

1 HB754
2 84679-3
3 By Representatives McDaniel, McClurkin, Ford and Fite
4 RFD: County and Municipal Government
5 First Read: 07-MAR-06

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ENROLLED, An Act,

To amend Sections 6-2-35, 11-51-90 to 11-51-93, inclusive, and 11-51-95, 11-51-122, 11-51-150 to 11-51-155, inclusive, Code of Alabama 1975, to add Sections 11-51-90A, 11-51-90B, 11-51-186, 11-51-187, 11-51-188, 11-51-189, 11-51-190, 11-51-191, 11-51-192, 11-51-193, 11-51-194, 11-51-195 and 11-51-196; to provide a statewide uniform system for the issuance and calculation of the cost of municipal business licenses; to promulgate a common business license application form for use by all municipalities; to provide a uniform definition of "gross receipts" and "delivery license"; to provide for a uniform system for the municipal business license audit process and the taxpayer's appeal of municipal business license assessments and for the filing of claims for and payment of refunds; to provide uniform statutes of limitation for assessments and refunds that substantially conform with their counterparts for municipal sales and use taxes; to allow municipalities to lawfully exchange tax information related to business license taxpayers; and to provide delayed effective dates and transition rules.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the "Municipal Business License Reform Act of 2006."

1 Section 2. Sections 6-2-35, 11-51-90 to 11-51-93,
2 inclusive, and 11-51-95, 11-51-122, 11-51-150 to 11-51-155,
3 inclusive, Code of Alabama 1975, are amended to read as
4 follows:

5 "§6-2-35.

6 "The following must be commenced within five years:

7 "(1) Where lands have been sold under a judgment of
8 a court of competent jurisdiction, all actions founded on an
9 equity of redemption existing in any person not a party to the
10 proceedings who claims under the mortgagor or grantor in the
11 deed of trust; and

12 "(2) Except as otherwise specifically provided for,
13 all actions by the state or any subdivision thereof for the
14 recovery of amounts claimed for licenses, other than business
15 licenses defined in Section 11-51-90A, municipal or county
16 franchise taxes, or other taxes.

17 "§11-51-90.

18 "(a) All municipalities shall have the following
19 powers:

20 "(1) To license any exhibition, trade, business,
21 vocation, occupation, or profession not prohibited by the
22 Constitution or laws of the state which may be engaged in or
23 carried on in the ~~city or town~~ municipality.

24 "(2) To fix the amount of licenses, the time for
25 which they are to run, not exceeding one license year, to

1 provide a penalty for doing business without a license, and to
2 charge a fee ~~not exceeding~~~~of not exceeding five ten~~ dollars
3 ~~(\$5)~~ (\$10) for issuing each license. The issuance fee shall be
4 increased every five license years by the Department of
5 Revenue by an amount equal to the percentage increase, if any,
6 in the U.S. Department of Labor's Producer Price Index during
7 that five-year period, rounded to the nearest dollar, with the
8 base year being 2006. The Department of Revenue shall notify
9 all municipalities and the Alabama League of Municipalities of
10 any such fee increase no later than the November 30 preceding
11 the license year for which the increase shall take effect. The
12 failure of the Department of Revenue to so notify all
13 municipalities and the Alabama League of Municipalities shall
14 not, however, prohibit a municipality from increasing the
15 issuance fee, if any increase is otherwise due pursuant to
16 this subsection. A reasonable projection of the Producer Price
17 Index for the months of November and December of the fifth
18 year of the test period may be employed in this calculation.

19 "(3) To establish a minimum, and in the discretion
20 of the municipality, a maximum business license, with the
21 amount of the minimum and, if appropriate, maximum business
22 license and the applicable tax rate for each category to be
23 established from time to time by the governing body of each
24 municipality pursuant to this chapter.

1 "(4) In the discretion of the municipality, to
2 establish a small vendor business license, which shall not
3 exceed one percent of the taxpayer's gross receipts derived
4 from within the municipality for the preceding license year;
5 provided, however, that a municipality's election not to
6 establish a small vendor business license shall not preclude
7 the municipality from requiring a taxpayer generating gross
8 receipts of less than fifteen thousand dollars (\$15,000) from
9 within the municipality's jurisdiction to purchase an annual
10 business license. For purposes of this section, a "small
11 vendor" shall be defined as a taxpayer that meets all the
12 following criteria:

13 "a. The taxpayer purchased a business license from
14 the municipality with respect to the preceding license year
15 and made a sale or provided services within the municipality
16 thereof during each calendar quarter of the preceding license
17 year.

18 "b. The taxpayer's gross receipts derived from
19 within the municipality for the preceding license year did not
20 exceed fifteen thousand dollars (\$15,000).

21 "c. The taxpayer did not qualify for the special
22 delivery license provided for by Section 11-51-194.

23 ~~"(3)~~ (5) To require sworn statements as to the
24 amount of capital invested, value of goods or stocks, or
25 amounts of sales or gross receipts where the amount of the

1 license is made to depend upon the amount of capital invested,
2 value of goods or stocks, or amount of sales or gross receipts
3 and to punish any ~~person or corporation~~ taxpayer for failure
4 or refusal to furnish sworn statements or for giving of false
5 statements in relation thereto.

6 "(b) The license authorized by subsection (a) ~~of~~
7 ~~this section~~ as to ~~persons, firms, or corporations~~ taxpayers
8 engaged in business in connection with interstate commerce
9 shall be confined to that portion within the limits of the
10 state and where the ~~person, firm, or corporation~~ taxpayer has
11 an office or transacts business in the ~~city or town~~
12 municipality imposing the license. A taxpayer subject to the
13 license authorized by subsection (a), that is engaged in
14 business in more than one municipality, shall be permitted to
15 account for its gross receipts so that the part of its gross
16 receipts attributable to one or more branch offices will not
17 be subject to the business license tax imposed on the
18 principal business office required to obtain a business
19 license. Branch office gross receipts are those receipts that
20 are the result of business conducted at or from a qualifying
21 branch office.

22 "Notwithstanding the foregoing, in order to
23 establish the existence of a qualifying branch office, the
24 taxpayer shall meet all the following criteria:

1 "(1) Demonstrate the continuing existence of an
2 actual physical facility located outside the police
3 jurisdiction of the municipality in which its principal
4 business office is located, such as a retail store, outlet,
5 business office, showroom, or warehouse, to which employees or
6 independent contractors, or both, are assigned or located
7 during regular normal working hours.

8 "(2) Maintain books and records which reasonably
9 indicate a segregation or allocation of the taxpayer's gross
10 receipts to the particular facility or facilities.

11 "(3) Provide reasonable proof that separate
12 telephone listings, signs, or other indications of its
13 separate activity are in existence.

14 "(4) Billing or collection activities, or both,
15 relating to the business conducted at the branch office or
16 offices are performed by an employee or other representative
17 of the taxpayer who has such responsibility for the branch
18 office, whether or not the representative is physically
19 located at the branch office.

20 "(5) All business claimed by a branch office or
21 offices must be conducted by and through the office or
22 offices.

23 "(6) Supply proof that all applicable business
24 licenses with respect to the branch office or offices have
25 been issued.

1 "(c) The power to license conferred by this division
2 may be used in the exercise of the police power as well as for
3 the purpose of raising revenue, or both.

4 "(d) Each municipality shall accept the application
5 form set forth below for the purpose of allowing a taxpayer to
6 apply for a business license. The application form may,
7 however, be altered to incorporate the different business
8 license rates that municipalities are permitted to charge from
9 time to time, and to reflect additional or different
10 instructions to taxpayers that are not inconsistent with this
11 chapter, including a required notice in cases where the
12 municipality does not levy its business license tax on
13 business done within its police jurisdiction. Each
14 municipality shall mail or otherwise transmit a renewal
15 reminder notice to each taxpayer that purchased a business
16 license during the preceding license year, via regular U.S.
17 mail addressed to the taxpayer's last known address, on or
18 before December 31 of the current license year. The failure of
19 the municipality to comply with the preceding sentence shall
20 not, however, preclude it from enforcing its business license
21 tax laws against a taxpayer but shall preclude the
22 municipality from assessing any fines or penalties otherwise
23 due for late payment until 10 days after a renewal reminder
24 notice has been mailed to the taxpayer at its last known
25 address as indicated in the municipality's records, or

1 personally delivered to the taxpayer, and the taxpayer then
2 fails or refuses to remit the business license tax due for
3 such license year within the 10-day period. If the
4 municipality mails a renewal reminder notice to the last known
5 address of the taxpayer, as indicated in the municipality's
6 records, there shall exist a presumption that the municipality
7 has complied with the above provisions. A municipality shall
8 not be precluded from assessing fines and penalties otherwise
9 due for late payment if the taxpayer does not notify the
10 municipality of a change in address within 90 days after
11 changing such address. Taxpayers shall notify the taxing
12 jurisdictions in which they do business of a change of mailing
13 address within 90 days after changing such address. In like
14 manner, taxpayers shall notify the taxing jurisdictions in
15 which they do business of a change in their federal employer
16 identification number or Department of Revenue taxpayer
17 identification number within a reasonable time after such
18 number is changed.

19 "UNIFORM MUNICIPAL BUSINESS LICENSE APPLICATION

20 (CONFIDENTIAL)

21 City/Town of _____, Alabama NOTE: the

22 City/Town Imposes (or Does Not Impose, as appropriate) its

23 Business License Tax Within its Police Jurisdiction

1 Complete and Mail or Fax

2 to: Applicant Complete This Box:

3 CITY OF ANYWHERE

FEIN

4 P.O. Box 0000

ST. OF ALA TAX #

5 ANYWHERE, AL

FORM OF

6 00000-0000

OWNERSHIP (CHECK ONE)

7 (000) 111-2222

_____ Sole Prop. _____ Partnership

8 Fax (000) 111-2222

_____ Corporation

9 _____ Prof. Assoc.

10 _____ LLC _____ Other _____

11 "Please Print or Type

12 "SEE REVERSE SIDE FOR INSTRUCTION AND FURTHER INFOR-

13 MATION

14 Applica-

15 tion _____ _____ _____ _____

Owner Name Location

16 Type: New Change Change Change

1 "Legal Business Name:

2 " _____

3 "Trade Name (If different from above):

4 " _____

5 "Business Activities: (Brief description - example,
6 retail clothing sales, wholesale food sales, rental of
7 industrial equipment, computer consulting,
8 etc.) _____

9 "Physical Address: (Street, City, State, Zip)

10 " _____

11 "Mailing Address: (Street, City, State, Zip)

12 " _____

13 "Telephone: (Bus., Fax, and Home)

14 "Email address:

15 "Name/Phone # for Contact Person

16 " _____

17 "List the Following for Owner(s), Partners, or Offi-
18 cers (Attach separate sheet if necessary) (if Officers, list
19 only the top five)

SSN [if not

pub-

Residence licly-trade

20 Name Address d company] Title

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"Date Business Activity Initiated or Proposed in Anywhere

"# of Employees in Anywhere

"This application has been examined by me and is, to the best of my knowledge, a true and complete representation of the above named entity, and person(s) listed.

