**South Carolina General Assembly**

121st Session, 2015-2016

**H. 5109**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bingham, J.E. Smith, Brannon, Clary, Duckworth, Cobb‑Hunter, Hamilton, Erickson, George and Knight

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Introduced in the House on March 15, 2016

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: S.C. Business License Tax Standardization Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/15/2016 House Introduced and read first time ([House Journal‑page 37](file:///h:\HJ%20Archive\2016\03-15-16.docx))

3/15/2016 House Referred to Committee on **Ways and Means** ([House Journal‑page 37](file:///h:\HJ%20Archive\2016\03-15-16.docx))

3/16/2016 House Member(s) request name added as sponsor: J.E.Smith, Brannon

3/16/2016 House Recalled from Committee on **Ways and Means** ([House Journal‑page 82](file:///h:\HJ%20Archive\2016\03-16-16.docx))

3/17/2016 House Committed to Committee on **Labor, Commerce and Industry** ([House Journal‑page 82](file:///h:\HJ%20Archive\2016\03-17-16.docx))

3/21/2016 House Member(s) request name added as sponsor: Clary

3/22/2016 House Member(s) request name added as sponsor: Duckworth, Cobb‑Hunter

3/23/2016 House Member(s) request name added as sponsor: Hamilton

4/14/2016 House Member(s) request name added as sponsor: Erickson

4/19/2016 House Member(s) request name added as sponsor: George

4/20/2016 House Member(s) request name added as sponsor: Knight

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**VERSIONS OF THIS BILL**

[3/15/2016](file:///p:\pprever\2015-16\5109_20160315.docx)

[3/23/2016](file:///p:\pprever\2015-16\5109_20160323.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA BUSINESS LICENSE TAX STANDARDIZATION ACT” BY ADDING SECTIONS 5‑7‑320 AND 4‑1‑190 SO AS TO PROVIDE THE SOLE MANNER IN WHICH A MUNICIPAL OR COUNTY BUSINESS LICENSE TAX MAY BE IMPOSED, INCLUDING DURATION, CALCULATION, AND PAYMENT, AND TO RESTRICT COLLECTIONS IN THE 2018 LICENSE YEAR; TO AMEND SECTION 6‑1‑120, AS AMENDED, RELATING TO THE CONFIDENTIALITY OF CERTAIN INFORMATION, SO AS TO AUTHORIZE THE SHARING OF BUSINESS LICENSE INFORMATION AMONG LOCAL GOVERNMENTS; AND TO AMEND SECTION 12‑4‑310, AS AMENDED, RELATING TO POWERS OF THE DEPARTMENT OF REVENUE, SO AS TO ALLOW THE DEPARTMENT TO SHARE MUNICIPAL BUSINESS LICENSE INFORMATION AMONG OTHER LOCAL GOVERNMENTS.

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

SECTION 1. This act may be cited as the ‘South Carolina Business License Tax Standardization Act’.

SECTION 2. Chapter 7, Title 5 of the 1976 Code is amended by adding:

“Section 5‑7‑320. (A) Notwithstanding Section 5‑7‑30 or any other provision of law, any business license tax levied by a municipality must comply with the provisions of this section.

(B)(1) Each business license issued must expire April thirtieth, or if issued on a construction contract, at the completion of the construction project. The business license must be renewed before May first of the year in which it expires. If the tax is not paid before May first, a municipality may impose penalties, except that an admitted insurance company may pay before June first without penalty.

(2) The business license tax must be computed based on the gross income for the calendar year preceding the due date, the business’ twelve‑month fiscal year preceding the due date, or on a twelve‑month projected income based on the monthly average for a business in operation for less than one year. The tax for a new business must be computed on the estimated probable gross income stated in the license application for the balance of the license year. A business license related to construction contract projects may be issued on a per project basis.

(3) For purposes of this subsection, ‘gross income’ means gross receipts, if reported on a cash basis, or gross revenues, if reported on an accrual basis, from the performance of services and from the sale, lease, or rental of goods or other property in the ordinary course of business, including the value of any bartered goods or trade‑in merchandise and with no reduction for the cost of goods sold or other business expenses and with no deductions. ‘Gross income’ does not include returns of goods, taxes collected for and remitted to a governmental entity, escrow funds, funds that are the property of a third party, or reductions allowed by Section 5‑7‑30. ‘Gross income’ for commission agents means gross commissions received or retained. Gross income for insurance companies means gross premiums as described in the Standardized Business License Class Schedule.

(C) Each municipality must accept a standard business license application as established and provided by the Municipal Association of South Carolina.

(D)(1) By December thirty‑first of every odd year, a municipality must adopt, by ordinance, the latest Standardized Business License Class Schedule as provided by the Municipal Association of South Carolina. The Municipal Association of South Carolina shall determine and revise the Standardized Business License Class Schedule every even year using the business classification codes of the latest North American Industry Classification System.

(2) A municipality, upon a finding of a rational basis as explained in its ordinance and by a positive majority vote of council, may provide for additional reasonable subclassifications, described by NAICS sector, subsector, or industry, based upon particularized considerations as needed for economic stimulus or the enhanced or disproportionate demands by specific business subclassifications on municipal services or infrastructure.

