**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3058**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Merrill and Harrison

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Introduced in the House on January 11, 2011

Currently residing in the House Committee on **Ways and Means**

Summary: Business license tax

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/7/2010 House Prefiled

12/7/2010 House Referred to Committee on **Ways and Means**

1/11/2011 House Introduced and read first time ([House Journal‑page 27](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Ways and Means** ([House Journal‑page 27](file:///h:\hj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/7/2010](file:///p:\pprever\2011-12\3058_20101207.docx)

**A** **BILL**

TO AMEND SECTION 4‑9‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DESIGNATIONS OF POWERS TO COUNTY GOVERNMENTS, AND SECTION 5‑7‑30, AS AMENDED, RELATING TO DESIGNATIONS OF POWERS TO MUNICIPAL GOVERNMENTS, BOTH SO AS TO REQUIRE THAT THE IMPOSITION OF A BUSINESS LICENSE TAX ON A BUSINESS MUST BE BASED ON THE SIZE OF THE BUSINESS IN TERMS OF THE NUMBER OF ITS EMPLOYEES AND NOT ON ITS GROSS INCOME, AND PROVIDE THAT COUNTY AND MUNICIPAL GOVERNING BODIES SHALL ESTABLISH A CLEAR AND CONCISE POLICY FOR THE ADMINISTRATIVE ENFORCEMENT OF THEIR BUSINESS LICENSE TAX WHICH IS CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION AND OTHER APPLICABLE PROVISIONS OF LAW.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 4‑9‑30(12) of the 1976 Code, as last amended by Act 405 of 1994, is further amended to read:

“(12) to levy uniform license taxes upon persons and businesses engaged in or intending to engage in a business, occupation, or profession, in whole or in part, within the county but outside the corporate limits of a municipality except those persons who are engaged in the profession of teaching or who are ministers of the gospel and rabbis, except persons and businesses acting in the capacity of telephone, telegraph, gas and electric utilities, suppliers, or other utility regulated by the Public Service Commission and except an entity which is exempt from license tax under another law or a subsidiary or affiliate of any such exempt entity. No county license fee or tax may be levied on insurance companies. The license tax must be ~~graduated according to the gross income of the person or business taxed~~ imposed pursuant to a schedule devised by the county council and based on the size of the business in terms of the number of its employees, not upon the gross income of the business. The governing body of the county by ordinance shall establish a clear and concise policy for the administrative enforcement of its business license tax which is consistent with the requirements of this section and other applicable provisions of law. A business engaged in making loans secured by real estate is subject to the license tax only if it has premises located in the county but outside the corporate limits of a municipality. If the person or business taxed pays a license tax to another county or to a municipality, ~~the gross income for the purpose of computing~~ the scheduled tax must be reduced by the amount ~~of gross income~~ taxed in the other county or municipality.”

SECTION 2. Section 5‑7‑30 of the 1976 Code, as last amended by Act 412 of 2008, is further amended to read:

“Section 5‑7‑30. Each municipality of the State, in addition to the powers conferred to its specific form of government, may enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of powers in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it, including the authority to levy and collect taxes on real and personal property and as otherwise authorized in this section, make assessments, and establish uniform service charges relating to them; the authority to abate nuisances; the authority to provide police protection in contiguous municipalities and in unincorporated areas located not more than three miles from the municipal limits upon the request and agreement of the governing body of such contiguous municipality or the county, including agreement as to the boundaries of such police jurisdictional areas, in which case the municipal law enforcement officers shall have the full jurisdiction, authority, rights, privileges, and immunities, including coverage under the workers’ compensation law, which they have in the municipality, including the authority to make arrests, and to execute criminal process within the extended jurisdictional area; provided, however, that this shall not extend the effect of the laws of the municipality beyond its corporate boundaries; grant franchises for the use of public streets and make charges for them; grant franchises and make charges for the use of public beaches; engage in the recreation function; levy a business license tax ~~on~~ pursuant to a schedule devised by the municipal council and based on the size of the business in terms of the number of its employees and not on its gross income, but a wholesaler delivering goods to retailers in a municipality is not subject to the business license tax unless he maintains within the corporate limits of the municipality a warehouse or mercantile establishment for the distribution of wholesale goods; and a business engaged in making loans secured by real estate is not subject to the business license tax unless it has premises located within the corporate limits of the municipality and no entity which is exempt from the license tax under another law nor a subsidiary or affiliate of an exempt entity is subject to the business license tax; borrow in anticipation of taxes; and pledge revenues to be collected and the full faith and credit of the municipality against its note and conduct advisory referenda. The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both. If the person or business taxed pays a business license tax to a county or to another municipality ~~where the income is earned~~, the ~~gross income for the purpose of computing the~~ scheduled tax must be reduced by the amount ~~of gross income~~ taxed in the other county or municipality. The governing body of the municipality by ordinance shall establish a clear and concise policy for the administrative enforcement of its business license tax which is consistent with the requirements of this section and other applicable provisions of law.

For the purpose of providing and maintaining parking for the benefit of a downtown commercial area, a municipality may levy a surtax upon the business license of a person doing business in a designated area in an amount not to exceed fifty percent of the current yearly business license tax upon terms and conditions fixed by ordinance of the municipal council. The area must be designated by council only after a petition is submitted by not less than two‑thirds of the persons paying a business license tax in the area and who paid not less than one‑half of the total business license tax collected for the preceding calendar year requesting the designation of the area. The business within the designated area which is providing twenty‑five or more parking spaces for customer use is required to pay not more than twenty‑five percent of a surtax levied pursuant to the provisions of this paragraph.”

SECTION 3. This act takes effect upon approval by the Governor.

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