"Date _____ Signature _____

"Title _____

"THIS AREA FOR MUNICIPAL USE ONLY

"ACCOUNT ID # _____

"REVIEWED BY: _____

"PHYSICAL LOCATION: CITY POLICE JURISDICTION OUTSIDE CORP LIMITS AND PJ

"ZONING CLASSIFICATION

" _____

"BUILDING APPROVAL YES _____ NO _____ N/A

"FIRE CODE

"Tax types: _____ Sales/Seller's Use _____

Consumer Use _____ Rental _____ Lodgings _____ Alcohol

_____ Occupational _____ Tobacco _____ Gas/Motor Fuel

_____ Business License _____

1 "Tax Filing Frequency: Monthly _____ Quarterly
2 Annual _____ Other _____

3 "Business Type: _____ Retail _____ Wholesale _____
4 Building Contractor _____ Service _____ Professional _____
5 Manufacture _____ Rental _____ Other _____

6 " _____ PLEASE READ THE FOLLOWING INFORMATION
7 CONCERNING THE COMPLETION OF THIS FORM.

8 "PLEASE COMPLETE ALL AREAS OF THE FORM EXCEPT FOR
9 THE SHADED AREA AT THE BOTTOM.

10 "FORM SHOULD BE TYPED OR PRINTED LEGIBLY.

11 "FORM SHOULD BE DATED AND SIGNED BY AN OWNER,
12 PARTNER, OR OFFICER OF THE BUSINESS.

13 "FORM WILL INITIATE THE PROCESS FOR REGISTERING YOUR
14 BUSINESS WITH THE MUNICIPALITY.

15 "IF YOUR BUSINESS WILL HAVE A PHYSICAL LOCATION
16 WITHIN THE MUNICIPALITY, PLEASE USE THAT ADDRESS ON THE FRONT
17 OF THIS FORM. (Complete separate forms for each physical
18 location in the municipality, if so required.)

19 "AFTER COMPLETING THIS FORM IT CAN BE MAILED, SENT
20 BY FAX, OR WHERE POSSIBLE, SENT BY ELECTRONIC MAIL TO THE
21 MUNICIPALITY.

22 "UPON RECEIPT OF THE COMPLETED FORM, THE
23 MUNICIPALITY WILL PROVIDE ANY ADDITIONAL FORMS AND INFORMATION
24 REGARDING OTHER SPECIFIC REQUIREMENTS TO YOU IN ORDER TO
25 COMPLETE THE LICENSING PROCESS.

1 "ALL LICENSE RENEWALS ARE DUE JANUARY 1 AND
2 DELINQUENT AFTER JANUARY 31 (OR FEBRUARY 15), WITH THE
3 FOLLOWING EXCEPTION:

4 "INSURANCE COMPANY LICENSE

5 "DUE JANUARY 1, DELINQUENT AFTER MARCH 1

6 "This form is intended as a simplified, standard
7 mechanism for businesses to initiate contact with a
8 municipality concerning their activities within that
9 municipality. A business license will be required prior to
10 engaging in business. If a business intends to maintain a
11 physical location within the municipality, there are normally
12 zoning and building code approvals required prior to the
13 issuance of a business license.

14 "In certain instances, a business may simply be
15 required to register with the municipality to create a
16 mechanism for the reporting and payment of any tax
17 liabilities. If that is the case, you will be provided the
18 materials for that registration process.

19 "The completion and submission of this form does not
20 guarantee the approval or subsequent issuance of a license to
21 do business. Any prerequisites for a particular type and
22 location of the business must be satisfied prior to licensing.

23 "SHOULD THERE BE ANY QUESTIONS CONCERNING THE
24 COMPLETION OF THIS FORM OR THE LICENSING AND/OR REGISTRATION

1 PROCESS, PLEASE CALL THE NUMBER ON THE FRONT OF THIS FORM TO
2 OBTAIN MORE DETAILED EXPLANATION.

3 "§11-51-91.

4 "Any ~~city or town within the State of Alabama~~
5 municipality may fix and collect licenses for any business,
6 trade or profession done within the police jurisdiction of
7 such ~~city or town~~ municipality but outside the corporate
8 limits thereof; provided, that the amount of such licenses
9 shall not be more than one half the amount charged and
10 collected as a license for like business, trade or profession
11 done within the corporate limits of such ~~city or town~~
12 municipality, fees and penalties excluded; and provided
13 further, that the total amount of such licenses shall not be
14 in an amount greater than the cost of services provided by the
15 ~~city or town~~ municipality within the police jurisdiction; ~~and~~
16 ~~provided further, no~~ No calculation is required to be made by
17 the municipal officials or license officer for the cost of
18 services to any particular business or classification of
19 businesses within the police jurisdiction so long as the total
20 amount of revenues from such licenses collected in the police
21 jurisdiction shall not be in an amount greater than the cost
22 of services provided by the ~~city or town~~ municipality to the
23 police jurisdiction; ~~provided further, that when~~ . When the
24 place at which any such business, trade or profession is done
25 or carried on is within the police jurisdiction of two or more

1 municipalities which levy the licenses thereon authorized by
2 this section, such licenses shall be paid to, issued, and
3 collected by that municipality only whose boundary measured to
4 the nearest point thereof is closest to such business, trade
5 or profession; ~~and provided~~ . Provided further, that this
6 section shall not have the effect of repealing or modifying
7 the limitations in this division relating to railroad, express
8 companies, sleeping car companies, telegraph companies,
9 telephone companies and public utilities and insurance
10 companies and their agents. This section shall be given a
11 liberal construction to effectuate its purpose and meaning.

12 "§11-51-92.

13 "(a) In case the license of any business, trade,
14 occupation or profession ~~to be~~ is based on a flat rate and is
15 taken out after July 1, only one half of the license shall be
16 charged and collected, except for those subjects for which
17 daily, weekly, monthly, quarterly or semiannual licenses are
18 provided by law.

19 "(b) No license shall be transferred except with the
20 consent of the council or other governing body of the
21 municipality or of the director of finance or other chief
22 revenue officer or his or her designee, and no license shall
23 be transferred to reflect a physical change of address of the
24 taxpayer within the municipality more than once during a
25 license year and never from ~~one business~~ one taxpayer to

1 another. Provided that a mere change in the name or ownership
2 of a taxpayer that is a corporation, partnership, limited
3 liability company or other form of legal entity now or
4 hereafter recognized by the laws of Alabama shall not
5 constitute a transfer for purposes of this chapter, unless (1)
6 the change requires the taxpayer to obtain a new federal
7 employer identification number or Department of Revenue
8 taxpayer identification number or (2), in the discretion of
9 the municipality, the subject license is one for the sale of
10 alcoholic beverages. Nothing in this section shall prohibit a
11 municipality from requiring a new business license application
12 and approvals for an alcoholic beverage license.

13 "§11-51-93.

14 "(a) It shall be unlawful for any person, ~~firm, or~~
15 ~~corporation~~ taxpayer, or agent of a ~~firm or corporation~~ person
16 or taxpayer to engage in businesses or vocations in a ~~city or~~
17 ~~town~~ municipality for which a license may be required without
18 first having procured a license therefor. A violation of this
19 division or of an ordinance passed hereunder fixing a license
20 shall be punishable by a fine fixed by ordinance, not to
21 exceed the sum of five hundred dollars (\$500) for each
22 offense, and if a willful violation, by imprisonment, not to
23 exceed six months, or both, at the discretion of the court
24 trying the same ~~and each~~. Each day shall constitute a separate
25 offense.

1 "(b) In addition to the penalties prescribed by
2 subsection (a), if a taxpayer fails to pay any business
3 license tax owed to a taxing jurisdiction on or before the
4 date prescribed therefor, there shall be assessed a penalty of
5 15 percent of the business license tax required to be paid
6 with the license form. There shall be assessed a penalty of 30
7 percent of any business license tax required to be paid with
8 the license form if the business license tax and any assessed
9 penalties are not paid within 30 days of the due date
10 prescribed in the preceding sentence. Such penalties shall not
11 be cumulative.

12 "(c) Notwithstanding the foregoing, no fine or
13 penalty under this section shall be assessed, or if assessed,
14 shall be waived, if reasonable cause exists. "Reasonable
15 cause" shall mean: The death or major illness of or an
16 accident involving a sole proprietor causing serious bodily
17 injury that in either case resulted in the sole proprietor
18 being unable to purchase the license or operate his or her
19 business during the 10 days preceding the due date for the
20 license; natural disaster, fire, explosion, or accident that
21 caused the closing or temporary cessation of the business of
22 the taxpayer during the 10 days preceding the due date for the
23 license; or reliance on the erroneous advice of an employee or
24 agent of the revenue department of the taxing jurisdiction or
25 its designee given in writing or by electronic mail. The

1 municipality may, but is not required to, waive the penalty
2 for other reasons, including, but not limited to, the
3 taxpayer's reliance on erroneous but good faith advice from
4 its tax adviser or on erroneous, oral advice from an employee
5 or agent of the revenue department of the taxing jurisdiction
6 or its designee. The burden of proving reasonable cause shall
7 be on the taxpayer, and a determination by the taxing
8 jurisdiction that reasonable cause does not exist shall be
9 reversed only if that determination was made arbitrarily and
10 capriciously.

11 "(d) All penalties and interest administered by the
12 taxing jurisdiction pursuant to this section and Section
13 11-51-192 shall be assessed and collected in the same manner
14 as business license taxes.

15 "§11-51-95.

16 ~~"Any person, firm or corporation dealing in two or~~
17 ~~more of the articles or engaged in two or more of the~~
18 ~~businesses, vocations, occupations or professions for which a~~
19 ~~license is or may be required shall take out and pay for a~~
20 ~~license for each line of business, vocation, occupation or~~
21 ~~profession.~~

22 "(a) Any taxpayer engaged at one location in more
23 than one line of business falling within separate NAICS sector
24 or sub-sectors, for which a business license is or may be
25 required by the municipality in accordance with this chapter,

1 shall take out and pay for a license for each separate NAICS
2 sector or sub-sectors from which the taxpayer derived more
3 than 10 percent of its gross receipts during the preceding
4 license year. Provided, however, that for each business
5 license, the gross receipts which shall be taxed with regard
6 to such license shall, except as provided in subsection (c)
7 and other provisions of this act, be only those gross receipts
8 which arise within the line of business which is the subject
9 of the license.

