

By: Representative Ishee

To: Ways and Means

HOUSE BILL NO. 288

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,  
2 TO EXEMPT FROM SALES TAX SALES OF CERTAIN HOME MEDICAL EQUIPMENT  
3 AND HOME MEDICAL SUPPLIES; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 27-65-111, Mississippi Code of 1972, is  
6 amended as follows:

7 27-65-111. The exemptions from the provisions of this  
8 chapter which are not industrial, agricultural or governmental, or  
9 which do not relate to utilities or taxes, or which are not  
10 properly classified as one of the exemption classifications of  
11 this chapter, shall be confined to persons or property exempted by  
12 this section or by the Constitution of the United States or the  
13 State of Mississippi. No exemptions as now provided by any other  
14 section, except the classified exemption sections of this chapter  
15 set forth herein, shall be valid as against the tax herein levied.  
16 Any subsequent exemption from the tax levied hereunder, except as  
17 indicated above, shall be provided by amendments to this section.

18 No exemption provided in this section shall apply to taxes  
19 levied by Section 27-65-15 or 27-65-21.

20 The tax levied by this chapter shall not apply to the  
21 following:

22 (a) Sales of tangible personal property and services to  
23 hospitals or infirmaries owned and operated by a corporation or  
24 association in which no part of the net earnings inures to the  
25 benefit of any private shareholder, group or individual, and which  
26 are subject to and governed by Sections 41-7-123 through 41-7-127.

27           Only sales of tangible personal property or services which  
28 are ordinary and necessary to the operation of such hospitals and  
29 infirmaries are exempted from tax.

30           (b) Sales of daily or weekly newspapers, and  
31 periodicals or publications of scientific, literary or educational  
32 organizations exempt from federal income taxation under Section  
33 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
34 March 31, 1975, and subscription sales of all magazines.

35           (c) Sales of coffins, caskets and other materials used  
36 in the preparation of human bodies for burial.

37           (d) Sales of tangible personal property for immediate  
38 export to a foreign country.

39           (e) Sales of tangible personal property to an  
40 orphanage, old men's or ladies' home, supported wholly or in part  
41 by a religious denomination, fraternal nonprofit organization or  
42 other nonprofit organization.

43           (f) Sales of tangible personal property, labor or  
44 services taxable under Sections 27-65-17, 27-65-19, and 27-65-23,  
45 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a  
46 corporation or association in which no part of the net earnings  
47 inures to the benefit of any private shareholder, group or  
48 individual.

49           (g) Sales to elementary and secondary grade schools,  
50 junior and senior colleges owned and operated by a corporation or  
51 association in which no part of the net earnings inures to the  
52 benefit of any private shareholder, group or individual, and which  
53 are exempt from state income taxation, provided that this  
54 exemption does not apply to sales of property or services which  
55 are not to be used in the ordinary operation of the school, or  
56 which are to be resold to the students or the public.

57           (h) The gross proceeds of retail sales and the use or  
58 consumption in this state of drugs and medicines:

59           (i) Prescribed for the treatment of a human being

60 by a person authorized to prescribe the medicines, and dispensed  
61 or prescription filled by a registered pharmacist in accordance  
62 with law; or

63 (ii) Furnished by a licensed physician, surgeon,  
64 dentist or podiatrist to his own patient for treatment of the  
65 patient; or

66 (iii) Furnished by a hospital for treatment of any  
67 person pursuant to the order of a licensed physician, surgeon,  
68 dentist or podiatrist; or

69 (iv) Sold to a licensed physician, surgeon,  
70 podiatrist, dentist or hospital for the treatment of a human  
71 being; or

72 (v) Sold to this state or any political  
73 subdivision or municipal corporation thereof, for use in the  
74 treatment of a human being or furnished for the treatment of a  
75 human being by a medical facility or clinic maintained by this  
76 state or any political subdivision or municipal corporation  
77 thereof.

78 "Medicines," as used in this paragraph, shall mean and  
79 include any substance or preparation intended for use by external  
80 or internal application to the human body in the diagnosis, cure,  
81 mitigation, treatment or prevention of disease and which is  
82 commonly recognized as a substance or preparation intended for  
83 such use, home medical equipment and home medical supplies listed  
84 as eligible for payment under Title XVIII of the Social Security  
85 Act or under the state plan for medical assistance under Title XIX  
86 of the Social Security Act, prosthetics and orthotics, oxygen and  
87 oxygen equipment; provided that "medicines" do not include any  
88 auditory, \* \* \* ophthalmic or ocular device or appliance, any  
89 dentures or parts thereof \* \* \*, articles which are in the nature  
90 of splints, bandages, pads, compresses, supports, dressings,  
91 instruments, apparatus, contrivances, appliances, devices or other  
92 mechanical, electronic, optical or physical equipment or article

93 or the component parts and accessories thereof, or any alcoholic  
94 beverage or any other drug or medicine not commonly referred to as  
95 a prescription drug.

