

1 HB329
2 197381-1
3 By Representative Lee
4 RFD: Commerce and Small Business
5 First Read: 03-APR-19

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8 SYNOPSIS: Under existing law, a business that has no
9 other physical presence within a municipality or
10 its police jurisdiction other than delivering
11 merchandise therein, may purchase a delivery
12 license in lieu of a business license, if the
13 annual gross receipts of the business do not exceed
14 \$75,000. A business that has no other physical
15 presence within a municipality or its police
16 jurisdiction other than delivering merchandise
17 therein, and has annual gross receipts that do not
18 exceed \$10,000, is exempt from the purchase of a
19 business license and a delivery license.

20 This bill would clarify that the delivery
21 license fee is per business, not per delivery
22 vehicle, and would specify that the delivery
23 license fee for businesses that qualify for the
24 delivery license, with gross receipts of \$10,000 up
25 to \$75,000, would have their fees calculated in
26 arrears, based on the related gross receipts during
27 the preceding license year.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
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6 To amend Section 11-51-194, Code of Alabama 1975,
7 relating to business delivery licenses; to further clarify
8 that the delivery license fee is per business, not per
9 vehicle; and to further provide for the calculation of the
10 delivery license fee for businesses within a certain range of
11 annual gross receipts.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§11-51-194.

16 "(a) (1) Each municipality shall allow the purchase
17 of a delivery license by any business that has no other
18 physical presence within the municipality or its police
19 jurisdiction for the privilege of delivering its merchandise
20 therein. The amount of the delivery license for the business
21 shall not exceed one hundred dollars (\$100). Nothing herein
22 shall 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
25 jurisdiction. The charge for such decal shall not exceed the
26 municipality's actual cost of the decal.

1 "(2) Notwithstanding any other ~~provision of~~ law, a
2 municipality may charge a taxpayer an issuance fee not to
3 exceed ten dollars (\$10) for a business delivery license.

4 "(b) As used in this section, a delivery license
5 shall mean a fixed rate business license issued by a
6 municipality for the limited privilege of delivering and
7 requisite set-up and installation, by the taxpayer's employees
8 or agents, of the taxpayer's own merchandise in that
9 municipality, by means of delivery vehicles owned, leased, or
10 contracted by the taxpayer; provided that the gross receipts
11 derived from the sale and any requisite set-up or installation
12 of all merchandise so delivered into the municipality shall
13 not exceed seventy-five thousand dollars (\$75,000) during the
14 license year, and any set-up or installation shall relate only
15 to (1) that required by the contract between the taxpayer and
16 the customer or as may be required by state or local law, and
17 (2) the merchandise so delivered. Mere delivery of the
18 taxpayer's merchandise by common carrier shall not allow the
19 taxing jurisdiction to assess a business license tax or a
20 delivery license tax against the taxpayer, but the gross
21 receipts derived from any sale and delivery accomplished by
22 means of a common carrier shall be counted against the
23 seventy-five thousand dollar (\$75,000) limitation described in
24 the preceding sentence if the taxpayer also during the same
25 license year sells and delivers into the taxing jurisdiction
26 using a delivery vehicle other than a common carrier. ~~Provided~~
27 ~~that the~~ The dollar limitation prescribed above shall be

1 increased, but not decreased, every five years under the
2 standards prescribed by Section 11-51-90 with respect to the
3 uniform license issuance fee and may be increased by a
4 municipality at any time, up to one hundred fifty thousand
5 dollars (\$150,000), by adoption of an ordinance. A common
6 carrier, contract carrier, or similar delivery service making
7 deliveries on behalf of others shall not be entitled to
8 purchase a delivery license hereunder.

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

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

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

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

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

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.