(3) The Municipal Association of South Carolina must submit the revised Standardized Business License Class Schedule to the Revenue and Fiscal Affairs Office by December thirty‑first of every even year.

(E) Each municipality must provide access to businesses for the reporting, calculation, and payment of business license taxes through the Municipal Association of South Carolina’s Business License Tax Portal, subject to the availability and capability of the portal. Limitations in portal availability or capability do not relieve businesses from existing business license or business license tax obligations.

(F)(1) A municipality must establish its 2018 Business License Tax Rate Schedule using the gross income reported by businesses for a twelve‑month period in the 2017 business license year so that the aggregate municipal business license tax calculated for 2018 does not exceed the aggregate municipal business license tax collected in 2017 from the same businesses.

(2) If the rate for a NAICS sector, subsector, or industry is unchanged from 2017 to 2018, then the business license tax collections may be excluded from the calculation set forth in item (1).”

SECTION 3. Chapter 1, Title 4 of the 1976 Code is amended by adding:

“Section 4‑1‑190. (A) Notwithstanding Section 4‑9‑30 or any other provision of law, any business license tax levied by a county must comply with the provisions of this section.

(B)(1) Each business license issued must expire April thirtieth, or if issued on a construction contract, at the completion of the construction project. The business license must be renewed before May first of the year in which it expires. If the tax is not paid before May first, a county may impose penalties.

(2) The business license tax must be computed based on the gross income for the calendar year preceding the due date, the business’ twelve‑month fiscal year preceding the due date, or on a twelve‑month projected income based on the monthly average for a business in operation for less than one year. The tax for a new business must be computed on the estimated probable gross income stated in the license application for the balance of the license year. A business license related to construction contract projects may be issued on a per project basis.

(3) For purposes of this subsection, ‘gross income’ means gross receipts, if reported on a cash basis, or gross revenues, if reported on an accrual basis, from the performance of services and from the sale, lease, or rental of goods or other property in the ordinary course of business, including the value of any bartered goods or trade‑in merchandise and with no reduction for the cost of goods sold or other business expenses and with no deductions. ‘Gross income’ does not include returns of goods, taxes collected for and remitted to a governmental entity, escrow funds, funds that are the property of a third party, or reductions allowed by Section 4‑9‑30. ‘Gross income’ for commission agents means gross commissions received or retained.

(C) Each county must accept a standard business license application as established and provided by the South Carolina Association of Counties.

(D)(1) By December thirty‑first of every odd year, a county must adopt, by ordinance, the latest Standardized Business License Class Schedule as provided by the South Carolina Association of Counties. The South Carolina Association of Counties shall determine and revise the Standardized Business License Class Schedule every even year using the business classification codes of the latest North American Industry Classification System.

(2) A county, upon a finding of a rational basis as explained in its ordinance and by a positive majority vote of council, may provide for additional reasonable subclassifications, described by NAICS sector, subsector, or industry, based upon particularized considerations as needed for economic stimulus or the enhanced or disproportionate demands by specific business subclassifications on county services or infrastructure.

(3) The South Carolina Association of Counties must submit the revised Standardized Business License Class Schedule to the Revenue and Fiscal Affairs Office by December thirty‑first of every even year.

(E) Each county must provide access to businesses for the reporting, calculation, and payment of business license taxes through the South Carolina Association of Counties Business License Tax Portal, subject to the availability and capability of the portal. Limitations in portal availability or capability do not relieve businesses from existing business license or business license tax obligations.

(F)(1) A county must establish its 2018 Business License Tax Rate Schedule using the gross income reported by businesses for a twelve‑month period in the 2017 business license year so that the aggregate county business license tax calculated for 2018 does not exceed the aggregate county business license tax collected in 2017 from the same businesses.

(2) If the rate for a NAICS sector, subsector, or industry is unchanged from 2017 to 2018, then the business license tax collections may be excluded from the calculation set forth in item (1).”

SECTION 4. Section 6‑1‑120(B)(3) of the 1976 Code, as last amended by Act 261 of 2014, is further amended to read:

“(3) sharing of data between public officials or employees, or their agents, in the performance of their duties, including the specific sharing of data as provided in Article 8 of this chapter, the Fairness in Lodging Act, and Sections 4‑1‑190 and 5‑7‑320, the South Carolina Business License Tax Standardization Act.”

SECTION 5. Section 12‑4‑310(10) and (11) of the 1976 Code, as added by Act 261 of 2014, is amended to read:

“(10) make available to the authorities of a municipality or county in this State levying a tax based on gross receipts or net taxable sales, any records indicating the amount of gross receipts or net taxable sales reported to the department; ~~provided, however, that income tax records may be made available only if the department first has satisfied itself that the gross receipts reported to the municipality or county were less than the gross receipts as indicated by the records of the department;~~ and

(11) provide data and assistance to municipalities and counties, or their agents, in which Article 8, Chapter 1, Title 6, the Fairness in Lodging Act, and Sections 4‑1‑190 and 5‑7‑320, the South Carolina Business License Tax Standardization Act, is implemented.”

SECTION 6. This act takes effect January 1, 2018.

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