	Food and beverage stores, grocery, convenience, markets, liquor, beer	Gross Receipts and/or Flat Rate Where Not State Regulated
6	446	Health and Personal Care Stores	Health and personal care stores, drug, cosmetic, optical, health food	Gross Receipts and/or Flat Rate
7	447	Gasoline Stations	Gasoline stations, filling stations	Gross Receipts and/or Flat Rate Based on No. of

				Dispensers
8	448	Clothing and Accessories Stores	Clothing stores, men's, women's, children, infants, shoe, jewelry, luggage	Gross Receipts and/or Flat Rate
		Sporting Goods, Hobby, Book, Music	Sporting goods stores, hobby, toy, fish, gun, music, books	Gross Receipts and/or Flat Rate
9	451			
10	452	General Merchandise	General department, warehouse clubs, superstores	Gross Receipts and/or Flat Rate
		Miscellaneous Store Retailers	Misc. store retailers, florist, gift, novelty, used, pets, art, tobacco	Gross Receipts and/or Flat Rate
11	453			
		Nonstore Retailers	Nonstore retailers, electronic shopping, mail order, vending, direct selling	Gross Receipts and/or Flat Rate
12	454			
		Air Transportation	Air transportation, airline tickets, shipping, freight, charters	Gross Receipts and/or Flat Rate Where Not State Regulated
13	481			
		Rail Transportation	Rail transportation, ticket offices, short line, freight	State Regulated and/or Flat Rate
14	482			

		Water Transportati on	Water transportation, coastal, freight, inland, passenger, forwarders	Gross Receipts and/or Flat Rate Where Not State Regulated
1	483			
		Truck Transportati on	Truck transportation, terminal, local, long-distance, freight	Gross Receipts and/or Flat Rate Where Not State Regulated
2	484			
		Transit and Ground Passenger Transportati on	Ground transportation, bus, taxi, limousine, charter, buggy	Gross Receipts and/or Flat Rate
3	485			
		Scenic and Sightseeing Transportati on	Scenic and sightseeing, land, water, air, special	Gross Receipts and/or Flat Rate
4	487			
		Couriers and Messengers	Couriers and messengers, services, delivery	Gross Receipts and/or Flat Rate
5	492			
		Warehousing and Storage	Warehouse and storage, household, refrigerated, distribution, special	Gross Receipts, Flat Rate or Square Feet
6	493			
		Publishing Industries (except	Publishing, newspapers, periodicals, databases, software	Gross Receipts and/or Flat Rate
7	511			

		Internet)		
		Motion		
		Picture and		
		Sound	Motion pictures and videos,	
		Recording	theatres, recording,	Gross Receipts
8	512	Industry	studios, drive-in	and/or Flat Rate
		Broadcasting		Gross Receipts
		(except		and/or Flat Rate
		Internet)	Broadcasting and radio, TV	Where Not State
9	515	Internet		Regulated
		Publishing	Publications or	Gross Receipts
		and	broadcasting for Internet	and/or Flat Rate
10	516	Broadcasting	only	Where Not State
				Regulated
			Providing, access to	Gross Receipts
		Telecommunic	facilities for voice, data,	and/or Flat Rate
11	517	ations	text, sound and/or video	Where Not State
		Information		Regulated
		Services and	Providing, storing,	
		Data	processing, and providing	Gross Receipts
12	519	Processing	access to information	and/or Flat Rate
		Credit	Credit companies and	Gross Receipts
		Intermediati	activities related to	and/or Flat Rate
13	522	on and	credit and mediation of	Where Not State

				Regulated. Banks and savings and loan associations are state regulated and are subject to the license tax authorized under Section 11-51-130 and under Section 11-51-131, respectively.
		Related Activities	credit	
		Securities, Commodity, Other Financial Products	Insurance companies, life, health, accident, and all other	Gross Receipts and/or Flat Rate Where Not State Regulated
14	523	Insurance Carriers and Related Activities	Insurance companies, fire, marine, and fire casualty	State Regulated
		Funds, Trusts, Other Financial	Funds, plans, and/or programs organized to pool securities or other assets for others, other than the	Gross Receipts and/or Flat Rate Where Not State
16	525	Vehicles	Alabama Municipal Funding	Regulated