96 Notwithstanding the preceding sentence of this subsection,  
97 "medicines" as used in this subsection, shall mean and include  
98 sutures, whether or not permanently implanted, bone screws, bone  
99 pins, pacemakers and other articles permanently implanted in the  
100 human body to assist the functioning of any natural organ, artery,  
101 vein or limb and which remain or dissolve in the body.

102 "Hospital," as used in this paragraph, shall have the meaning  
103 ascribed to it in Section 41-9-3.

104 Insulin furnished by a registered pharmacist to a person for  
105 treatment of diabetes as directed by a physician shall be deemed  
106 to be dispensed on prescription within the meaning of this  
107 subsection.

108 (i) Retail sales of automobiles, trucks and  
109 truck-tractors if exported from this state within forty-eight (48)  
110 hours and registered and first used in another state.

111 (j) Sales of tangible personal property or services to  
112 the Salvation Army and the Muscular Dystrophy Association, Inc.

113 (k) From July 1, 1985, through December 31, 1992,  
114 retail sales of "alcohol blended fuel" as such term is defined in  
115 Section 75-55-5. The gasoline-alcohol blend or the straight  
116 alcohol eligible for this exemption shall not contain alcohol  
117 distilled outside the State of Mississippi.

118 (l) Sales of tangible personal property or services to  
119 the Institute for Technology Development.

120 (m) The gross proceeds of retail sales of food and  
121 drink for human consumption made through vending machines serviced  
122 by full line vendors from and not connected with other taxable  
123 businesses.

124 (n) The gross proceeds of sales of motor fuel.

125 (o) Retail sales of food for human consumption

126 purchased with food stamps issued by the United States Department  
127 of Agriculture, or other federal agency, from and after October 1,  
128 1987, or from and after the expiration of any waiver granted  
129 pursuant to federal law, the effect of which waiver is to permit  
130 the collection by the state of tax on such retail sales of food  
131 for human consumption purchased with food stamps.

132 (p) Sales of cookies for human consumption by the Girl  
133 Scouts of America no part of the net earnings from which sales  
134 inures to the benefit of any private group or individual.

135 (q) Gifts or sales of tangible personal property or  
136 services to public or private nonprofit museums of art.

137 (r) Sales of tangible personal property or services to  
138 alumni associations of state-supported colleges or universities.

139 (s) Sales of tangible personal property or services to  
140 chapters of the National Association of Junior Auxiliaries, Inc.

141 (t) Sales of tangible personal property or services to  
142 domestic violence shelters which qualify for state funding under  
143 Sections 93-21-101 through 93-21-113.

144 (u) Sales of tangible personal property or services to  
145 the National Multiple Sclerosis Society, Mississippi Chapter.

146 (v) Retail sales of food for human consumption  
147 purchased with food instruments issued the Mississippi Band of  
148 Choctaw Indians under the Women, Infants and Children Program  
149 (WIC) funded by the United States Department of Agriculture.

150 (w) Sales of tangible personal property or services to  
151 a private company, as defined in Section 57-61-5, which is making  
152 such purchases with proceeds of bonds issued under Section 57-61-1  
153 et seq., the Mississippi Business Investment Act.

154 (x) The gross collections from the operation of  
155 self-service, coin-operated car washing equipment and sales of the  
156 service of washing motor vehicles with portable high pressure  
157 washing equipment on the premises of the customer.

158 SECTION 2. Nothing in this act shall affect or defeat any

159 claim, assessment, appeal, suit, right or cause of action for  
160 taxes due or accrued under the sales tax laws before the date on  
161 which this act becomes effective, whether such claims,  
162 assessments, appeals, suits or actions have been begun before the  
163 date on which this act becomes effective or are begun thereafter;  
164 and the provisions of the sales tax laws are expressly continued  
165 in full force, effect and operation for the purpose of the  
166 assessment, collection and enrollment of liens for any taxes due  
167 or accrued and the execution of any warrant under such laws before  
168 the date on which this act becomes effective, and for the  
169 imposition of any penalties, forfeitures or claims for failure to  
170 comply with such laws.

171 SECTION 3. This act shall take effect and be in force from  
172 and after July 1, 1999.