

1 HB532
2 149239-3
3 By Representative Wood (N & P)
4 RFD: Local Legislation
5 First Read: 02-APR-13

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ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to Calhoun County; to establish a county business license for persons engaged in commercial door-to-door sales promotion of products or services for profit; to establish requirements for and the process to obtain a door-to-door sales license and the fees for the license; to provide penalties for violations; to amend Sections 45-8-70.01 and 45-8-241, Code of Alabama 1975; to provide an automobile allowance for the commissioner of licenses; to provide a citation fee for persons cited for failure to pay a county business license; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) All persons engaged in the business of selling products door-to-door for profit shall have a state transient business license and a county business license

1 issued by the commissioner of licenses as provided in Section
2 45-8-241, Code of Alabama 1975, and shall pay any license or
3 privilege fee and any issuance fee required therein.

4 (b) The person or business shall apply for
5 application to the commissioner of licenses on forms provided
6 by the commissioner. The application form shall require the
7 applicant to fully describe the nature of the business and
8 type of products or services to be sold.

9 (c) Any person who is to be engaged in door-to-door
10 sales shall provide to the commissioner his or her full name,
11 date of birth, driver's license, or other government issued
12 identification number, address, and the name and address of
13 the business with which he or she is employed as a
14 door-to-door salesperson. The information collected shall be
15 submitted to the Calhoun County Sheriff for a criminal
16 background check and a check as to whether the person is
17 required to register as a sex offender. The sheriff shall
18 report to the commissioner of licenses his or her findings. No
19 person convicted of a felony or required to register as a sex
20 offender shall be eligible to be licensed. Any person denied a
21 license to conduct door-to-door sales shall be entitled to a
22 hearing before the commissioner of licenses.

23 (d) Those persons who become licensed to conduct
24 door-to-door sales in Calhoun County shall be required to wear
25 an identification badge clearly visible to others while
26 conducting business or visiting homes in the course of their
27 business. The badge shall, at a minimum, display all of the

1 following: The name of the person, the name of the business, a
2 valid telephone number, and a color photograph of the person.
3 The identification badge shall be approved by the commissioner
4 of licenses. The commissioner may adjust the requirements of
5 the badge at his or her discretion.

6 (e) The salesperson shall keep a copy of both
7 licenses for each person in his or her vehicle during hours of
8 operation.

9 (f) Any vehicle used by a door-to-door salesperson
10 shall display a sign on each side of the vehicle, that is at
11 least 24 inches by 30 inches, and that is clearly visible and
12 clean. The commissioner of licenses shall approve all vehicle
13 signs.

14 (g) The salesperson may engage in door-to-door sales
15 only between sunrise and sunset.

16 (h) The commissioner of licenses shall make a
17 recommendation to the Calhoun County Commission as to the
18 amount of the fee, and the county commission, by resolution,
19 shall set the fee for the license.

20 (i) Nothing in this act shall limit or prevent the
21 sale of charitable items by students to benefit their school,
22 Girl Scouts, Boy Scouts, or similar organizations, including
23 volunteer organizations such as volunteer fire departments.

24 (j) A person who engages in the door-to-door sales
25 or promotions of products or services in violation of this act
26 shall be guilty of a Class C misdemeanor and may be punished
27 as provided by law.

1 Section 2. Sections 45-8-70.01 and 45-8-241, Code of
2 Alabama 1975, are amended to read as follows:

3 "§45-8-70.01.

4 "(a) This section shall apply only to Calhoun
5 County.

6 "(b) Each Commissioner of the Calhoun County
7 Commission and the county commissioner of licenses shall have
8 the option of electing, as hereinafter provided in subsection
9 (c), to have an automobile furnished by Calhoun County, for
10 use in carrying out his or her official duties as a
11 commissioner, and payment for or reimbursement for fuel and
12 oil for and repairs of the automobile, or in lieu of the
13 automobile and expenses therefor, to have a travel expense
14 allowance of four hundred dollars (\$400) per month.

15 "(c) (1) Each incumbent Calhoun County Commissioner
16 shall inform the Administrator/Treasurer of the Calhoun County
17 Commission in writing within 30 days of this section becoming
18 effective, and the incumbent county commissioner of licenses
19 within 30 days of the effective date of the amendatory act
20 adding this language, whether he or she elects to be furnished
21 an automobile and expenses therefor, or a travel expense
22 allowance as provided in subsection (b), during his or her
23 remaining term in office as a commissioner.

24 "(2) Each incumbent Calhoun County Commissioner, and
25 each newly elected Calhoun County Commissioner, and the county
26 commissioner of licenses shall, within 60 days after his or
27 her election to a new term in office or a term in office,

1 inform the Administrator/Treasurer of the Calhoun County
2 Commission in writing whether he or she elects to be furnished
3 an automobile and expenses therefor, or a travel expense
4 allowance as provided in subsection (b), during his or her
5 next or upcoming term in office as a commissioner.

