

1 HB308
2 179104-3
3 By Representative Lee
4 RFD: County and Municipal Government
5 First Read: 23-FEB-17

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8 SYNOPSIS: Under existing law, each municipality is
9 required to allow the purchase of a delivery
10 license by any business that has no other physical
11 presence within the municipality or its police
12 jurisdiction for the privilege of delivering its
13 merchandise in the municipality or its police
14 jurisdiction and a penalty may be assessed against
15 a business who did not purchase the license.

16 This bill would cap the penalty for failure
17 to purchase a business delivery license.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Section 11-51-194, Code of Alabama 1975,
24 relating to business delivery licenses; to cap the penalty for
25 failure to purchase a business delivery license.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§11-51-194.

4 "(a) Each municipality shall allow the purchase of a
5 delivery license by any business that has no other physical
6 presence within the municipality or its police jurisdiction
7 for the privilege of delivering its merchandise therein. The
8 amount of the delivery license shall not exceed one hundred
9 dollars (\$100), provided that each municipality may review the
10 propriety of the license tax every five years, and may
11 increase or decrease the license tax under the standards
12 prescribed by Section 11-51-90 with respect to the uniform
13 license issuance fee. Nothing herein shall prohibit a
14 municipality from requiring by ordinance the purchase of a
15 decal by the taxpayer for each delivery vehicle making
16 deliveries within the municipality or its police jurisdiction.
17 The charge for such decal shall not exceed the municipality's
18 actual cost of the decal.

19 "(b) As used in this section, a delivery license
20 shall mean a fixed rate business license issued by a
21 municipality for the limited privilege of delivering and
22 requisite set-up and installation, by the taxpayer's employees
23 or agents, of the taxpayer's own merchandise in that
24 municipality, by means of delivery vehicles owned, leased, or
25 contracted by the taxpayer; provided that the gross receipts
26 derived from the sale and any requisite set-up or installation
27 of all merchandise so delivered into the municipality shall

1 not exceed seventy-five thousand dollars (\$75,000) during the
2 license year, and any set-up or installation shall relate only
3 to (1) that required by the contract between the taxpayer and
4 the customer or as may be required by state or local law, and
5 (2) the merchandise so delivered. Mere delivery of the
6 taxpayer's merchandise by common carrier shall not allow the
7 taxing jurisdiction to assess a business license tax against
8 the taxpayer, but the gross receipts derived from any sale and
9 delivery accomplished by means of a common carrier shall be
10 counted against the seventy-five thousand dollar (\$75,000)
11 limitation described in the preceding sentence if the taxpayer
12 also during the same license year sells and delivers into the
13 taxing jurisdiction using a delivery vehicle other than a
14 common carrier. Provided that the dollar limitation prescribed
15 above shall be increased, but not decreased, every five years
16 under the standards prescribed by Section 11-51-90 with
17 respect to the uniform license issuance fee and may be
18 increased by a municipality at any time, up to one hundred
19 fifty thousand dollars (\$150,000), by adoption of an
20 ordinance. A common carrier, contract carrier, or similar
21 delivery service making deliveries on behalf of others shall
22 not be entitled to purchase a delivery license hereunder.

23 "(c) Any taxpayer that meets the criteria for the
24 purchase of a delivery license, as provided in subsections (a)
25 and (b), and meets those criteria during the current license
26 year as well, shall purchase either a delivery license or a

1 regular business license otherwise applicable to the taxpayer,
2 at its option.

3 "(d) Notwithstanding Section 11-51-90.2, the
4 delivery license shall be calculated in arrears, based on the
5 related gross receipts during the preceding license year.

6 "(e) The purchase of a delivery license shall not,
7 in and of itself, establish nexus between the taxpayer and the
8 municipality for purposes of the taxes levied by or under the
9 authority of Title 40 or other provisions of this title, nor
10 does the purchase of a delivery license, in and of itself,
11 establish that nexus does not exist between the taxpayer and
12 the municipality.

13 "(f) If at any time during the current license year
14 the taxpayer fails to meet the criteria specified in
15 subsections (a) and (b), then within 10 days after any of the
16 criteria have been violated or exceeded, the taxpayer shall
17 purchase ~~all appropriate business licenses from the~~
18 ~~municipality or its designee, for the entire license year and~~
19 ~~without regard to this section~~ a business delivery license or
20 other appropriate license from the municipality and will be
21 subject to a penalty not to exceed the cost of the business
22 delivery license."

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