10 "(b) Notwithstanding subsection (a), a municipality
11 may, in its discretion as evidenced by adoption of an
12 ordinance, increase the 10 percent gross receipts threshold to
13 no more than 35 percent.

14 "(c) Nothing herein shall be construed to exempt the
15 gross receipts derived from one or more additional lines of
16 business of the taxpayer if those gross receipts do not exceed
17 the required threshold for the purchase of a second or
18 multiple business license. Instead, those gross receipts shall
19 be included in the business license for the taxpayer's primary
20 line of business.

21 "§11-51-122.

22 "On ~~December 31 of each year or within 60 days~~
23 ~~thereafter~~ or before March 1 of each year, each insurance
24 company which did any business in any ~~city or town~~
25 municipality in this state during any part of the preceding

1 year shall, if a license or privilege tax is imposed by said
2 ~~city or town~~ municipality on such insurance company, furnish
3 the mayor or a revenue official, of such ~~city or town~~
4 municipality a statement in writing duly certified showing the
5 full and true amount of gross premiums received during the
6 preceding year as provided under this article and shall
7 accompany such statement with the amount of license tax due
8 according to Sections 11-51-120 and 11-51-121.

9 "Failure to furnish such statement or to pay such
10 sum shall subject the company and its agents to such penalties
11 as the ordinance of such ~~city or town~~ municipality may
12 prescribe for doing business therein without a license.

13 "§11-51-150.

14 "Any municipality ~~of the State of Alabama~~ may file
15 in the circuit court ~~in~~, having jurisdiction over the county
16 in which said petitioning municipality is situated, a petition
17 to enjoin the operation and conduct of any business,
18 occupation, trade or profession subject to a municipal
19 privilege or business license or excise tax imposed by the
20 petitioning municipality and which is delinquent in whole or
21 in part, following no less than 15 days' written notice and
22 demand to the taxpayer delivered personally or via certified
23 U.S. mail, return receipt requested, and addressed to the
24 taxpayer's last known address as indicated on the records of
25 the municipality. Said petition shall be verified by the

1 mayor, city clerk, police officer, license officer, or by any
2 other governing official or by any employee of the
3 municipality authorized to receive or collect said privilege
4 or business license or excise tax.

5 "§11-51-151.

6 "Upon the filing and presentation of a petition as
7 authorized in this division, it shall be the duty of the court
8 to set a day for the hearing of said action upon not less than
9 10 nor more than 15 days' notice thereof to be given the
10 respondents, said notice to be in such form as the court may
11 direct, and at such hearing, upon reasonable cause, to grant a
12 temporary restraining order or preliminary injunction
13 restraining the respondents from further operation or conduct
14 of said business, occupation, trade or profession, and no bond
15 shall be required of the petitioner as a condition thereto.
16 The court shall not grant a temporary restraining order or
17 preliminary injunction unless it has reasonable cause to
18 believe that the respondent owes a debt to the petitioner for
19 a privilege or business license or excise tax and that the
20 petitioner has complied with Section 11-50-150.

21 "The court shall, upon final hearing, if the proof
22 be sufficient, grant a permanent injunction restraining the
23 respondent as directed by this section to be done by a
24 temporary injunction. Such injunctions may be dissolved in the
25 manner provided in this division.

1 "§11-51-152.

2 "Said petition need not allege the amount due, but
3 may seek an accounting of the respondent for the amount of
4 privilege or business license tax or excise tax due the
5 petitioner. The court may refer the matter to a master as in
6 other cases.

7 "It shall be the duty of the court to enter a
8 judgment in favor of the petitioner for the amount of
9 privilege or business license or excise tax found to be due,
10 and it may also declare and enforce any lien therefor provided
11 by the laws of Alabama.

12 "§11-51-153.

13 "After judgment is entered against the respondent as
14 provided by the terms of this division, an existing injunction
15 shall not be dissolved until the judgment and court costs
16 taxed against the respondent are satisfied and paid in full,
17 unless the petitioner and respondent have agreed in writing on
18 a lesser amount necessary to satisfy the judgment and court
19 costs, or until the respondent shall have appealed, and shall
20 have executed a supersedeas bond to stay the execution of the
21 judgment, in the manner provided by the Alabama Rules of
22 Appellate Procedure.

23 "All laws governing appeals from money judgments are
24 made applicable to this division except as they may be
25 contrary to any provision in this section.

1 "If the appeal is taken and the case reversed, the
2 injunction existing at the time of the appeal shall
3 automatically be reinstated without the intervention of the
4 circuit court unless the appellate court otherwise directs.

5 "§11-51-154.

6 "(a) When the court has granted a temporary
7 restraining order or preliminary injunction, it shall not be
8 dissolved until the respondents have respondent has executed a
9 bond in an amount fixed by the court with sufficient surety to
10 be approved by the register or clerk, containing a waiver of
11 exemptions as to personal property, conditioned to pay such
12 judgment and lawful court costs as the court upon final
13 hearing may enter against the respondent, except as provided
14 below.

15 "(b) The surety bond required to be made in this
16 section shall remain in full force and effect as security for
17 any judgment and court costs the court may enter and tax
18 against the respondent, but if the respondent takes an appeal
19 and gives a supersedeas bond, upon affirmance of said appeal,
20 the ~~dissolution~~ surety bond provided by this section shall
21 become null and void.

22 "(c) The respondent shall not, however, be required
23 to post the surety bond required in subsection (a) if the
24 respondent can show to the satisfaction of the register or
25 clerk that he or she has a net worth, based on fair market

1 value, of twenty-five thousand dollars (\$25,000) or less,
2 including his or her homestead, and the final assessment is
3 equal to or less than the respondent's net worth.

4 "§11-51-155.

5 "The surety bond, if required by ~~prescribed in~~
6 Section 11-51-154, shall stand as security for any judgment
7 and costs finally determined against the respondent, except in
8 instances where the liability thereon is relieved by and
9 attaches to a supersedeas bond as provided in this division."

10 Section 3. Sections 11-51-90A, 11-51-90B, 11-51-186,
11 11-51-187, 11-51-188, 11-51-189, 11-51-190, 11-51-191,
12 11-51-192, 11-51-193, 11-51-194, 11-51-195, and 11-51-196 are
13 added to the Code of Alabama 1975, to read as follows:

14 §11-51-90A.

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

17 (1) BUSINESS. Any commercial or industrial activity
18 or any enterprise, trade, profession, occupation, or
19 livelihood, including the lease or rental of residential or
20 nonresidential real estate, whether or not carried on for gain
21 or profit, and whether or not engaged in as a principal or as
22 an independent contractor, which is engaged in, or caused to
23 be engaged in, within a municipality.

24 (2) BUSINESS LICENSE. An annual license issued by a
25 taxing jurisdiction for the privilege of doing any kind of

1 business, trade, profession, or any other activity in that
2 jurisdiction, by whatever name called, which document is
3 required to be conspicuously posted or displayed except to the
4 extent the taxpayer's business license tax or other financial
5 information is listed thereon or unless the municipality
6 affirmatively elects not to so require. However, municipal
7 occupational licenses, municipal gasoline taxes, municipal
8 tobacco taxes, or gross receipts taxes in the nature of a
9 sales tax, or any other municipal tax now in existence or that
10 may hereafter be adopted by a municipality pursuant to Section
11 11-51-90, or any other provision of state law other than an
12 annual license, shall not be considered "business licenses."

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

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

20 (5) DESIGNEE. An agent of a taxing jurisdiction
21 authorized to administer or collect, or both, the
22 jurisdiction's business license taxes, which may include
23 another taxing jurisdiction, the Department of Revenue, or a
24 "private auditing or collecting firm" as defined in Section
25 40-2A-3.

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

6 a. Gross receipts shall not include any of the
7 following taxes collected by the business on behalf of any
8 taxing jurisdiction or the federal government: All taxes which
9 are imposed on the ultimate consumer, collected by the
10 taxpayer and remitted by or on behalf of the taxpayer to the
11 taxing authority, whether state, local or federal, including
12 utility gross receipts taxes levied pursuant to Article 3,
13 Chapter 21, Title 40; license taxes levied pursuant to Article
14 2, Chapter 21, Title 40; or reimbursements to professional
15 employer organizations of federal, state or local payroll
16 taxes or unemployment insurance contributions; but no other
17 deductions or exclusions from gross receipts shall be allowed
18 except as provided in this article.

19 b. A different basis for calculating the business
20 license may be used by a municipality with respect to certain
21 categories of taxpayers as prescribed in Section 11-51-90B.

22 c. For a utility or other entity described in
23 Section 11-51-129, gross receipts shall be limited to the
24 gross receipts derived from the retail furnishing of utility
25 services within a municipality during the preceding year that

1 are taxed under Article 3 of Chapter 21 of Title 40, except
2 that nothing herein shall affect any existing contract or
3 agreement between a municipality and a utility or other
4 entity. The gross receipts derived from the furnishing of
5 utility services shall not be subject to further business
6 license taxation by a municipality.

7 d. Gross receipts shall not include dividends or
8 other distributions received by a corporation, or proceeds
9 from borrowings, the sale of a capital asset, the repayment of
10 the principal portion of a loan, the issuance of stock or
11 other equity investments, or capital contributions, or the
12 undistributed earnings of subsidiary entities.

13 (7) LICENSE FORM. Any business license application
14 form, renewal reminder notice, business license remittance
15 form, or business license return by whatever name called.

16 (8) LICENSE OFFICER or MUNICIPAL LICENSE OFFICER.
17 The municipal employee charged by the governing body of the
18 municipality with the primary responsibility of administering
19 the municipality's license tax and related matters.

20 (9) LICENSE YEAR. The calendar year.

21 (10) MUNICIPALITY. Any town or city in this state
22 that levies a business license tax from time to time. The term
23 shall also include the town's or city's police jurisdiction,
24 where the business license tax is levied in the police
25 jurisdiction.

1 (11) PERSON. Any individual, association, estate,
2 trust, partnership, limited liability company, corporation, or
3 other entity of any kind, except for any nonprofit corporation
4 formed under the laws of Alabama which is operated to enable
5 municipalities that become members of such nonprofit
6 corporation to finance or refinance capital projects and
7 related undertakings, on a cooperative basis, and whose board
8 of directors or other governing body consists primarily of
9 elected officials of municipalities.

