

1 HB422  
2 183676-1  
3 By Representative Lee  
4 RFD: Commerce and Small Business  
5 First Read: 16-MAR-17

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4  
5  
6  
7  
8 SYNOPSIS: Under existing law, a municipality may  
9 require a business license for each location where  
10 a taxpayer does business in the municipality and  
11 the police jurisdiction of the municipality.

12 This bill would provide that a business  
13 license is not required for a person travelling  
14 through a municipality on business if the person is  
15 not operating a branch office or doing business in  
16 the municipality.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 To amend Section 11-51-90.2 of the Code of Alabama  
23 1975, relating to the purchase of a municipal business  
24 license; to provide that a business license is not required  
25 for a person travelling through a municipality on business if  
26 the person is not operating a branch office or doing business  
27 in the municipality.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 11-51-90.2 of the Code of Alabama  
3 1975, is amended to read as follows:

4 "§11-51-90.2

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

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

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

16	SECTOR	NAICS	TI-	SUGGESTED BUSINESS	BASIS FOR LI-
		TLE		LICENSE CODE GROUP-	CENSE CALCULA-
				ING BY SAMPLE TOPIC	TION
				OR CATEGORY	

17					
18	111	Crop Produc-		Agriculture, farm-	Gross Receipts
		tion		ing, nursery,	and/or Flat Rate
				fruit, growers	

1	112	Animal Pro- duction	Animal, dairy, cat- tle, ranching, sheep, chicken	Gross Receipts and/or Flat Rate
2				
3	113	Forestry and Logging	Forestry, logging, timber	Gross Receipts and/or Flat Rate
4				
5	114	Fishing, Hunting, and Trapping	Fishing, hunting, supplies and equip- ment	Gross Receipts and/or Flat Rate
6				
7	115	Support for Agriculture and Forestry	Cotton ginning, farm management, post-harvest activ- ities	Gross Receipts and/or Flat Rate
8				
9	211	Oil and Gas Extraction	Oil, gas, extrac- tion, natural gas,	State Regulated [See, e.g. Section



Contracting visions

18

19           237   Heavy Con-       Construction, heavy   Gross Receipts  
                  struction       construction, high-   and/or Flat Rate  
  way, bridge, street

20

21           238   Special           Construction, all       Gross Receipts  
                  Trade Con-       special trades       and/or Flat Rate  
                  tractors

22

23           311   Food Manu-       Food manufacturing,   Gross Receipts,  
                  facturing       animal, grain,       Flat Rate, or  
  fruit, dairy, meat,   Value of Goods  
  seafood               Produced

24

25           312   Beverage and       Beverage manufac-     Gross Receipts  
                  Tobacco       turing, soft drink,   and/or Flat Rate  
                  Products       bottled water,       Where Not State  
                  Manufactur-     breweries, ice       Regulated, or

		ing		Value of Goods Produced
26				
27	313	Textile Mills	Mills, textile, fabric, yarn, car- pet, canvas, rope, twine	Gross Receipts, Flat Rate, or Value of Goods Produced
28				
29	314	Textile Product Mills	Other mill opera- tions not covered in 313	Gross Receipts, Flat Rate, or Value of Goods Produced
30				
31	315	Apparel Man- ufacturing	Apparel manufactur- ing, hosiery, men, women, children, lingerie	Gross Receipts, Flat Rate, or Value of Goods Produced
32				
33	316	Leather and	Leather manufactur-	Gross Receipts,

34	Allied Product Manufacturing	ing, shoes, luggage, handbag, related products	Flat Rate, or Value of Goods Produced
35	321 Wood Products Manufacturing	Wood products, sawmills, wood, preservation, veneer, trusses, millwork	Gross Receipts, Flat Rate, or Value of Goods Produced
36			
37	322 Paper Manufacturing	Paper manufacturing, pulp, paper, converted products	Gross Receipts, Flat Rate, or Value of Goods Produced
38			
39	323 Printing and Related Support Activities	Printing, lithographic, screen, quick, digital, books, handbills	Gross Receipts, Flat Rate, or Value of Goods Produced
40			