Corporation

				Gross Receipts and/or Flat Rate Where Not State Regulated
17	531	Real Estate	Real estate, offices, agents, brokers, developers	
		Rental and Leasing	Rental and leasing, auto, truck, equipment, tangible property	Gross Receipts and/or Flat Rate
18	532	Services		
		Professions, Scientific, Technical	Attorney, doctor, dentist, architect, engineer, vet, other professions	Gross Receipts for outdoor/billboard advertising; otherwise flat rate and/or gross receipts
19	541	Services		
		Management of Companies and Enterprises	Management of companies and enterprises, offices, regional, corporate	Gross Receipts and/or Flat Rate Where Not State Regulated. For purposes of this chapter only, bank holding companies are state regulated and are subject only to the license tax amount authorized
20	551			

				under Section 11-51-130 (a) (12) .
21	561	Administrative and Support Services	Administrative and support services, office, employment, answering, travel	Gross Receipts and/or Flat Rate Where Not State Regulated
		Waste Management and Remediation Services	Waste management, services, landfill, septic tank, companies, trucks	Gross Receipts and/or Flat Rate Where Not State Regulated
22	562		Educational services, business, secretarial, computer, technical, sports, other	Gross Receipts and/or Flat Rate Where Not State Regulated
23	611	Educational Services		
		Ambulatory Health Care Services	Health care services, mental, outpatient, HMO, diagnostic, blood, dialysis, other	Gross Receipts and/or Flat Rate
24	621			
		Hospitals	Hospitals, surgical, substance abuse, psychiatric, specialty	Gross Receipts and/or Flat Rate Based on No. of Patients or Beds
25	622			
		Nursing and Residential	Nursing and residential care facilities, elderly,	Gross Receipts and/or Flat Rate
26	623			

		Care		
		Facilities	day care, assisted living	
				Gross Receipts
			Social assistance, child,	and/or Flat Rate
		Social	shelters, vocational,	Where Not State
27	624	Assistance	emergency	Regulated
		Performing		
		Arts,	Arts and sports, dance,	
		Spectator	musical, spectator, teams,	Gross Receipts
28	711	Sports	tracks, promoters, agents	and/or Flat Rate
		Museums,		
		Historical	Museums, historical sites,	
		Sites and	zoos, botanical gardens,	Gross Receipts
29	712	Similar	parks, special sites	and/or Flat Rate
				Gross Receipts
		Amusement,	Amusement and recreation,	and/or Flat Rate
		Gambling and	gambling, theme, arcade,	Where Not State
30	713	Related	golf, marinas, fitness	Regulated
			Accommodations, hotel,	
		Accommodatio	travel, bed-and-breakfast,	Gross Receipts
31	721	ns	rooming houses, motel	and/or Flat Rate
		Food		
		Services and	Food service and drinking	
		Drinking	places, restaurant,	Gross Receipts
32	722	Places	caterers, bar, lounge, club	and/or Flat Rate

			Repair and maintenance, automotive, electronic,	
1	811	Repair and Maintenance	commercial, residential, other	Gross Receipts and/or Flat Rate
			Personal care services, Personal and hair, nail, skin, barber, Laundry beauty, diet, tanning,	Gross Receipts
2	812	Services	funerals	and/or Flat Rate
			Vending machines, pool Category tables, amusement devices, for: etc.	Gross Receipts and/or Flat Rate
3	910			Gross Receipts, Flat Rate or Number of Employees
4	920	Category for employees:	Employees: as in number of employees used in license calculation	
			Square feet used for Category for warehousing, large square feet: buildings, and other types	Gross Receipts, Flat Rate or Number of Square Feet
5	930			
		Administrati on of Human Resource		Gross Receipts and/or Flat Rate
6	923	Programs	General Category	Where Applicable
		Administrati		Gross Receipts
7	924	on of	General Category	and/or Flat Rate