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

16 (13) TAXPAYER. Any person subject to or liable under
17 this chapter for any business license tax; any person required
18 to file a return with respect to, or pay or remit the business
19 license tax levied under this chapter or to report any
20 information or value to the taxing jurisdiction; or any person
21 required to obtain, or who holds any interest in, any business
22 license issued by the taxing jurisdiction; or any person that
23 may be affected by any act or refusal to act by the taxing
24 jurisdiction under this chapter, or to keep any records
25 required by this chapter.

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

3 (15) OTHER TERMS. Other capitalized or specialized
4 terms used in this act, and not defined above, shall have the
5 same meanings ascribed to them in Section 40-2A-3 unless the
6 context otherwise requires.

7 §11-51-90B.

8 (a) Every taxpayer required to purchase a business
9 license under this chapter shall:

10 (1) Purchase a business license for each location at
11 which it does business in the municipality, except as
12 otherwise provided by the municipality.

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

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

20

1	111	Crop Produc- tion	Agriculture, farm- ing, nursery, fruit, growers	Gross Receipts and/or Flat Rate
2				
3	112	Animal Pro- duction	Animal, dairy, cat- tle, ranching, sheep, chicken	Gross Receipts and/or Flat Rate
4				
5	113	Forestry and Logging	Forestry, logging, timber	Gross Receipts and/or Flat Rate
6				
7	114	Fishing, Hunting, and Trapping	Fishing, hunting, supplies and equip- ment	Gross Receipts and/or Flat Rate
8				
9	115	Support for	Cotton ginning,	Gross Receipts

Agriculture farm management, and/or Flat Rate
 and Forestry post-harvest activ-
 ities

10

11 211 Oil and Gas Oil, gas, extrac- State Regulated
 Extraction tion, natural gas, [See, e.g. Section
 crude 40-20-2(c)]

12

13 212 Mining (ex- Mining activities Gross Receipts
 cept Oil and and/or Flat Rate
 Gas) Where not State
 Regulated

14

15 213 Support for Support activities Gross Receipts
 Mining Ac- for oil and gas and/or Flat Rate
 tivities wells Where not State
 Regulated

16

1	221	Utilities	Utilities, gas, electric, water, sewage, steam	State Regulated (See Section 11-51-129)
2				
3	236	Building, Developing and General Contracting	Construction, building, general, residential, subdi- visions	Gross Receipts and/or Flat Rate
4				
5	237	Heavy Con- struction	Construction, heavy construction, high- way, bridge, street	Gross Receipts and/or Flat Rate
6				
7	238	Special Trade Con- tractors	Construction, all special trades	Gross Receipts and/or Flat Rate

1

2 311 Food Manu- Food manufacturing, Gross Receipts,
 facturing animal, grain, Flat Rate, or
 fruit, dairy, meat, Value of Goods
 seafood Produced

3

4 312 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

5

6 313 Textile Mills, textile, Gross Receipts,
 Mills fabric, yarn, car- Flat Rate, or
 pet, canvas, rope, Value of Goods
 twine Produced

7

1	314	Textile Product Mills	Other mill opera- tions not covered in 313	Gross Receipts, Flat Rate, or Value of Goods Produced
2				
3	315	Apparel Man- ufacturing	Apparel manufactur- ing, hosiery, men, women, children, lingerie	Gross Receipts, Flat Rate, or Value of Goods Produced
4				
5	316	Leather and Allied Prod- uct Manufac- turing	Leather manufactur- ing, shoes, lug- gage, handbag, re- lated products	Gross Receipts, Flat Rate, or Value of Goods Produced
6				
7	321	Wood Prod- ucts Manu-	Wood products, saw- mills, wood, pres-	Gross Receipts, Flat Rate, or

8	facturing	ervation, veneer, trusses, millwork	Value of Goods Produced
9	322 Paper Manu- facturing	Paper manufactur- ing, pulp, paper, converted products	Gross Receipts, Flat Rate, or Value of Goods Produced
10			
11	323 Printing and Related Sup- port Activi- ties	Printing, litho- graphic, screen, quick, digital, books, handbills	Gross Receipts, Flat Rate, or Value of Goods Produced
12			
13	324 Petroleum and Coal Products Manufactur- ing	Petroleum manufac- turing, asphalt, roofing, paving, grease	Gross Receipts, Flat Rate, or Value of Goods Produced

1

2 325 Chemical Chemical manufac- Gross Receipts,
 Manufactur- turing, wood, fer- Flat Rate, or
 ing tilizer, pesticide, Value of Goods
 paint, soap, other Produced

3

4 326 Plastics and Plastic and tire Gross Receipts,
 Rubber Prod- manufacture, pipe, Flat Rate, or
 uct Manufac- hoses, belts, bot- Value of Goods
 turing tle, sheet, foam Produced

5

6 327 Nonmetallic Nonmetallic manu- Gross Receipts,
 Mineral facturing, clay, Flat Rate, or
 Product Man- glass, cement, Value of Goods
 ufacturing lime, gypsum, other Produced

7

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-	Computers and elec- tronics, peripher- als, audio, video,	Gross Receipts, Flat Rate, or Value of Goods

		ufacturing	circuit boards	Produced
8				
9	335	Electrical Equipment Appliance Component Manufactur- ing	Electrical equip- ment, lighting, small appliance, battery, other	Gross Receipts, Flat Rate, or Value of Goods Produced
10				
11	336	Transporta- tion Equip- ment Manu- facturing	Transportation man- ufacturing, auto, truck, trailer, mo- tor home, ship, boat, motorcycle	Gross Receipts, Flat Rate, or Value of Goods Produced
12				
13	337	Furniture and Related Products	Furniture manufac- turing, cabinets, office furniture,	Gross Receipts, Flat Rate, or Value of Goods

14	Manufactur- ing	beds, kitchen	Produced
15	339 Misc. Manu- facturing	Misc. manufactur- ing, medical, den- tal, jewelry, sporting goods, toys, signs, all other	Gross Receipts, Flat Rate, or Value of Goods Produced
16			
17	421 Wholesale Trade, Dura- ble Goods	Wholesale trade-durable, mo- tor vehicle, home furniture, machin- ery, equipment	Gross Receipts and/or Flat Rate
18			
19	422 Wholesale Trade,	Wholesale trade-nondurable,	Gross Receipts and/or Flat Rate

Non-Durable Goods paper, apparel, grocery, dairy, farm, beverages

20

21 441 Motor Vehi- Motor vehicles, au- Gross Receipts
 cle and tomobiles, motorcy- and/or Flat Rate
 Parts Dealer cles, boats, parts,
 accessories

22

23 442 Furniture Furniture stores, Gross Receipts
 and Home home, floor, fur- and/or Flat Rate
 Furnishing nishings, window,
 Stores special products

24

25 443 Electronics Electronic and ap- Gross Receipts
 and Appli- pliance store, and/or Flat Rate
 ance Stores household, radio,
 television, com-

puter

26

27	444	Building Ma- terial and Gardening Equipment Dealers	Building materials, hardware, paint, home center, wall- paper	Gross Receipts and/or Flat Rate
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28

29	445	Food and Beverage Stores	Food and beverage stores, grocery, convenience, mar- kets, liquor, beer	Gross Receipts and/or Flat Rate Where Not State Regulated
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30

31	446	Health and Personal Care Stores	Health and personal care stores, drug, cosmetic, optical, health food	Gross Receipts and/or Flat Rate
----	-----	---------------------------------------	--	------------------------------------

32

1	447 Gasoline Stations	Gasoline stations, filling stations	Gross Receipts and/or Flat Rate Based on No. of Dispensers
2			
3	448 Clothing and Accessories Stores	Clothing stores, men's women's, children, infants, shoe, jewelry, lug- gage	Gross Receipts and/or Flat Rate
4			
5	451 Sporting Goods, Hobby, Book, Music	Sporting goods stores, hobby, toy, fish, gun, music, books	Gross Receipts and/or Flat Rate
6			
7	452 General Mer-	General merchandise	Gross Receipts

chandise stores, department, and/or Flat Rate
warehouse clubs,
superstores

8

9 453 Miscella- Misc. store retail- Gross Receipts
 neous Store ers, florist, gift, and/or Flat Rate
 Retailers novelty, used,
 pets, art, tobacco

10

11 454 Nonstore Re- Nonstore retailers, Gross Receipts
 tailers electronic shop- and/or Flat Rate
 ping, mail order,
 vending, direct
 selling

12

13 481 Air Trans- Air transportation, Gross Receipts
 portation airline tickets, and/or Flat Rate
 shipping, freight, Where Not State

charters Regulated

14

15 482 Rail Trans- Rail transporta- State Regulated
 portation tion, ticket of- and/or Flat Rate
 fices, short line,
 freight

16

17 483 Water Trans- Water transporta- Gross Receipts
 portation tion, coastal, and/or Flat Rate
 freight, inland, Where Not State
 passenger, forward- Regulated
 ers

18

19 484 Truck Trans- Truck transporta- Gross Receipts
 portation tion, terminal, lo- and/or Flat Rate
 cal, long-distance, Where Not State
 freight Regulated

20

1 485 Transit and Ground transporta- Gross Receipts
 Ground Pas- tion, bus, taxi, and/or Flat Rate
 senger limousine, charter,
 Transporta- buggy
 tion

2

3 487 Scenic and Scenic and sight- Gross Receipts
 Sightseeing seeing, land, wa- and/or Flat Rate
 Transporta- ter, air, special
 tion

4

5 492 Couriers and Couriers and mes- Gross Receipts
 Messengers sengers, services, and/or Flat Rate
 delivery

6

7 493 Warehousing Warehouse and stor- Gross Receipts,
 and Storage age, household, re- Flat Rate or

frigerated, distri- Square Feet
bution, special

8

9 511 Publishing Publishing, newspa- Gross Receipts
 Industries pers, periodicals, and/or Flat Rate
 (except databases, software
 Internet)

10

11 512 Motion Pic- Motion pictures and Gross Receipts
 ture and videos, theatres, and/or Flat Rate
 Sound Re- recording, studios,
 cording In- drive-in
 dustry

12

13 515 Broadcasting Broadcasting and Gross Receipts
 (except radio, TV and/or Flat Rate
 Internet) Where Not State
 Regulated

1

2 516 Internet Publications or Gross Receipts
 Publishing broadcasting for and/or Flat Rate
 and Broad- Internet only Where Not State
 casting Regulated

3

4 517 Telecommuni- Providing, access Gross Receipts
 cations to facilities for and/or Flat Rate
 voice, data, text, Where Not State
 sound and/or video Regulated

5

6 519 Information Providing, storing, Gross Receipts
 Services and processing, and and/or Flat Rate
 Data Pro- providing access to
 cessing information

7

1 522 Credit In- Credit companies Gross Receipts
 intermediation and activities re- and/or Flat Rate
 and Related lated to credit Where Not State
 Activities and mediation of Regulated. Banks
 credit and savings and
 loan associations
 are state regulated
 and are subject to
 the license tax au-
 thorized under Sec-
 tion 11-51-130 and
 under Section
 11-51-131, respec-
 tively.