1	331	Primary Metal Manu- facturing	Metal manufactur- ing, iron, steel, aluminum, copper, other nonferrous	Gross Receipts, Flat Rate, or Value of Goods Produced
2				
3	332	Fabricated Metal Prod- uct Manufac- turing	Fabricated metal, cutlery, struc- tural, ornamental, wire, machine shops	Gross Receipts, Flat Rate, or Value of Goods Produced
4				
5	333	Machinery Manufactur- ing	Machinery manufac- turing, farm, HVAC, office, industrial, engine, other	Gross Receipts, Flat Rate, or Value of Goods Produced
6				
7	334	Computer and Electronic Product Man- ufacturing	Computers and elec- tronics, peripher- als, audio, video, circuit boards	Gross Receipts, Flat Rate, or Value of Goods Produced

1

2           335   Electrical        Electrical equip-       Gross Receipts,  
              Equipment       ment, lighting,       Flat Rate, or  
              Appliance       small appliance,       Value of Goods  
              Component       battery, other       Produced  
              Manufactur-  
              ing

3

4           336   Transporta-        Transportation man-       Gross Receipts,  
              tion Equip-       ufacturing, auto,       Flat Rate, or  
              ment Manu-       truck, trailer, mo-       Value of Goods  
              facturing       tor home, ship,       Produced  
                          boat, motorcycle

5

6           337   Furniture        Furniture manufac-       Gross Receipts,  
              and Related       turing, cabinets,       Flat Rate, or  
              Products       office furniture,       Value of Goods  
              Manufactur-       beds, kitchen       Produced  
              ing

7

1            339   Misc. Manu-      Misc. manufactur-      Gross Receipts,  
                  facturing            ing, medical, den-      Flat Rate, or  
                                  tal, jewelry,      Value of Goods  
                                  sporting goods,      Produced  
                                  toys, signs, all  
                                  other

2

3            421   Wholesale      Wholesale      Gross Receipts  
                  Trade, Dura-      trade-durable, mo-      and/or Flat Rate  
                  ble Goods      tor vehicle, home  
                                  furniture, machin-  
                                  ery, equipment

4

5            422   Wholesale      Wholesale      Gross Receipts  
                  Trade,      trade-nondurable,      and/or Flat Rate  
                  Non-Durable      paper, apparel,  
                  Goods      grocery, dairy,  
                                  farm, beverages

6

7            441   Motor Vehi-      Motor vehicles, au-      Gross Receipts  
                  cle and      tomobiles, motorcy-      and/or Flat Rate

Parts Dealer   cles, boats, parts,  
                  accessories

8

9           442   Furniture       Furniture stores,       Gross Receipts  
            and Home       home, floor, fur-       and/or Flat Rate  
            Furnishing   nishings, window,  
            Stores       special products

10

11          443   Electronics     Electronic and ap-     Gross Receipts  
            and Appli-     pliance store,       and/or Flat Rate  
            ance Stores   household, radio,  
                          television, com-  
                          puter

12

13          444   Building Ma-     Building materials,   Gross Receipts  
            terial and     hardware, paint,     and/or Flat Rate  
            Gardening     home center, wall-  
            Equipment   paper  
            Dealers

14

1	445	Food and Beverage Stores	Food and beverage stores, grocery, convenience, markets, liquor, beer	Gross Receipts and/or Flat Rate Where Not State Regulated
2				
3	446	Health and Personal Care Stores	Health and personal care stores, drug, cosmetic, optical, health food	Gross Receipts and/or Flat Rate
4				
5	447	Gasoline Stations	Gasoline stations, filling stations	Gross Receipts and/or Flat Rate Based on No. of Dispensers
6				
7	448	Clothing and Accessories Stores	Clothing stores, men's women's, children, infants, shoe, jewelry, luggage	Gross Receipts and/or Flat Rate
8				

1           451   Sporting           Sporting goods           Gross Receipts  
              Goods,           stores, hobby, toy,       and/or Flat Rate  
              Hobby, Book,       fish, gun, music,  
              Music           books

2

3           452   General Mer-       General merchandise       Gross Receipts  
              chandise           stores, department,     and/or Flat Rate  
                          warehouse clubs,  
                          superstores

4

5           453   Miscella-           Misc. store retail-       Gross Receipts  
              neous Store       ers, florist, gift,     and/or Flat Rate  
              Retailers       novelty, used,  
                          pets, art, tobacco

6

7           454   Nonstore Re-       Nonstore retailers,     Gross Receipts  
              tailers           electronic shop-       and/or Flat Rate  
                          ping, mail order,  
                          vending, direct  
                          selling

1

2           481   Air Trans-       Air transportation,   Gross Receipts  
                  portation       airline tickets,     and/or Flat Rate  
                                  shipping, freight,   Where Not State  
                                  charters             Regulated