		Environmenta		
		l Quality		
		Programs		Where Applicable
		Administrati		
		on of		Gross Receipts
		Housing,		and/or Flat Rate
8	925	Urban, Comm.	General Category	Where Applicable
		Administrati		
		on of		Gross Receipts
		Economic		and/or Flat Rate
9	926	Programs	General Category	Where Applicable
		Space		Gross Receipts
		Research and		and/or Flat Rate
10	927	Technology	General Category	Where Applicable
		National		
		Security and		Gross Receipts
		Internationa		and/or Flat Rate
11	928	l Affairs	General Category	Where Applicable
		Unclassified		Gross Receipts or
		Establishmen		Flat Rate, Where
12	999	ts	General Category	Not State
				Regulated

13 "(b) The taxing jurisdiction's basis for
14 determination of the business license tax for each sector

1 shall correspond with the basis specified in subsection (a),
2 such as gross receipts, flat rate, number of employees, or
3 square footage. Provided, however, with respect to machines
4 and other devices described in Sector 910 above, the
5 municipality, in addition to a gross receipts-based or flat
6 rate license, may require the taxpayer to purchase a decal for
7 each machine or device located within the municipality. The
8 charge for such decal shall not exceed the municipality's
9 actual cost of the decal. Provided further, the taxing
10 jurisdiction shall have authority to issue one license, rather
11 than multiple licenses, to a business in accordance with the
12 taxing jurisdiction's business license ordinance. To the
13 extent that subsection (a) indicates that a business activity
14 described in an NAICS sector is fully or partially state
15 regulated, no taxing jurisdiction shall have authority to
16 impose a business license tax in excess of the amount
17 otherwise authorized by state law on the state regulated
18 portion of such sector.

19 "(c) The measure of a municipal business license
20 based on gross receipts shall be based on the taxpayer's gross
21 receipts for the license year next preceding the current
22 license year unless the taxpayer first began doing business in
23 the municipality during the current license year, in which
24 event the gross receipts shall be projected by the taxpayer
25 for the remaining portion of the current license year. If the
26 taxpayer's actual gross receipts for the short license year
27 are either more or less than projected, the taxpayer's

1 annualized gross receipts used in calculating its business
2 license tax liability for the following license year shall be
3 increased or decreased, respectively, by the amount of the
4 difference. When annualizing the gross receipts for the short
5 license year, the amount of the gross receipts projected by
6 the taxpayer shall be divided by the number of full months the
7 taxpayer was in business in the municipality and multiplied by
8 12; provided that each taxpayer shall be deemed to have been
9 in business in the municipality for a minimum of one month for
10 purposes of this calculation. If the taxpayer employs a fiscal
11 year for federal and state income tax purposes, the taxpayer's
12 gross receipts may be determined, at the option of the
13 taxpayer, from the federal income tax return of the taxpayer
14 for the fiscal year next preceding the current license year,
15 provided that the gross receipts reported thereon reasonably
16 reflect the financial condition of the taxpayer as of the
17 December 31 next preceding the current license year, and the
18 taxpayer so notifies the municipality either prior to or
19 simultaneously with filing the first business license
20 remittance form using fiscal year data. The taxpayer's use of
21 fiscal year data, as provided above, shall constitute an
22 irrevocable election to use fiscal year data with respect to
23 the current and subsequent business license years unless the
24 governing body of the municipality or its director of finance
25 or other chief revenue officer or his or her designee consents
26 otherwise. Provided, however, that nothing in this subsection
27 shall prohibit a municipality from doing any of the following:

1 "(1) Creating one or more sub-sectors in each of the
2 NAICS sectors listed in subsection (a) above, subject to the
3 limitations regarding the basis for license calculation and
4 subsections (e) and (f) below.