2

3 523 Securities, Insurance compa- Gross Receipts
 Commodity, nies, life, health, and/or Flat Rate
 Other Finan- accident, and all Where Not State
 cial Prod- other Regulated
 ucts

4

1 524 Insurance Insurance compa- State Regulated
 Carriers and nies, fire, marine,
 Related Ac- and fire casualty
 tivities

2

3 525 Funds, Funds, plans, Gross Receipts
 Trusts, and/or programs or- and/or Flat Rate
 Other Finan- ganized to pool se- Where Not State
 cial Vehi- curities or other Regulated
 cles assets for others,
 other than the Ala-
 bama Municipal
 Funding Corporation

4

5 531 Real Estate Real estate, of- Gross Receipts
 fices, agents, bro- and/or Flat Rate
 kers, developers Where Not State
 Regulated

6

1	532	Rental and Leasing Ser- vices	Rental and leasing, auto, truck, equip- ment, tangible property	Gross Receipts and/or Flat Rate
2				
3	541	Professions, Scientific, Technical Services	Attorney, doctor, dentist, architect, engineer, vet, other professions	Gross Receipts for outdoor/billboard advertising; oth- erwise flat rate and/or gross re- ceipts
4				
5	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).

6

7	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
---	-----	--	---	--

8

9	562	Waste Man- agement and Remediation Services	Waste management, services, landfill, septic tank, compa- nies, trucks	Gross Receipts and/or Flat Rate Where Not State Regulated
---	-----	--	---	--

10

11	611	Educational	Educational ser-	Gross Receipts
----	-----	-------------	------------------	----------------

Services	vices, business, secretarial, computer, technical, sports, other	and/or Flat Rate Where Not State Regulated
----------	--	--

12

13	621 Ambulatory Health Care Services	Health care services, mental, outpatient, HMO, diagnostic, blood, dialysis, other	Gross Receipts and/or Flat Rate
----	-------------------------------------	---	---------------------------------

14

15	622 Hospitals	Hospitals, surgical, substance abuse, psychiatric, specialty	Gross Receipts and/or Flat Rate Based on No. of Patients or Beds
----	---------------	--	--

16

17	623 Nursing and Residential	Nursing and residential care facilities	Gross Receipts and/or Flat Rate
----	-----------------------------	---	---------------------------------

Similar parks, special sites

24

25 713 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

26

27 721 Accomoda- Accommodations, ho- Gross Receipts
 tions tel, travel, and/or Flat Rate
 bed-and-breakfast,
 rooming houses, mo-
 tel

28

29 722 Food Ser- Food service and Gross Receipts
 vices and drinking places, and/or Flat Rate
 Drinking restaurant, cater-

1

2 920 Category for Employees: as in Gross Receipts,
 employees: number of employees Flat Rate or Num-
 used in license ber of Employees
 calculation

3

4 930 Category for Square feet used Gross Receipts,
 square feet: for warehousing, Flat Rate or Num-
 large buildings, ber of Square Feet
 and other types

5

6 923 Administra- General Category Gross Receipts
 tion of Hu- and/or Flat Rate
 man Resource Where Applicable
 Programs

7

1	924	Administra- tion of En- vironmental Quality Pro- grams	General Category	Gross Receipts and/or Flat Rate Where Applicable
2				
3	925	Administra- tion of Housing, Ur- ban, Comm.	General Category	Gross Receipts and/or Flat Rate Where Applicable
4				
5	926	Administra- tion of Eco- nomic Pro- grams	General Category	Gross Receipts and/or Flat Rate Where Applicable
6				
7	927	Space Re- search and	General Category	Gross Receipts and/or Flat Rate

Technology

Where Applicable

8

9

928 National Security and International Affairs

General Category

Gross Receipts and/or Flat Rate Where Applicable

10

11

999 Unclassified Establishments

General Category

Gross Receipts or Flat Rate, Where Not State Regulated

12

13

(b) The taxing jurisdiction's basis for determination of the business license tax for each sector shall correspond with the basis specified in subsection (a), such as gross receipts, flat rate, number of employees, or square footage. Provided, however, with respect to machines and other devices described in Sector 910 above, the

14

15

16

17

18

1 municipality, in addition to a gross receipts-based or flat
2 rate license, may require the taxpayer to purchase a decal for
3 each machine or device located within the municipality. The
4 charge for such decal shall not exceed the municipality's
5 actual cost of the decal. Provided further, the taxing
6 jurisdiction shall have authority to issue one license, rather
7 than multiple licenses, to a business in accordance with the
8 taxing jurisdiction's business license ordinance. To the
9 extent that subsection (a) indicates that a business activity
10 described in an NAICS sector is fully or partially state
11 regulated, no taxing jurisdiction shall have authority to
12 impose a business license tax in excess of the amount
13 otherwise authorized by state law on the state regulated
14 portion of such sector.

15 (c) The measure of a municipal business license
16 based on gross receipts shall be based on the taxpayer's gross
17 receipts for the license year next preceding the current
18 license year unless the taxpayer first began doing business in
19 the municipality during the current license year, in which
20 event the gross receipts shall be projected by the taxpayer
21 for the remaining portion of the current license year. If the
22 taxpayer's actual gross receipts for the short license year
23 are either more or less than projected, the taxpayer's
24 annualized gross receipts used in calculating its business
25 license tax liability for the following license year shall be

1 increased or decreased, respectively, by the amount of the
2 difference. When annualizing the gross receipts for the short
3 license year, the amount of the gross receipts projected by
4 the taxpayer shall be divided by the number of full months the
5 taxpayer was in business in the municipality and multiplied by
6 12; provided that each taxpayer shall be deemed to have been
7 in business in the municipality for a minimum of one month for
8 purposes of this calculation. If the taxpayer employs a fiscal
9 year for federal and state income tax purposes, the taxpayer's
10 gross receipts may be determined, at the option of the
11 taxpayer, from the federal income tax return of the taxpayer
12 for the fiscal year next preceding the current license year,
13 provided that the gross receipts reported thereon reasonably
14 reflect the financial condition of the taxpayer as of the
15 December 31 next preceding the current license year, and the
16 taxpayer so notifies the municipality either prior to or
17 simultaneously with filing the first business license
18 remittance form using fiscal year data. The taxpayer's use of
19 fiscal year data, as provided above, shall constitute an
20 irrevocable election to use fiscal year data with respect to
21 the current and subsequent business license years unless the
22 governing body of the municipality or its director of finance
23 or other chief revenue officer or his or her designee consents
24 otherwise. Provided, however, that nothing in this subsection
25 shall prohibit a municipality from doing any of the following:

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

5 (2) Levying and collecting any municipal tax, other
6 than an annual business license, that now exists or that may
7 hereafter be adopted pursuant to Section 11-51-90 or some
8 other provision of state law, including, but not limited to,
9 lodgings taxes, alcoholic beverage taxes, gasoline and motor
10 fuel taxes, tobacco taxes, leasing or rental taxes,
11 occupational taxes, sales and use taxes, and gross receipts
12 taxes in the nature of a sales tax.

13 (3) Allowing or requiring a taxpayer to purchase a
14 minimum business license with respect to the short license
15 year following 90 days of operations in the municipality,
16 based on the amount which bears the same relationship to the
17 actual amount of gross receipts during such preceding license
18 year as the entire license year bears to the number of days
19 during which the taxpayer was operating during such preceding
20 license year. If the taxpayer did not commence operations
21 until after the first day of the calendar year, the
22 municipality may by ordinance require the taxpayer to remit
23 the business license tax at the end of such 90 day period, or
24 on December 31 of the current license year, whichever occurs
25 first.

1 (d) For purposes of subsection (a), the terms "state
2 regulated" or "where not state regulated," when used with
3 reference to a business listed in one of the NAICS sectors and
4 any subsequently created sub-sector, mean and refer to other
5 provisions of the Code of Alabama 1975, that deal with or
6 limit the taxation of the respective business by
7 municipalities, none of which are amended or repealed by this
8 act.

9 (e) Notwithstanding anything in this chapter to the
10 contrary, the licenses authorized by Sections 11-51-130 and
11 11-51-131 are in lieu of any other business licenses
12 authorized by this chapter, and banks and savings and loan
13 associations subject to either of those sections are not
14 subject to the business license taxes otherwise authorized by
15 this chapter, regardless of whether one or more NAICS sectors
16 or sub-sectors describe or include any business or activity of
17 such bank or savings and loan association. Any municipal
18 business license tax applicable to a bank holding company, as
19 defined in Section 5-13B-2(f), shall not exceed the amount set
20 forth in the schedule provided for banks under Section
21 11-51-130(a)(12). Provided, however, if a bank holding company
22 is engaged in additional lines of business that do not fall
23 within NAICS Sectors 551 or 522 and which are not considered
24 financial in nature, as defined under federal banking law, the
25 bank holding company shall take out and pay for a business

1 license for each additional line of business so assessed by
2 the municipality; provided further that for each separate
3 additional business license, the gross receipts taxable under
4 such license shall be only those gross receipts of the bank
5 holding company which arise under the license for the
6 respective additional line of business and not from a
7 financial activity, as defined under federal banking law, or
8 from an activity within NAICS Sector 551 or 522. This
9 subsection (e) shall not apply to any subsidiary of a bank or
10 savings and loan association.

11 (f) Notwithstanding any provision of this chapter to
12 the contrary, each of the several municipalities in this state
13 may annually assess and collect from each utility or other
14 entity described in Section 11-51-129 only one municipal busi-
15 ness license tax for all lines of business classified in NAICS
16 Sector 221, and the levy, collection and assessment of the
17 single business license tax shall be subject to the provisions
18 and limitations of Section 11-51-129 and Section 11-51-90A. If
19 any such utility or entity described in Section 11-51-129 is
20 engaged in one or more additional lines of business that do
21 not fall within NAICS Sector 221, and if the additional line
22 of business of such utility or other entity is so assessed by
23 the municipality, then the utility or other entity shall take
24 out and pay for a business license for that additional line of
25 business, even if the utility or other entity does not meet

1 the requirement in Section 11-51-95 that it must derive more
2 than 10 percent of its gross receipts from the business fall-
3 ing within the NAICS sector during the preceding license year;
4 provided however, that for each separate, additional business
5 license, the gross receipts taxable under such license shall
6 be only those gross receipts of the utility or other entity
7 from business done within the municipality and which arise
8 within the line of business which is the subject of the re-
9 spective license.