3

4           482   Rail Trans-       Rail transporta-     State Regulated  
                  portation       tion, ticket of-     and/or Flat Rate  
                                  fices, short line,  
                                  freight

5

6           483   Water Trans-       Water transporta-    Gross Receipts  
                  portation       tion, coastal,       and/or Flat Rate  
                                  freight, inland,    Where Not State  
                                  passenger, forward- Regulated  
                                  ers

7

8           484   Truck Trans-       Truck transporta-    Gross Receipts  
                  portation       tion, terminal, lo-   and/or Flat Rate



cal, long-distance, Where Not State  
freight Regulated

9

10 485 Transit and Ground transporta- Gross Receipts  
Ground Pas- tion, bus, taxi, and/or Flat Rate  
senger limousine, charter,  
Transporta- buggy  
tion

11

12 487 Scenic and Scenic and sight- Gross Receipts  
Sightseeing seeing, land, wa- and/or Flat Rate  
Transporta- ter, air, special  
tion

13

14 492 Couriers and Couriers and mes- Gross Receipts  
Messengers sengers, services, and/or Flat Rate  
delivery

15

16 493 Warehousing Warehouse and stor- Gross Receipts,

17	and Storage	age, household, refrigerated, dis- tribution, special	Flat Rate or Square Feet
18	511 Publishing Industries (except Internet)	Publishing, newspa- pers, periodicals, databases, software	Gross Receipts and/or Flat Rate
19			
20	512 Motion Pic- ture and Sound Re- cording In- dustry	Motion pictures and videos, theatres, recording, studios, drive-in	Gross Receipts and/or Flat Rate
21			
22	515 Broadcasting (except Internet)	Broadcasting and radio, TV	Gross Receipts and/or Flat Rate Where Not State Regulated
23			

1	516	Internet Publishing and Broad- casting	Publications or broadcasting for Internet only	Gross Receipts and/or Flat Rate Where Not State Regulated
2				
3	517	Telecommuni- cations	Providing, access to facilities for voice, data, text, sound and/or video	Gross Receipts and/or Flat Rate Where Not State Regulated
4				
5	519	Information Services and Data Pro- cessing	Providing, storing, processing, and providing access to information	Gross Receipts and/or Flat Rate
6				
7	522	Credit In- termediation and Related Activities	Credit companies and activities re- lated to credit and mediation of credit	Gross Receipts and/or Flat Rate 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.

8

9	523	Securities, Commodity, Other Finan- cial Prod- ucts	Insurance compa- nies, life, health, accident, and all other	Gross Receipts and/or Flat Rate Where Not State Regulated
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10

11	524	Insurance Carriers and Related Ac- tivities	Insurance compa- nies, fire, marine, and fire casualty	State Regulated
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12

13	525	Funds,	Funds, plans,	Gross Receipts
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Trusts,	and/or programs	and/or Flat Rate
Other Finan-	organized to pool	Where Not State
cial Vehi-	securities or other	Regulated
cles	assets for others,	
	other than the Ala-	
	bama Municipal	
	Funding Corporation	

14

15	531	Real Estate	Real estate, of-	Gross Receipts
			fices, agents, bro-	and/or Flat Rate
			kers, developers	Where Not State
				Regulated

16

17	532	Rental and	Rental and leasing,	Gross Receipts
		Leasing Ser-	auto, truck, equip-	and/or Flat Rate
		vices	ment, tangible	
			property	

18

19	541	Professions,	Attorney, doctor,	Gross Receipts for
		Scientific,	dentist, architect,	outdoor/billboard
		Technical	engineer, vet,	advertising; oth-

20	Services	other professions	erwise flat rate and/or gross re- ceipts
21	551 Management of Companies and Enter- prises	Management of com- panies and enter- prises, offices, regional, corporate	Gross Receipts and/or Flat Rate Where Not State Regulated. For purposes of this chapter only, bank holding companies are state regu- lated and are sub- ject only to the license tax amount authorized under Section 11-51-130(a)(12).
22			
23	561 Administra- tive and Support Ser- vices	Administrative and support services, office, employment, answering, travel	Gross Receipts and/or Flat Rate Where Not State Regulated

1

2           562   Waste Man-       Waste management,       Gross Receipts  
              agement and       services, landfill,       and/or Flat Rate  
              Remediation       septic tank, compa-       Where Not State  
              Services       nies, trucks           Regulated