5 "(2) Levying and collecting any municipal tax, other
6 than an annual business license, that now exists or that may
7 hereafter be adopted pursuant to Section 11-51-90 or some
8 other provision of state law, including, but not limited to,
9 lodgings taxes, alcoholic beverage taxes, gasoline and motor
10 fuel taxes, tobacco taxes, leasing or rental taxes,
11 occupational taxes, sales and use taxes, and gross receipts
12 taxes in the nature of a sales tax.

13 "(3) Allowing or requiring a taxpayer to purchase a
14 minimum business license with respect to the short license
15 year following 90 days of operations in the municipality,
16 based on the amount which bears the same relationship to the
17 actual amount of gross receipts during such preceding license
18 year as the entire license year bears to the number of days
19 during which the taxpayer was operating during such preceding
20 license year. If the taxpayer did not commence operations
21 until after the first day of the calendar year, the
22 municipality may by ordinance require the taxpayer to remit
23 the business license tax at the end of such 90 day period, or
24 on December 31 of the current license year, whichever occurs
25 first.

26 "(d) For purposes of subsection (a), the terms
27 "state regulated" or "where not state regulated," when used

1 with reference to a business listed in one of the NAICS
2 sectors and any subsequently created sub-sector, mean and
3 refer to other provisions of the Code of Alabama 1975, that
4 deal with or limit the taxation of the respective business by
5 municipalities, none of which are amended or repealed by Act
6 2006-586.

7 "(e) Notwithstanding anything in this chapter to the
8 contrary, the licenses authorized by Sections 11-51-130 and
9 11-51-131 are in lieu of any other business licenses
10 authorized by this chapter, and banks and savings and loan
11 associations subject to either of those sections are not
12 subject to the business license taxes otherwise authorized by
13 this chapter, regardless of whether one or more NAICS sectors
14 or sub-sectors describe or include any business or activity of
15 such bank or savings and loan association. Any municipal
16 business license tax applicable to a bank holding company, as
17 defined in Section 5-13B-2(f), shall not exceed the amount set
18 forth in the schedule provided for banks under Section
19 11-51-130(a)(12). Provided, however, if a bank holding company
20 is engaged in additional lines of business that do not fall
21 within NAICS Sectors 551 or 522 and which are not considered
22 financial in nature, as defined under federal banking law, the
23 bank holding company shall take out and pay for a business
24 license for each additional line of business so assessed by
25 the municipality; provided further that for each separate
26 additional business license, the gross receipts taxable under
27 such license shall be only those gross receipts of the bank

1 holding company which arise under the license for the
2 respective additional line of business and not from a
3 financial activity, as defined under federal banking law, or
4 from an activity within NAICS Sector 551 or 522. This
5 subsection (e) shall not apply to any subsidiary of a bank or
6 savings and loan association.

7 "(f) Notwithstanding any provision of this chapter
8 to the contrary, each of the several municipalities in this
9 state may annually assess and collect from each utility or
10 other entity described in Section 11-51-129 only one municipal
11 business license tax for all lines of business classified in
12 NAICS Sector 221, and the levy, collection, and assessment of
13 the single business license tax shall be subject to the
14 provisions and limitations of Section 11-51-129 and Section
15 11-51-90.1. If any such utility or entity described in Section
16 11-51-129 is engaged in one or more additional lines of
17 business that do not fall within NAICS Sector 221, and if the
18 additional line of business of such utility or other entity is
19 so assessed by the municipality, then the utility or other
20 entity shall take out and pay for a business license for that
21 additional line of business, even if the utility or other
22 entity does not meet the requirement in Section 11-51-95 that
23 it must derive more than 10 percent of its gross receipts from
24 the business falling within the NAICS sector during the
25 preceding license year; provided however, that for each
26 separate, additional business license, the gross receipts
27 taxable under such license shall be only those gross receipts

1 of the utility or other entity from business done within the
2 municipality and which arise within the line of business which
3 is the subject of the respective license.

4 "(g) Notwithstanding any provision of law, the fee
5 for the initial business license issued to a business may not
6 exceed five dollars (\$5)."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.