10 DIVISION 5

11 RIGHTS AND RESPONSIBILITIES OF MUNICIPAL TAXPAYERS

12 §11-51-186.

13 (a) Rights of the taxpayer.

14 (1) At or before the commencement of an examination
15 of the books and records of a taxpayer, the taxing
16 jurisdiction shall provide to the taxpayer a written
17 description, in simple and non-technical terms, of the role of
18 the taxing jurisdiction and the taxpayer during the
19 examination and a statement of the taxpayer's rights.

20 (2) At or before the issuance of a preliminary
21 assessment, the taxing jurisdiction shall provide to the
22 taxpayer in simple and non-technical terms:

1 a. A written description of the basis for the
2 assessment and any penalty asserted with respect to the
3 assessment.

4 b. A written description of the method by which the
5 taxpayer may request an administrative review of the
6 preliminary assessment.

7 (3) At or before the issuance of a final assessment,
8 the taxing jurisdiction shall inform the taxpayer by a written
9 statement of his or her right to appeal to the circuit court.

10 (4) Except in cases involving suspected criminal
11 violations of the tax law or other criminal activity, the
12 taxing jurisdiction shall conduct an examination of a taxpayer
13 during regular business hours after providing reasonable
14 notice to the taxpayer. A taxpayer who refuses a proposed time
15 for an examination on the grounds that the proposed
16 examination would cause inconvenience or hardship must offer
17 reasonable alternative times and dates for the examination.

18 (5) At all stages of an examination or the
19 administrative review of the examination, a taxpayer is
20 entitled to be assisted or represented, at his or her own
21 expense, by an authorized representative. The taxing
22 jurisdiction shall prescribe a form by which the taxpayer may
23 designate such a person to represent him or her in the conduct
24 of any proceedings, including collection proceedings,
25 resulting from actions of the taxing jurisdiction. In the

1 absence of this form, the taxing jurisdiction may accept such
 2 other evidence that a person is the authorized representative
 3 of a taxpayer as it considers appropriate. This provision
 4 shall not be construed as authorizing the practice of law.

5 (6) A taxpayer shall be allowed to make an audio
 6 recording of any in-person interview with any officer or
 7 employee of the taxing jurisdiction relating to any
 8 examination or investigation by the taxing jurisdiction,
 9 provided, however, the taxpayer must give reasonable advance
 10 notice to the taxing jurisdiction of his or her intent to
 11 record and the recording shall be at the taxpayer's own
 12 expense and with the taxpayer's own equipment. The taxing
 13 jurisdiction shall also be allowed to record any interview if
 14 the taxpayer is recording the interview, or if the taxing
 15 jurisdiction gives the taxpayer reasonable advance notice of
 16 its intent to record the interview. The taxing jurisdiction
 17 shall provide the taxpayer with a copy of the recording, but
 18 only if the taxpayer provides reimbursement for the cost of
 19 the transcript and reproduction of such copy. Such cost shall
 20 be reasonable as prescribed by the taxing jurisdiction.

21 (7) This section shall not apply to criminal
 22 investigations or investigations relating to the integrity of
 23 any officer or employee of the taxing jurisdiction.

24 (8) Any designee of a municipality shall be subject
 25 to the same responsibilities and restrictions on its

1 authority, and the ability of its employees and contractors,
2 to act on behalf of a taxing jurisdiction under this chapter
3 as are imposed on them under the provisions of this chapter
4 and Sections 40-2A-12 to 40-2A-14, inclusive.

5 (b) Municipality's responsibilities, generally. In
6 addition to compliance with subsection (a), municipalities
7 shall make accessible continuing education programs to train
8 non-clerical employees of their revenue departments to provide
9 them with a current knowledge of applicable state and local
10 tax laws. Employees of a municipality who are subject to the
11 preceding sentence may, in order to satisfy the continuing
12 education requirements, attend courses pertaining in whole or
13 in part to the municipal business license laws and related
14 issues that are presented, sponsored or certified by the
15 Alabama Municipal Revenue Officers Association or by the
16 Alabama Local Tax Institute of Standards and Training
17 established pursuant to Section 40-2A-15. In addition, a
18 municipality shall not use the amounts of taxes assessed by an
19 employee of the municipality as the basis of a production
20 quota system for employees, or as a basis for evaluating an
21 employee's or a designee's performance.

22 (c) Municipality's failure to comply with this
23 section. The failure of a municipality or its designee to
24 comply with any provision of subsections (a) or (b) shall not
25 prohibit the municipality from assessing any business license

1 tax otherwise due under this chapter, nor excuse the taxpayer
2 from timely complying with any time limitations under this
3 chapter. However, if the municipality or its designee fails to
4 substantially comply with the provisions of this section, the
5 governing body of the municipality, its license officer or
6 another employee designated by the governing body shall, upon
7 written application by the taxpayer or upon good cause shown,
8 abate any penalties and waive any interest otherwise arising
9 from the examination or assessment.

10 (d) Abatement of penalty. The municipality shall
11 abate any penalty attributable to erroneous written advice
12 furnished to a taxpayer or taxpayer's representative by an
13 employee or agent of the municipality's revenue department or
14 of its designee. However, this subsection shall apply only if:
15 The employee or agent of the revenue department or the
16 designee provided the written advice in good faith while
17 acting in his or her official capacity; the written advice was
18 reasonably relied on by the taxpayer, or by the taxpayer's
19 representative in advising the taxpayer, and was in response
20 to a specific written request of the taxpayer or the
21 taxpayer's representative; and the penalty did not result from
22 the taxpayer's or the representative's failure to provide
23 complete and accurate information or from a change in law or a
24 new judicial interpretation of existing law. References in

1 this subsection to written advice or requests shall mean and
2 include those transmitted via electronic mail.

3 §11-51-187.

4 A taxpayer that has purchased a business license
5 required under this chapter shall not be subject to more than
6 one business license examination for each business license by
7 or on behalf of the issuing taxing jurisdiction for every
8 three-license-year cycle unless reasonable cause is shown and
9 notice is given to the taxpayer, consistent with Section
10 40-2A-13, or unless the taxpayer fails or refuses to provide
11 to the taxing jurisdiction a true and correct copy of its
12 federal income tax return for the prior two license years or
13 portions thereof within 14 days after written request has been
14 mailed or personally delivered to it. The following activities
15 shall not constitute a business license examination for
16 purposes of this section: (i) The mere contact of a taxpayer
17 or its authorized representative by a municipality or its
18 agent for the purpose of obtaining information to confirm any
19 information provided by the taxpayer in connection with its
20 application for or renewal of its business license, or (ii) an
21 inspection of the taxpayer's books and records consistent with
22 one of the exceptions for sales and use tax examinations
23 listed in Section 40-2A-13(c).

24 §11-51-188.

1 (a) Except as provided in subsections (b) and (c),
2 each municipal business license shall be due on January 1st of
3 each year and shall be renewed annually on or before the 31st
4 day of January, provided that a municipality that imposed a
5 delinquency date as of January 1, 2006, that was later than
6 January 31 may elect, by adoption of an ordinance, to impose a
7 February 15 delinquency date.

8 (b) If the due date for payment of any business
9 license hereunder falls on a weekend or a holiday recognized
10 by the municipality from time to time, the due date shall
11 automatically be extended until the next business day.

12 (c) Notwithstanding subsection (a), insurance
13 company licenses shall be renewed annually on or before March
14 1, in accordance with Section 11-51-122.

15 (d) Any municipality may, in its discretion, grant a
16 discount for payment of the applicable business license tax
17 prior to the due date prescribed above. The amount and terms
18 of the discount shall be established by ordinance of the
19 governing body of the municipality.

20 §11-51-189.

21 The governing body of a municipality may, in its
22 discretion, grant an abatement to any taxpayer of all or a
23 portion of the applicable business license tax otherwise due
24 for up to three license years if the taxpayer substantially
25 complies with the criteria for abatement of sales or use taxes

1 under the Tax Incentive Reform Act of 1992 found at Section
2 40-9B-1 et seq., following a public hearing on same.

3 §11-51-190.

4 Consistent with Section 40-2A-7(a), taxpayers under
5 this chapter shall keep and maintain an accurate and complete
6 set of records, books, and other information sufficient to
7 allow the municipality or its designee to determine the
8 correct amount of any business license tax levied by the
9 municipality, or other records or information as may be
10 necessary for the proper administration of any matters under
11 the jurisdiction of the municipality.

12 §11-51-191.

13 (a) If the taxing jurisdiction determines that the
14 amount of any business license tax reported on or remitted
15 with a business license remittance form is incorrect, if no
16 business license remittance form is filed within the time
17 prescribed, or if the information provided on the form is
18 insufficient to allow the taxing jurisdiction to determine the
19 proper amount of business license tax due, the taxing
20 jurisdiction may calculate the correct amount of the tax based
21 on the most accurate and complete information reasonably
22 obtainable. The taxing jurisdiction may thereafter enter a
23 preliminary assessment for the correct amount of business
24 license tax, including any applicable penalty and interest.
25 Nothing contained herein shall limit or restrict a

1 municipality's right to seek injunctive relief under Section
2 11-51-150, et seq.

3 (b) If the amount of business license tax remitted
4 by the taxpayer is undisputed by the taxing jurisdiction, or
5 the taxpayer consents to the amount of any deficiency or
6 preliminary assessment in writing, the jurisdiction may
7 immediately enter a final assessment for the amount of the tax
8 due, plus any applicable penalty and interest.

9 (c) (1) All preliminary and final assessments of
10 business licenses issued by a municipality or its designee
11 shall be executed as provided by its business license
12 ordinance or code.

13 (2) Any preliminary assessment shall be entered
14 within four years from the due date of the business license
15 form, or four years from the date the form is filed, whichever
16 is later, except as follows:

17 a. A preliminary assessment may be entered at any
18 time if no license form is filed as required, or if a false or
19 fraudulent license form is filed with the intent to evade the
20 business license tax.

21 b. A preliminary assessment may be entered within
22 six years from the due date of the license form or six years
23 from the date the license form is filed with the taxing
24 jurisdiction, whichever date occurs last, if the taxpayer
25 omits or fails to report an amount in excess of 25 percent of

1 its gross receipts or other applicable business license tax
2 base.

