

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

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Section 11-51-194, Code of Alabama 1975,
9 relating to business delivery licenses; to further clarify
10 that the delivery license fee is per business, not per
11 vehicle; and to further provide for the calculation of the
12 delivery license fee for businesses within a certain range of
13 annual gross receipts.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§11-51-194.

18 "(a) (1) Each municipality shall allow the purchase
19 of a delivery license by any business that has no other
20 physical presence within the municipality or its police
21 jurisdiction for the privilege of delivering its merchandise
22 therein. The amount of the delivery license for the business
23 shall not exceed one hundred dollars (\$100). Nothing herein
24 shall prohibit a municipality from requiring by ordinance the
25 purchase of a decal by the taxpayer for each delivery vehicle
26 making deliveries within the municipality or its police

1 jurisdiction. The charge for such decal shall not exceed the
2 municipality's actual cost of the decal.

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

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

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

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

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

25 "(d) Notwithstanding Section 11-51-90.2, the
26 delivery license purchased pursuant to subsections (a) and (b)

1 shall be calculated in arrears, based on the related gross
2 receipts during the preceding license year.

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 03-APR-19

Read for the second time and placed
on the calendar..... 11-APR-19

Read for the third time and passed
as amended..... 16-APR-19

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk