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3 HOUSE COMMERCE AND SMALL BUSINESS SUBSTITUTE FOR HB305
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8 SYNOPSIS: Under existing law, a municipality may
9 require a business to purchase a delivery license
10 for the privilege of delivering its merchandise
11 within the municipality, but otherwise has no
12 physical presence in the municipality.

13 This bill would clarify that a business that
14 provides rental and leasing services in a
15 municipality, but has no other physical presence in
16 the municipality, may be required to purchase a
17 delivery license, with certain exceptions, for
18 delivering rented equipment or property.
19

20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 Relating to municipal business licenses; to amend
25 Section 11-51-194, Code of Alabama 1975; to clarify that a
26 business that provides rental services in a municipality, but
27 has no other physical presence in the municipality, may be

1 required to purchase a delivery license to deliver rented
2 property.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§11-51-194.

7 "(a) (1) Each municipality ~~shall allow~~ may require
8 the purchase of a delivery license by any business that has no
9 other physical presence within the municipality or its police
10 jurisdiction for the privilege of delivering its merchandise, whether for rental or final sale,
11 therein. The amount of the
12 delivery license for the business shall not exceed one hundred
13 dollars (\$100). Nothing ~~herein~~ in this subsection shall
14 prohibit a municipality from requiring by ordinance the
15 purchase of a decal by the taxpayer for each delivery vehicle
16 making deliveries within the municipality or its police
17 jurisdiction. The charge for ~~such~~ the decal shall not exceed
18 the municipality's actual cost of the decal.

19 "(2) Notwithstanding any other law, a municipality
20 may charge a taxpayer an issuance fee not to exceed ten
21 dollars (\$10) for a business delivery license.

22 "(b) As used in this section, a delivery license
23 ~~shall mean~~ means a fixed rate business license issued by a
24 municipality for the limited privilege of delivering and
25 requisite set-up and installation, by the taxpayer's employees
26 or agents, of the taxpayer's own merchandise in that
27 municipality, by means of delivery vehicles owned, leased, or

1 contracted by the taxpayer; provided that the gross receipts
2 derived from the sale and any requisite set-up or installation
3 of all merchandise so delivered into the municipality shall
4 not exceed seventy-five thousand dollars (\$75,000) during the
5 license year, and any set-up or installation shall relate only
6 to: (1) ~~that~~ That required by the contract between the
7 taxpayer and the customer or as may be required by state or
8 local law; and (2) the merchandise so delivered. Mere
9 delivery of the taxpayer's merchandise by common carrier shall
10 not allow the taxing jurisdiction to assess a business license
11 tax or a delivery license tax against the taxpayer, but the
12 gross receipts derived from any sale and delivery accomplished
13 by means of a common carrier shall be counted against the
14 seventy-five thousand dollar (\$75,000) limitation described in
15 the preceding sentence if the taxpayer also during the same
16 license year sells and delivers into the taxing jurisdiction
17 using a delivery vehicle other than a common carrier. The
18 dollar limitation prescribed above shall be increased, but not
19 decreased, every five years under the standards prescribed by
20 Section 11-51-90 with respect to the uniform license issuance
21 fee and may be increased by a municipality at any time, up to
22 one hundred fifty thousand dollars (\$150,000), by adoption of
23 an ordinance. A common carrier, contract carrier, or similar
24 delivery service making deliveries on behalf of others shall
25 not be entitled to purchase a delivery license ~~hereunder~~.

26 "(c) A taxpayer that otherwise meets the criteria
27 for the purchase of a delivery license pursuant to subsections

1 (a) and (b) is not required to purchase a delivery license or
2 a regular business license if the following criteria apply:

3 (1) The taxpayer's gross receipts that are derived from within
4 the municipality or its police jurisdiction do not exceed ten
5 thousand dollars (\$10,000) during the preceding license year;
6 and (2) the taxpayer has no other physical presence within the
7 municipality or its police jurisdiction during the year. Any
8 other taxpayer that meets the criteria for the purchase of a
9 delivery license, as provided in subsections (a) and (b), and
10 meets those criteria during the current license year as well,
11 shall purchase either a delivery license or a regular business
12 license otherwise applicable to the taxpayer, at its option.

13 "(d) Notwithstanding Section 11-51-90.2, the
14 delivery license purchased pursuant to subsections (a) and (b)
15 shall be calculated in arrears, based on the related gross
16 receipts during the preceding license year.

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

25 "(f) If at any time during the current license year
26 the taxpayer fails to meet the criteria specified in
27 subsections (a) and (b), then within 45 days after any of the

1 criteria have been violated or exceeded, the taxpayer shall
2 purchase a business delivery license or other appropriate
3 license from the municipality and may be subject to a penalty
4 not to exceed ten dollars (\$10)."

5 Section 2. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.