3 c. A preliminary assessment may be entered within
4 five years from the due date of the license form, or five
5 years from the date the form is filed, whichever is later, if
6 the taxpayer or its authorized agent fails or refuses to
7 execute and return to the taxing jurisdiction or its agent a
8 written extension of the statute of limitations on issuing
9 preliminary assessments for up to eight months, as requested
10 by the taxing jurisdiction or its agent, within 30 days after
11 receipt of the request for extension by the taxpayer or its
12 authorized agent.

13 (3) The preliminary assessment entered by the taxing
14 jurisdiction, or a copy thereof, shall promptly upon entry be
15 mailed by the taxing jurisdiction to the taxpayer's last known
16 address by either first class U.S. mail or certified U.S. mail
17 with return receipt requested, but at the option of the taxing
18 jurisdiction, the preliminary assessment may be delivered to
19 the taxpayer by personal delivery.

20 (d) (1) If a taxpayer disagrees with a preliminary
21 assessment as entered by the taxing jurisdiction, the taxpayer
22 may file a petition for review with the taxing jurisdiction
23 within 30 days from the date of entry of the preliminary
24 assessment setting out the specific objections to the
25 preliminary assessment. If a petition for review is timely

1 filed, or if the taxing jurisdiction otherwise deems it
2 necessary, the license officer of the municipality shall
3 schedule a conference with the taxpayer for the purpose of
4 allowing the taxpayer or its representatives and the
5 representatives of the taxing jurisdiction to present their
6 respective positions, discuss any omissions or errors, and to
7 attempt to agree upon any changes or modifications to their
8 respective positions.

9 (2) If a petition for review:

10 a. Is not timely filed, or

11 b. Is timely filed, and upon further review the
12 license officer determines that the preliminary assessment is
13 due to be upheld in whole or in part, the taxing jurisdiction
14 may make the assessment final in the amount of business
15 license tax due as computed by the license officer, with
16 applicable interest and penalty computed to the date of entry
17 of the final assessment. The license officer shall, whenever
18 practicable, complete his or her review of the taxpayer's
19 petition for review and applicable law within 90 days
20 following the later of the date of filing of the petition or
21 the conference, if any.

22 (3) The final assessment entered by the taxing
23 jurisdiction, or a copy thereof, shall promptly upon entry be
24 mailed to the taxpayer's last known address (i) by either
25 first class U.S. mail or certified U.S. mail with return

1 receipt requested in the case of assessments of business
2 license tax of five hundred dollars (\$500) or less, or (ii) by
3 certified U.S. mail with return receipt requested in the case
4 of assessments of business license tax of more than five
5 hundred dollars (\$500). In either case and at the option of
6 the taxing jurisdiction, the final assessment, or a copy
7 thereof, may be delivered to the taxpayer by personal
8 delivery.

9 (e) (1) A taxpayer may appeal from any final
10 assessment entered hereunder by the taxing jurisdiction by
11 filing a notice of appeal, within 30 days from the date of
12 entry of the final assessment, with the license officer, who
13 shall promptly forward a copy of the notice of appeal and
14 related documents to the administrative hearing officer
15 appointed by the taxing jurisdiction to hear appeals of final
16 assessments of the municipality's sales, use, rental and
17 lodging taxes, as applicable, and business license taxes. The
18 administrative hearing officer shall function in a manner
19 similar to the Administrative Law Judge of the Department of
20 Revenue and must be impartial and reasonably knowledgeable of
21 the business license laws and the taxing jurisdiction's
22 business license code or ordinances. The administrative
23 hearing officer may be an employee of the taxing jurisdiction
24 or otherwise, but in no event shall he or she charge or
25 otherwise be compensated for his or her services in whole or

1 in part based on the portion or amount of the final assessment
2 that he or she determines should be upheld, or any similar
3 contingency. No filing fee or supersedeas bond shall be
4 required by the taxing jurisdiction for such appeals.

5 (2) In lieu of the appeal under subdivision (1) to
6 the administrative hearing officer, and at the option of the
7 taxpayer, the taxpayer may appeal from any final assessment
8 hereunder to the circuit court of the county having
9 jurisdiction over the municipality which issued or on whose
10 behalf the final assessment was issued, by filing a notice of
11 appeal within 30 days from the date of entry of the final
12 assessment with both the municipal clerk of the municipality
13 and the clerk of the circuit court. If the appeal is to
14 circuit court, and if the taxpayer is the appealing party, the
15 taxpayer shall also, within the 30-day period allowed for
16 appeal, either (i) pay the business license tax, interest and
17 any penalty shown as due on the final assessment, or (ii) file
18 a supersedeas bond with the clerk of the court in double the
19 amount of the business license tax, interest and any penalty
20 shown as due on the final assessment, or in such amount as may
21 be required by Section 40-2A-7, as amended from time to time.
22 The supersedeas bond shall be executed by a surety company
23 licensed and authorized to do business in Alabama and shall be
24 conditioned to pay the final assessment plus applicable
25 interest and any court costs relating to the appeal. If the

1 taxpayer is the appealing party and is able to show to the
2 satisfaction of the clerk of the court that he or she has a
3 net worth, on the basis of fair market value, of twenty
4 thousand dollars (\$20,000) or less, including his or her
5 homestead, and that the final assessment is equal to or less
6 than the taxpayer's net worth, the taxpayer may file and
7 prosecute the appeal without either paying the final
8 assessment in full or posting a supersedeas bond. A taxpayer
9 may appeal a final assessment to circuit court, as provided
10 herein, even though the taxpayer has paid the amount shown as
11 due on the assessment prior to filing the appeal.

12 (3) The filing of the notice of appeal with both the
13 municipal clerk of the municipality and the clerk of the
14 circuit court in which the appeal is filed, as well as the
15 payment of the final assessment in full or the filing of a
16 supersedeas bond when required above, are jurisdictional. If
17 such prerequisites are not satisfied within the time provided
18 for appeal, the appeal shall be dismissed for lack of
19 jurisdiction. On appeal to the circuit court, the final
20 assessment shall be prima facie correct, and the burden of
21 proof shall be on the taxpayer to prove the assessment is
22 incorrect.

23 (4) If a final assessment is reduced on appeal, any
24 overpayment shall promptly be refunded to the taxpayer by the

1 taxing jurisdiction together with interest to the extent
2 allowed by Section 11-51-192.

3 (5) No court shall have the power to enjoin the
4 collection of any business license tax due on an assessment so
5 appealed or to suspend the payment thereof.

6 (f) Either the taxpayer or the taxing jurisdiction
7 may appeal to circuit court from a final order issued by the
8 administrative hearing officer by filing a notice of appeal
9 with the administrative hearing officer and with the circuit
10 court of the county having jurisdiction over the municipality
11 which issued or on whose behalf the final assessment was
12 issued, within 30 days from the date of entry of the final
13 order. The procedures, presumptions and related matters and
14 rules shall conform in all material respects to those
15 applicable to appeals from final orders of the Department of
16 Revenue's Administrative Law Division under Section 40-2A-9.

17 (g) (1) Any taxpayer may file a petition for refund
18 with the taxing jurisdiction for any overpayment of business
19 license tax erroneously paid to that jurisdiction. If a final
20 assessment for the tax has been entered by the taxing
21 jurisdiction, a petition for refund of all or a portion of the
22 tax may be filed only if the final assessment has been paid in
23 full prior to or simultaneously with the filing of the
24 petition for refund.

1 (2) A petition for refund shall be filed with the
2 taxing jurisdiction within (1) three years from the date that
3 the business license form was filed, or (2) two years from the
4 date of payment of the business license tax which is the
5 subject of the petition, whichever is later, or if no form was
6 timely filed, two years from the date of payment of the
7 business license tax.

8 (3) The taxing jurisdiction shall either grant or
9 deny a petition for refund within six months from the date the
10 petition is filed, unless the period is extended by written
11 agreement of the taxpayer and the taxing jurisdiction. The
12 taxpayer shall be notified of the taxing jurisdiction's
13 decision concerning the petition for refund by first class
14 U.S. mail or by certified U.S. mail, return receipt requested,
15 sent to the taxpayer's last known address. If the taxing
16 jurisdiction fails to grant a full refund within the time
17 provided herein, the petition for refund shall be deemed to be
18 denied.

19 (4) If the petition is granted, or the taxing
20 jurisdiction or a court otherwise determines that a refund is
21 due, the overpayment shall be promptly refunded to the
22 taxpayer by the taxing jurisdiction, together with interest to
23 the extent provided in Section 11-51-192. If the taxing
24 jurisdiction or a court determines that a refund is due, the
25 amount of overpayment plus any interest due thereon may first

1 be credited by the taxing jurisdiction against any outstanding
2 final tax liabilities due and owing by the taxpayer to the
3 jurisdiction, and the balance of any overpayment shall be
4 promptly refunded to the taxpayer. If any refund or part
5 thereof is credited to any other tax by the taxing
6 jurisdiction, the taxpayer shall be provided with a written
7 detailed statement showing the amount of overpayment, the
8 amount credited for payment to other taxes, and the amount
9 refunded.

10 (5)a. A taxpayer may appeal from the denial in whole
11 or in part of a petition for refund by filing a notice of
12 appeal with the clerk of the circuit court of the county in
13 which the municipality denying the petition for refund is
14 located by filing the notice of appeal within two years from
15 the date the petition is denied. The circuit court shall hear
16 the appeal according to its own rules and procedures and shall
17 determine the correct amount of refund due, if any.

18 b. If an appeal is not filed with the appropriate
19 circuit court within two years of the date the petition is
20 denied, then the appeal shall be dismissed for lack of
21 jurisdiction.

22 c. In the discretion of the governing body of a
23 municipality, by ordinance duly adopted, the provisions of
24 this section may also be applied to one or more of its other
25 taxes not already governed by the Alabama Taxpayers' Bill of

1 Rights and Uniform Revenue Procedures Act, Title 40, Chapter
2 2A.

3 §11-51-192.

4 (a) The governing body of any municipality may
5 elect, by the adoption of an ordinance, to assess interest on
6 any business license tax delinquency. If assessed, interest on
7 any delinquency shall be charged from the due date of the tax.

8 (b) If assessed by the municipality, interest shall
9 be computed at the same rate prescribed by Section
10 11-51-208(f) relating to interest on delinquent or overpaid
11 sales and use taxes levied by self-administered
12 municipalities.

