

SB169 INTRODUCED



1 L6LJYA-1
2 By Senator Allen
3 RFD: County and Municipal Government
4 First Read: 05-Apr-23
5



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Under existing law, a municipality may require a business to obtain a local business license that is based on gross receipts.

This bill would allow any business paying a municipal business license based on gross receipts to deduct from gross receipts any excise tax imposed by the federal, state, and local governments.

A BILL
TO BE ENACTED
AN ACT

Relating to municipalities; to amend Section 11-51-90.1, Code of Alabama 1975, relating to the municipal business license tax; to specify that the definition of gross receipts does not include any excise tax imposed by the federal, state, and local governments.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-51-90.1, Code of Alabama 1975, is amended to read as follows:

"§11-51-90.1

As used in this article, the following terms shall have the following meanings:

(1) BUSINESS. Any commercial or industrial activity or



SB169 INTRODUCED

29 any enterprise, trade, profession, occupation, or livelihood,
30 including the lease or rental of residential or nonresidential
31 real estate, whether or not carried on for gain or profit, and
32 whether or not engaged in as a principal or as an independent
33 contractor, which is engaged in, or caused to be engaged in,
34 within a municipality.

35 (2) BUSINESS LICENSE. An annual license issued by a
36 taxing jurisdiction for the privilege of doing any kind of
37 business, trade, profession, or any other activity in that
38 jurisdiction, by whatever name called, which document is
39 required to be conspicuously posted or displayed except to the
40 extent the taxpayer's business license tax or other financial
41 information is listed thereon or unless the municipality
42 affirmatively elects not to so require. However, municipal
43 occupational licenses, municipal gasoline taxes, municipal
44 tobacco taxes, or gross receipts taxes in the nature of a
45 sales tax, or any other municipal tax now in existence or that
46 may hereafter be adopted by a municipality pursuant to Section
47 11-51-90, or any other provision of state law other than an
48 annual license, shall not be considered "business licenses."

49 (3) BUSINESS LICENSE REMITTANCE FORM. Any business
50 license return, renewal reminder notice, or other writing on
51 which a taxpayer calculates its business license tax liability
52 for all or part of the license year and remits the amount so
53 calculated with the form.

54 (4) DEPARTMENT or DEPARTMENT OF REVENUE. The Alabama
55 Department of Revenue, as created under Section 40-2-1, et
56 seq.



SB169 INTRODUCED

57 (5) DESIGNEE. An agent of a taxing jurisdiction
58 authorized to administer or collect, or both, the
59 jurisdiction's business license taxes, which may include
60 another taxing jurisdiction, the Department of Revenue, or a
61 "private auditing or collecting firm" as defined in Section
62 40-2A-3.

63 (6) GROSS RECEIPTS. A measure of any and all receipts
64 of a business from whatever source derived, to the maximum
65 extent permitted by applicable laws and constitutional
66 provisions, to be used in calculating the amount due for a
67 business license. Provided, however, that:

68 a. Gross receipts shall not include any of the
69 following taxes collected by the business on behalf of any
70 taxing jurisdiction or the federal government: All taxes which
71 are imposed on the ultimate consumer, collected by the
72 taxpayer, and remitted by or on behalf of the taxpayer to the
73 taxing authority, whether state, local, or federal, including
74 utility gross receipts taxes levied pursuant to Article 3,
75 Chapter 21, Title 40; license taxes levied pursuant to Article
76 2, Chapter 21, Title 40; or any excise tax imposed by the
77 federal or state government or any local government whether
78 called an excise tax or license fee; or reimbursements to
79 professional employer organizations of federal, state, or
80 local payroll taxes or unemployment insurance contributions;
81 but no other deductions or exclusions from gross receipts
82 shall be allowed except as provided in this article.

83 b. A different basis for calculating the business
84 license may be used by a municipality with respect to certain



SB169 INTRODUCED

85 categories of taxpayers as prescribed in Section 11-51-90.2.

86 c. For a utility or other entity described in Section
87 11-51-129, gross receipts shall be limited to the gross
88 receipts derived from the retail furnishing of utility
89 services within a municipality during the preceding year that
90 are taxed under Article 3 of Chapter 21 of Title 40, except
91 that nothing herein shall affect any existing contract or
92 agreement between a municipality and a utility or other
93 entity. The gross receipts derived from the furnishing of
94 utility services shall not be subject to further business
95 license taxation by a municipality.

96 d. Gross receipts shall not include dividends or other
97 distributions received by a corporation, or proceeds from
98 borrowings, the sale of a capital asset, the repayment of the
99 principal portion of a loan, the issuance of stock or other
100 equity investments, or capital contributions, or the
101 undistributed earnings of subsidiary entities.

102 (7) LICENSE FORM. Any business license application
103 form, renewal reminder notice, business license remittance
104 form, or business license return by whatever name called.

105 (8) LICENSE OFFICER or MUNICIPAL LICENSE OFFICER. The
106 municipal employee charged by the governing body of the
107 municipality with the primary responsibility of administering
108 the municipality's license tax and related matters.

109 (9) LICENSE YEAR. The calendar year.

110 (10) MUNICIPALITY. Any town or city in this state that
111 levies a business license tax from time to time. The term
112 shall also include the town's or city's police jurisdiction,



SB169 INTRODUCED

113 where the business license tax is levied in the police
114 jurisdiction.

115 (11) PERSON. Any individual, association, estate,
116 trust, partnership, limited liability company, corporation, or
117 other entity of any kind, except for any nonprofit corporation
118 formed under the laws of Alabama which is operated to enable
119 municipalities that become members of such nonprofit
120 corporation to finance or refinance capital projects and
121 related undertakings, on a cooperative basis, and whose board
122 of directors or other governing body consists primarily of
123 elected officials of municipalities.

124 (12) TAXING JURISDICTION. Any municipality that levies
125 a business license tax, whether or not a business license tax
126 is levied within its police jurisdiction, or the Department of
127 Revenue acting as agent on behalf of a municipality pursuant
128 to Section 11-51-180, et seq., as the context requires.

129 (13) TAXPAYER. Any person subject to or liable under
130 this chapter for any business license tax; any person required
131 to file a return with respect to, or pay or remit the business
132 license tax levied under this chapter or to report any
133 information or value to the taxing jurisdiction; or any person
134 required to obtain, or who holds any interest in, any business
135 license issued by the taxing jurisdiction; or any person that
136 may be affected by any act or refusal to act by the taxing
137 jurisdiction under this chapter, or to keep any records
138 required by this chapter.

139 (14) U.S.C. The applicable title and section of the
140 United States Code, as amended from time to time.



SB169 INTRODUCED

141 (15) OTHER TERMS. Other capitalized or specialized
142 terms used in Act 2006-586, and not defined above, shall have
143 the same meanings ascribed to them in Section 40-2A-3 unless
144 the context otherwise requires."

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