6 "§45-8-241.

7 "(a) This section shall apply only to Calhoun
8 County, Alabama, and to no other county.

9 "(b) ~~(1)~~ As used in this section, the following words
10 and terms shall, except as otherwise provided in this section,
11 have the following meanings hereby ascribed to them: "the
12 county" means Calhoun County, Alabama; "the governing body"
13 means the governing body of Calhoun County, Alabama, whether
14 it be a county commission, board of revenue, or other
15 governing body; "person" includes any natural person,
16 partnership, corporation, firm, association, trust, estate or
17 other entity; and "business" includes all activities engaged
18 in, or caused to be engaged in, by any person with the object
19 of gain, profit, benefit, or advantage, either direct or
20 indirect to such person; "license or privilege fee" shall not
21 include any sales or use tax.

22 "~~(2) If a business is conducted as a firm,~~
23 ~~corporation, professional corporation, association,~~
24 ~~partnership, or any other entity in which more than one~~
25 ~~natural person is engaged, works, or practices as a lawyer,~~
26 ~~actuary, accountant, architect, doctor, dentist, osteopath,~~
27 ~~chiropractor, optometrist, oculist, or optician, each natural~~

1 ~~person so engaged shall be treated as if such natural person~~
2 ~~was conducting a separate business which is subject to paying~~
3 ~~a license or privilege fee pursuant to this section and each~~
4 ~~such natural person shall pay a license or privilege fee~~
5 ~~pursuant to the provisions of this section.~~

6 "(c) The purposes of this section are to equalize
7 the burden of taxation by authorizing the county to impose a
8 license or privilege fee upon persons now engaging in certain
9 businesses without paying any license fee or tax thereon to
10 either the state or county, to generate additional revenue for
11 the county by imposing an additional license or privilege fee
12 upon persons now engaging or who may hereafter engage in
13 certain businesses and pay license or privilege fees to the
14 state or county, and to generate additional revenue for the
15 county due to urbanization and population creating greater
16 needs and demands for services than can be provided for by
17 revenue generated pursuant to the general laws.

18 "(d) The governing body of the county is hereby
19 authorized to levy an annual license or privilege fee upon any
20 person for engaging in any business in the county. The license
21 or privilege fee hereby authorized shall be in addition to any
22 other license or privilege fee which is currently authorized
23 or may hereafter be authorized.

24 "(e) The fee hereby levied shall be paid annually on
25 October 1 for the succeeding year to that officer or employee
26 of the county chargeable with the duty of collecting license
27 or privilege fees or taxes payable to the county, and shall be

1 deposited in the county general fund for the use of the
2 county.

3 "(f) The license or privilege fee levied by the
4 governing body of the county on any person for engaging in any
5 business, including the business of selling products
6 door-to-door pursuant to Section 1 of the act adding this
7 amendatory language, shall be at a rate of from ten dollars
8 (\$10) to one hundred dollars (\$100) for each business
9 conducted in the county. The governing body of the county is
10 expressly authorized to set the rate of the license or
11 privilege fee within the limits herein provided for each type
12 or category of business in the county. The rates of the
13 license or privilege fee for each type or category of business
14 shall be uniform throughout the county and shall be set forth
15 in a schedule promulgated by the governing body of the county
16 in which the rate for each type or category of business is
17 dependent on the type, size, gross receipts, and/or number of
18 employees of the business, and/or such other reasonable
19 criteria as the governing body of the county shall determine.

20 "(g) The governing body of the county is hereby
21 expressly authorized to prescribe all necessary or appropriate
22 rules and regulations for the implementation and enforcement
23 of this section, including all rules and regulations as may be
24 necessary by reason of any alteration of law in relation to
25 this section.

1 "(h) Nothing in this section shall be construed to
2 authorize or require a license or privilege fee for practicing
3 the religious tenets of any church.

4 "(i) Any person found by the commissioner of
5 licenses to be engaging in business without having paid the
6 license fee required by this section shall pay a citation fee
7 of seven dollars (\$7) in addition to the regular license fee.
8 The citation fee shall be deposited into the county treasury
9 and two dollars (\$2) of each citation fee shall be disbursed
10 to the commissioner of licenses for the operation of that
11 office."

12 Section 3. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 4. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Local Legisla-
tion..... 02-APR-13

Read for the second time and placed
on the calendar 1 amendment 04-APR-13

Read for the third time and passed
as amended..... 16-APR-13

Yeas 34, Nays 0, Abstains 55

Jeff Woodard
Clerk