13 (c) If the municipality elects under subsection (a)
14 to assess interest on business license tax delinquencies,
15 except as provided in this subsection, interest at the same
16 rate shall be paid by a taxing jurisdiction on any refund of
17 business license tax erroneously paid to the jurisdiction.
18 Interest shall be computed on any overpayment from the date of
19 the overpayment to the taxing jurisdiction, provided that
20 interest on any refund of business license taxes of a
21 municipality not administered by the Department of Revenue
22 under Section 11-51-180 shall be limited in accordance with
23 the principles of Section 11-51-208(f).

24 §11-51-193.

1 (a) The Department of Revenue shall periodically, at
2 least annually, compose a list of all state boards and
3 agencies that regulate the licensing of businesses or
4 occupations under their jurisdiction, and that so notify the
5 department in writing, herein collectively called "state
6 licensing boards." The list shall be distributed to all
7 municipal license officers at least once each year until
8 January 1, 2009, at which time the list shall continue to be
9 updated periodically thereafter but shall be required to be
10 available only in the department's Internet website or other
11 computer-accessible database available to the general public
12 by remote access. Prior to issuing a business license to a
13 taxpayer who is subject to the jurisdiction of a particular
14 state licensing board, the taxing jurisdiction shall attempt
15 to confirm from the board that the taxpayer is duly licensed
16 by and in good standing with that board. Provided that the
17 failure of the taxing jurisdiction to receive such
18 confirmation due to a good faith error or other reasonable
19 cause shall absolve the taxing jurisdiction and its employees
20 or agents from any civil liability or criminal penalty that
21 would otherwise arise or accrue if it is determined that the
22 taxpayer was not in good standing at the time of filing the
23 license form. The receipt by the taxing jurisdiction of what
24 appears to be a true and accurate copy of the taxpayer's card
25 or certificate, issued by the particular state licensing board

1 within 14 months of the date on which the taxpayer applies for
2 a business license, shall constitute reasonable cause.

3 (b) All state licensing boards shall issue to each
4 of their respective licensees a card or certificate
5 categorizing each licensee, when required by regulation. Each
6 such board shall promulgate, pursuant to the Alabama
7 Administrative Procedure Act, a regulation establishing a
8 uniform system of categories of persons subject to their
9 jurisdiction, including a category for which no card or
10 certificate is required. The proposed regulation shall be
11 issued by each board on or before December 31, 2007, and the
12 categories contained therein shall govern until such time as
13 the regulation is issued in final form. Notwithstanding
14 Section 11-51-90B, the business license of each applicable
15 taxing jurisdiction shall be issued to the licensee based upon
16 the established contractor category.

17 §11-51-194.

18 (a) Each municipality shall allow the purchase of a
19 delivery license by any business that has no other physical
20 presence within the municipality or its police jurisdiction
21 for the privilege of delivering its merchandise therein. The
22 amount of the delivery license shall not exceed one hundred
23 dollars (\$100), provided that each municipality may review the
24 propriety of the license tax every five years, and may
25 increase or decrease the license tax under the standards

1 prescribed by Section 11-51-90 with respect to the uniform
2 license issuance fee. Nothing herein shall prohibit a
3 municipality from requiring by ordinance the purchase of a
4 decal by the taxpayer for each delivery vehicle making
5 deliveries within the municipality or its police jurisdiction.
6 The charge for such decal shall not exceed the municipality's
7 actual cost of the decal.

8 (b) As used in this section, a delivery license
9 shall mean a fixed rate business license issued by a
10 municipality for the limited privilege of delivering and
11 requisite set-up and installation, by the taxpayer's employees
12 or agents, of the taxpayer's own merchandise in that
13 municipality, by means of delivery vehicles owned, leased, or
14 contracted by the taxpayer; provided that the gross receipts
15 derived from the sale and any requisite set-up or installation
16 of all merchandise so delivered into the municipality shall
17 not exceed seventy-five thousand dollars (\$75,000) during the
18 license year, and any set-up or installation shall relate only
19 to (i) that required by the contract between the taxpayer and
20 the customer or as may be required by state or local law, and
21 (ii) the merchandise so delivered. Mere delivery of the
22 taxpayer's merchandise by common carrier shall not allow the
23 taxing jurisdiction to assess a business license tax against
24 the taxpayer, but the gross receipts derived from any sale and
25 delivery accomplished by means of a common carrier shall be

1 counted against the seventy-five thousand dollar (\$75,000)
2 limitation described in the preceding sentence if the taxpayer
3 also during the same license year sells and delivers into the
4 taxing jurisdiction using a delivery vehicle other than a
5 common carrier. Provided that the dollar limitation prescribed
6 above shall be increased, but not decreased, every five years
7 under the standards prescribed by Section 11-51-90 with
8 respect to the uniform license issuance fee and may be
9 increased by a municipality at any time, up to one hundred
10 fifty thousand dollars (\$150,000), by adoption of an
11 ordinance. A common carrier, contract carrier, or similar
12 delivery service making deliveries on behalf of others shall
13 not be entitled to purchase a delivery license hereunder.

14 (c) Any taxpayer that meets the criteria for the
15 purchase of a delivery license, as provided in subsections (a)
16 and (b), and meets those criteria during the current license
17 year as well, shall purchase either a delivery license or a
18 regular business license otherwise applicable to the taxpayer,
19 at its option.

20 (d) Notwithstanding Section 11-51-90B, the delivery
21 license shall be calculated in arrears, based on the related
22 gross receipts during the preceding license year.

23 (e) The purchase of a delivery license shall not, in
24 and of itself, establish nexus between the taxpayer and the
25 municipality for purposes of the taxes levied by or under the

1 authority of Title 40 or other provisions of this title, nor
2 does the purchase of a delivery license, in and of itself,
3 establish that nexus does not exist between the taxpayer and
4 the municipality.

5 (f) If at any time during the current license year
6 the taxpayer fails to meet the criteria specified in
7 subsections (a) and (b), then within 10 days after any of the
8 criteria have been violated or exceeded, the taxpayer shall
9 purchase all appropriate business licenses from the
10 municipality or its designee, for the entire license year and
11 without regard to this section.

12 §11-51-195.

13 (a) Each municipality that levies a business license
14 tax shall become subject to the provisions of this act on or
15 before January 1, 2008. Any municipality may elect by adoption
16 of an ordinance to have this act apply to it, and taxpayers
17 doing business in the municipality, on and after January 1,
18 2007.

19 (b) The failure of a municipality to comply with
20 subsection (a) shall not prevent the municipality from levying
21 or collecting its business license taxes, but the provisions
22 of this act shall nevertheless govern each municipality and
23 supersede the provisions of any inconsistent ordinance, code,
24 resolution, or policy, of that municipality.

25 § 11-51-196

1 (a) It shall be unlawful for any person to print,
2 publish, or divulge, without the written permission or
3 approval of the taxpayer, the license form of any taxpayer or
4 any part of the license form, or any information secured in
5 arriving at the amount of tax or value reported, for any
6 purpose other than the proper administration of any matter
7 administered by the taxing jurisdiction, or upon order of any
8 court, or as otherwise allowed in this section. Nothing herein
9 shall prohibit the disclosure, upon request, of the fact that
10 a taxpayer has or has not purchased a business license or of
11 the name and address of a taxpayer purchasing or renewing a
12 business license from the municipality. Statistical
13 information pertaining to taxes may be disclosed to the
14 municipal governing body upon their request. Any person
15 willfully violating the provisions of this section shall, for
16 each act of disclosure, have committed a Class A misdemeanor.

17 (b) The governing body of a municipality may adopt
18 from time to time an ordinance consistent with Section
19 40-2A-10(d) to permit the exchange of business license
20 information between and among the municipality and other
21 municipalities adopting similar ordinances or between county
22 and state governments, subject to the confidentiality
23 restrictions imposed by this section.

24 (c) In no event shall any damages, attorney fees, or
25 court costs be assessed against a municipal government under

1 this section, nor shall any damages, attorney fees, or court
 2 costs be assessed against elected officials, officers or
 3 employees of a municipal government under this section.

4 Section 4. The Legislature hereby finds and declares
 5 that the enactment by this state of a simplified and uniform
 6 system for licensing businesses by all municipalities in
 7 Alabama will effectuate desirable public policy by promoting
 8 understanding of and compliance with applicable business
 9 license laws. The purposes of this act are to establish a
 10 uniform business license system, as defined herein, and
 11 uniform appeals process and not to restrict or repeal other
 12 municipal taxes which currently exist or that hereafter may be
 13 adopted by a municipality pursuant to Section 11-51-90 et
 14 seq., Code of Alabama 1975, nor to restrict the authority of
 15 municipalities to increase or decrease business license fees
 16 or impose fixed-rate business licenses beyond the two
 17 exceptions stated in this act. The Legislature does therefore
 18 declare that the provisions of this act are intended to
 19 accomplish these purposes.

20 Section 5. The provisions of this act are severable.
 21 If any part of this act is declared invalid or
 22 unconstitutional, that declaration shall not affect the part
 23 which remains. References to sections of the Code of Alabama
 24 1975, or to sectors or sub-sectors of the 2002 North American
 25 Industrial Classification System (NAICS) shall mean and

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

12 Section 6. No laws or parts of laws which are not
13 specifically repealed or amended by this act shall be repealed
14 or amended. Without limitation, nothing herein shall be
15 construed to repeal or amend the provisions of Section
16 34-14A-13, as amended by Act 2000-99, nor the provisions of
17 Title 28 applicable to the regulation or taxation of beer or
18 table wine, nor the provisions of Division 2 of Article 2 of
19 Chapter 51 of Title 11 (other than Section 11-51-122), Code of
20 Alabama 1975.

21 Section 7. This act shall become effective for
22 license years beginning after December 31, 2007, following its
23 passage and approval by the Governor, or its otherwise
24 becoming law; provided, however, that any municipality may
25 elect by adoption of an ordinance to have this act apply to

1 it, and taxpayers doing business in the municipality or its
2 police jurisdiction, after December 31, 2006; and provided
3 further that any municipality may elect, by adoption of an
4 ordinance on or before December 31, 2007, to delay the
5 effective date of the changes to the statutes of limitation
6 for assessments and refunds, embodied in Section 11-51-191,
7 until license years beginning after December 31, 2008.

8 Notwithstanding the foregoing, the provisions of this act
9 relating to the time limits for entering assessments of
10 business license taxes, filing petitions for refund or issuing
11 refunds of business license taxes, and the like, shall neither
12 cause the reopening of any tax period that would otherwise be
13 closed, nor accelerate the closing of any tax period that
14 would otherwise be open, on the effective date of this act.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 29-MAR-06, as amended.

Greg Pappas
Clerk

Senate	17-APR-06	Amended and Passed
House	17-APR-06	Concurred in Senate Amendment