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

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§11-51-194.

"(a)(1) Each municipality shall allow the purchase of a delivery license by any business that has no other physical presence within the municipality or its police jurisdiction for the privilege of delivering its merchandise therein. The amount of the delivery license for the business shall not exceed one hundred dollars ($100). Nothing herein shall prohibit a municipality from requiring by ordinance the purchase of a decal by the taxpayer for each delivery vehicle making deliveries within the municipality or its police jurisdiction. The charge for such decal shall not exceed the municipality's actual cost of the decal."
"(2) Notwithstanding any other provision of law, a municipality may charge a taxpayer an issuance fee not to exceed ten dollars ($10) for a business delivery license.

"(b) As used in this section, a delivery license shall mean a fixed rate business license issued by a municipality for the limited privilege of delivering and requisite set-up and installation, by the taxpayer's employees or agents, of the taxpayer's own merchandise in that municipality, by means of delivery vehicles owned, leased, or contracted by the taxpayer; provided that the gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered into the municipality shall not exceed seventy-five thousand dollars ($75,000) during the license year, and any set-up or installation shall relate only to (1) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and (2) the merchandise so delivered. Mere delivery of the taxpayer's merchandise by common carrier shall not allow the taxing jurisdiction to assess a business license tax or a delivery license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand dollar ($75,000) limitation described in the preceding sentence if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction
using a delivery vehicle other than a common carrier. Provided that the dollar limitation prescribed above shall be increased, but not decreased, every five years under the standards prescribed by Section 11-51-90 with respect to the uniform license issuance fee and may be increased by a municipality at any time, up to one hundred fifty thousand dollars ($150,000), by adoption of an ordinance. A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license hereunder.

"(c) A taxpayer that otherwise meets the criteria for the purchase of a delivery license pursuant to subsections (a) and (b) is not required to purchase a delivery license or a regular business license if the following criteria apply: (1) The taxpayer's gross receipts that are derived from within the municipality or its police jurisdiction do not exceed ten thousand dollars ($10,000) during the preceding license year; and (2) the taxpayer has no other physical presence within the municipality or its police jurisdiction during the year. Any other taxpayer that meets the criteria for the purchase of a delivery license, as provided in subsections (a) and (b), and meets those criteria during the current license year as well, shall purchase either a delivery license or a regular business license otherwise applicable to the taxpayer, at its option.
(d) Notwithstanding Section 11-51-90.2, the delivery license purchased pursuant to subsections (a) and (b) shall be calculated in arrears, based on the related gross receipts during the preceding license year.

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

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

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated in and was passed by the House 16-APR-19, as amended.

Jeff Woodard
Clerk

Senate 21-MAY-19 Passed

APPROVED 5/28/19
TIME 6:28p

GOVERNOR

Alabama Secretary Of State
Act Num....: 2019-283
Bill Num....: H-329
Recy'd 05/29/19 11:27amSLF
HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. __________

YEAS _______ NAYS _______

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. __________

AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

FURTHER SENATE ACTION OVER:

DATE: _______ 20__

RD 1 RFD

This Bill was referred to the Standing Committee of the Senate on _______ and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) ____ w/sub ____ by a vote of

yeas ____ nays ____ abstain ____

this __ day of __________ 20__

Chairperson

CONFERENCE COMMITTEE

House Conferees __________________________

______________________________

_________________________________

RE-REFERRED RE-COMMITTED ______

Committee __________________________

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB ______.

YEAS _______ NAYS _______

PATRICK HARRIS, Secretary