

1 SB275  
2 198737-1  
3 By Senator Allen  
4 RFD: Governmental Affairs  
5 First Read: 05-MAR-20

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

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

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 Relating to municipalities; to amend Section  
22 11-51-90.1, Code of Alabama 1975, relating to the municipal  
23 business license tax; to specify that the definition of gross  
24 receipts does not include any excise tax imposed by the  
25 federal, state, and local governments.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3                   "§11-51-90.1.

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

6                   "(1) BUSINESS. Any commercial or industrial activity  
7 or any enterprise, trade, profession, occupation, or  
8 livelihood, including the lease or rental of residential or  
9 nonresidential real estate, whether or not carried on for gain  
10 or profit, and whether or not engaged in as a principal or as  
11 an independent contractor, which is engaged in, or caused to  
12 be engaged in, within a municipality.

13                   "(2) BUSINESS LICENSE. An annual license issued by a  
14 taxing jurisdiction for the privilege of doing any kind of  
15 business, trade, profession, or any other activity in that  
16 jurisdiction, by whatever name called, which document is  
17 required to be conspicuously posted or displayed except to the  
18 extent the taxpayer's business license tax or other financial  
19 information is listed thereon or unless the municipality  
20 affirmatively elects not to so require. However, municipal  
21 occupational licenses, municipal gasoline taxes, municipal  
22 tobacco taxes, or gross receipts taxes in the nature of a  
23 sales tax, or any other municipal tax now in existence or that  
24 may hereafter be adopted by a municipality pursuant to Section  
25 11-51-90, or any other provision of state law other than an  
26 annual license, shall not be considered "business licenses."

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

6           "(4) DEPARTMENT or DEPARTMENT OF REVENUE. The  
7 Alabama Department of Revenue, as created under Section  
8 40-2-1, et seq.

9           "(5) DESIGNEE. An agent of a taxing jurisdiction  
10 authorized to administer or collect, or both, the  
11 jurisdiction's business license taxes, which may include  
12 another taxing jurisdiction, the Department of Revenue, or a  
13 "private auditing or collecting firm" as defined in Section  
14 40-2A-3.

15           "(6) GROSS RECEIPTS. A measure of any and all  
16 receipts of a business from whatever source derived, to the  
17 maximum extent permitted by applicable laws and constitutional  
18 provisions, to be used in calculating the amount due for a  
19 business license. Provided, however, that:

20           "a. Gross receipts shall not include any of the  
21 following taxes collected by the business on behalf of any  
22 taxing jurisdiction or the federal government: All taxes which  
23 are imposed on the ultimate consumer, collected by the  
24 taxpayer, and remitted by or on behalf of the taxpayer to the  
25 taxing authority, whether state, local, or federal, including  
26 utility gross receipts taxes levied pursuant to Article 3,  
27 Chapter 21, Title 40; license taxes levied pursuant to Article

1 2, Chapter 21, Title 40; or any excise tax imposed by the  
2 federal or state government or any local government whether  
3 called an excise tax or license fee; or reimbursements to  
4 professional employer organizations of federal, state, or  
5 local payroll taxes or unemployment insurance contributions;  
6 but no other deductions or exclusions from gross receipts  
7 shall be allowed except as provided in this article.

8 "b. A different basis for calculating the business  
9 license may be used by a municipality with respect to certain  
10 categories of taxpayers as prescribed in Section 11-51-90.2.

11 "c. For a utility or other entity described in  
12 Section 11-51-129, gross receipts shall be limited to the  
13 gross receipts derived from the retail furnishing of utility  
14 services within a municipality during the preceding year that  
15 are taxed under Article 3 of Chapter 21 of Title 40, except  
16 that nothing herein shall affect any existing contract or  
17 agreement between a municipality and a utility or other  
18 entity. The gross receipts derived from the furnishing of  
19 utility services shall not be subject to further business  
20 license taxation by a municipality.

21 "d. Gross receipts shall not include dividends or  
22 other distributions received by a corporation, or proceeds  
23 from borrowings, the sale of a capital asset, the repayment of  
24 the principal portion of a loan, the issuance of stock or  
25 other equity investments, or capital contributions, or the  
26 undistributed earnings of subsidiary entities.

1           "(7) LICENSE FORM. Any business license application  
2 form, renewal reminder notice, business license remittance  
3 form, or business license return by whatever name called.

4           "(8) LICENSE OFFICER or MUNICIPAL LICENSE OFFICER.  
5 The municipal employee charged by the governing body of the  
6 municipality with the primary responsibility of administering  
7 the municipality's license tax and related matters.

8           "(9) LICENSE YEAR. The calendar year.

9           "(10) MUNICIPALITY. Any town or city in this state  
10 that levies a business license tax from time to time. The term  
11 shall also include the town's or city's police jurisdiction,  
12 where the business license tax is levied in the police  
13 jurisdiction.

14           "(11) PERSON. Any individual, association, estate,  
15 trust, partnership, limited liability company, corporation, or  
16 other entity of any kind, except for any nonprofit corporation  
17 formed under the laws of Alabama which is operated to enable  
18 municipalities that become members of such nonprofit  
19 corporation to finance or refinance capital projects and  
20 related undertakings, on a cooperative basis, and whose board  
21 of directors or other governing body consists primarily of  
22 elected officials of municipalities.

23           "(12) TAXING JURISDICTION. Any municipality that  
24 levies a business license tax, whether or not a business  
25 license tax is levied within its police jurisdiction, or the  
26 Department of Revenue acting as agent on behalf of a

1 municipality pursuant to Section 11-51-180, et seq., as the  
2 context requires.

3 "(13) TAXPAYER. Any person subject to or liable  
4 under this chapter for any business license tax; any person  
5 required to file a return with respect to, or pay or remit the  
6 business license tax levied under this chapter or to report  
7 any information or value to the taxing jurisdiction; or any  
8 person required to obtain, or who holds any interest in, any  
9 business license issued by the taxing jurisdiction; or any  
10 person that may be affected by any act or refusal to act by  
11 the taxing jurisdiction under this chapter, or to keep any  
12 records required by this chapter.

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

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

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