3

4           611   Educational       Educational ser-       Gross Receipts  
              Services       vices, business,       and/or Flat Rate  
                              secretarial, com-       Where Not State  
                              puter, technical,       Regulated  
                              sports, other

5

6           621   Ambulatory       Health care ser-       Gross Receipts  
              Health Care       vices, mental, out-       and/or Flat Rate  
              Services       patient, HMO, diag-  
                              nostic, blood, di-  
                              alysis, other

7

8           622   Hospitals       Hospitals, surgi-       Gross Receipts

cal, substance and/or Flat Rate  
abuse, psychiatric, Based on No. of  
specialty Patients or Beds

9

10           623   Nursing and   Nursing and resi-   Gross Receipts  
              Residential   dential care facil-   and/or Flat Rate  
              Care Facili-   ities, elderly, day  
              ties           care, assisted liv-  
                          ing

11

12           624   Social As-   Social assistance,   Gross Receipts  
              sistance   child, shelters,   and/or Flat Rate  
                          vocational, emer-   Where Not State  
                          gency               Regulated

13

14           711   Performing   Arts and sports,   Gross Receipts  
              Arts, Spec-   dance, musical,   and/or Flat Rate  
              tator Sports   spectator, teams,  
                          tracks, promoters,  
                          agents

15



1           712   Museums,           Museums, historical   Gross Receipts  
              Historical       sites, zoos, botan-   and/or Flat Rate  
              Sites and       ical gardens,  
              Similar       parks, special  
                              sites

2

3           713   Amusement,       Amusement and rec-   Gross Receipts  
              Gambling and   reation, gambling,   and/or Flat Rate  
              Related       theme, arcade,       Where Not State  
                              golf, marinas, fit-   Regulated  
                              ness

4

5           721   Accomoda-       Accommodations, ho-   Gross Receipts  
              tions           tel, travel,       and/or Flat Rate  
                              bed-and-breakfast,  
                              rooming houses, mo-  
                              tel

6

7           722   Food Ser-       Food service and       Gross Receipts  
              vices and       drinking places,     and/or Flat Rate

Drinking restaurant, cater-  
Places ers, bar, lounge,  
club

8

9           811   Repair and    Repair and mainte-    Gross Receipts  
              Maintenance    nance, automotive,    and/or Flat Rate  
                                  electronic, commer-  
                                  cial, residential,  
                                  other

10

11           812   Personal and    Personal care ser-    Gross Receipts  
              Laundry Ser-    vices, hair, nail,    and/or Flat Rate  
              vices                    skin, barber,  
                                  beauty, diet, tan-  
                                  ning, funerals

12

13           910   Category        Vending machines,    Gross Receipts  
              for:                    pool tables, amuse-    and/or Flat Rate  
                                  ment devices, etc.

14







1 than multiple licenses, to a business in accordance with the  
2 taxing jurisdiction's business license ordinance. To the  
3 extent that subsection (a) indicates that a business activity  
4 described in an NAICS sector is fully or partially state  
5 regulated, no taxing jurisdiction shall have authority to  
6 impose a business license tax in excess of the amount  
7 otherwise authorized by state law on the state regulated  
8 portion of such sector.

9 "(c) The measure of a municipal business license  
10 based on gross receipts shall be based on the taxpayer's gross  
11 receipts for the license year next preceding the current  
12 license year unless the taxpayer first began doing business in  
13 the municipality during the current license year, in which  
14 event the gross receipts shall be projected by the taxpayer  
15 for the remaining portion of the current license year. If the  
16 taxpayer's actual gross receipts for the short license year  
17 are either more or less than projected, the taxpayer's  
18 annualized gross receipts used in calculating its business  
19 license tax liability for the following license year shall be  
20 increased or decreased, respectively, by the amount of the  
21 difference. When annualizing the gross receipts for the short  
22 license year, the amount of the gross receipts projected by  
23 the taxpayer shall be divided by the number of full months the  
24 taxpayer was in business in the municipality and multiplied by  
25 12; provided that each taxpayer shall be deemed to have been  
26 in business in the municipality for a minimum of one month for  
27 purposes of this calculation. If the taxpayer employs a fiscal

1 year for federal and state income tax purposes, the taxpayer's  
2 gross receipts may be determined, at the option of the  
3 taxpayer, from the federal income tax return of the taxpayer  
4 for the fiscal year next preceding the current license year,  
5 provided that the gross receipts reported thereon reasonably  
6 reflect the financial condition of the taxpayer as of the  
7 December 31 next preceding the current license year, and the  
8 taxpayer so notifies the municipality either prior to or  
9 simultaneously with filing the first business license  
10 remittance form using fiscal year data. The taxpayer's use of  
11 fiscal year data, as provided above, shall constitute an  
12 irrevocable election to use fiscal year data with respect to  
13 the current and subsequent business license years unless the  
14 governing body of the municipality or its director of finance  
15 or other chief revenue officer or his or her designee consents  
16 otherwise. Provided, however, that nothing in this subsection  
17 shall prohibit a municipality from doing any of the following:

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

22 "(2) Levying and collecting any municipal tax, other  
23 than an annual business license, that now exists or that may  
24 hereafter be adopted pursuant to Section 11-51-90 or some  
25 other provision of state law, including, but not limited to,  
26 lodgings taxes, alcoholic beverage taxes, gasoline and motor  
27 fuel taxes, tobacco taxes, leasing or rental taxes,

1 occupational taxes, sales and use taxes, and gross receipts  
2 taxes in the nature of a sales tax.

3 "(3) Allowing or requiring a taxpayer to purchase a  
4 minimum business license with respect to the short license  
5 year following 90 days of operations in the municipality,  
6 based on the amount which bears the same relationship to the  
7 actual amount of gross receipts during such preceding license  
8 year as the entire license year bears to the number of days  
9 during which the taxpayer was operating during such preceding  
10 license year. If the taxpayer did not commence operations  
11 until after the first day of the calendar year, the  
12 municipality may by ordinance require the taxpayer to remit  
13 the business license tax at the end of such 90 day period, or  
14 on December 31 of the current license year, whichever occurs  
15 first.

16 "(d) For purposes of subsection (a), the terms  
17 "state regulated" or "where not state regulated," when used  
18 with reference to a business listed in one of the NAICS  
19 sectors and any subsequently created sub-sector, mean and  
20 refer to other provisions of the Code of Alabama 1975, that  
21 deal with or limit the taxation of the respective business by  
22 municipalities, none of which are amended or repealed by this  
23 act.

24 "(e) Notwithstanding anything in this chapter to the  
25 contrary, the licenses authorized by Sections 11-51-130 and  
26 11-51-131 are in lieu of any other business licenses  
27 authorized by this chapter, and banks and savings and loan



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

24 "(f) Notwithstanding any provision of this chapter  
25 to the contrary, each of the several municipalities in this  
26 state may annually assess and collect from each utility or  
27 other entity described in Section 11-51-129 only one municipal

1 business license tax for all lines of business classified in  
2 NAICS Sector 221, and the levy, collection and assessment of  
3 the single business license tax shall be subject to the  
4 provisions and limitations of Section 11-51-129 and Section  
5 11-51-90A. If any such utility or entity described in Section  
6 11-51-129 is engaged in one or more additional lines of  
7 business that do not fall within NAICS Sector 221, and if the  
8 additional line of business of such utility or other entity is  
9 so assessed by the municipality, then the utility or other  
10 entity shall take out and pay for a business license for that  
11 additional line of business, even if the utility or other  
12 entity does not meet the requirement in Section 11-51-95 that  
13 it must derive more than 10 percent of its gross receipts from  
14 the business falling within the NAICS sector during the  
15 preceding license year; provided however, that for each  
16 separate, additional business license, the gross receipts  
17 taxable under such license shall be only those gross receipts  
18 of the utility or other entity from business done within the  
19 municipality and which arise within the line of business which  
20 is the subject of the respective license."

21 Section 2. The provisions of this act are severable.  
22 If any part of this act is declared invalid or  
23 unconstitutional, that declaration shall not affect the part  
24 which remains. References to sections of the Code of Alabama  
25 1975, or to sectors or sub-sectors of the 2002 North American  
26 Industrial Classification System (NAICS) shall mean and  
27 include references to any corresponding provision of

1 subsequent state law or of a subsequent Industrial  
2 Classification System; provided, however, that references in  
3 this act to a particular section of the Code of Alabama 1975,  
4 or more generally to a business being "state regulated," to  
5 the extent those references are intended to impose limitations  
6 on the business license under a particular NAICS sector, shall  
7 not be deemed amended or superseded by an amendment to the  
8 corresponding NAICS sector or the issuance of additional NAICS  
9 sectors, sub-sectors or additional designations or of another  
10 Industrial Classification System.

11 Section 3. This act shall become effective  
12 immediately following its passage and approval by the  
13 Governor, or its otherwise becoming law.