By: Representatives Howell, Mitchell, Smith To: Ways and Means (35th)

HOUSE BILL NO. 581 (As Passed the House)

AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO TAX THE RETAIL SALE OF TRUCK-TRACTORS AND SEMITRAILERS USED IN INTERSTATE COMMERCE AND REGISTERED UNDER THE INTERNATIONAL 3 REGISTRATION PLAN AT THE RATE OF THREE PERCENT OF THE PORTION OF THE SALE THAT IS ATTRIBUTABLE TO THE USAGE OF SUCH TRUCK-TRACTOR 5 OR SEMITRAILER IN MISSISSIPPI; TO PROVIDE THAT THE TAX LEVIED ON THE SALE OF SUCH TRUCK-TRACTOR AND SEMITRAILER SHALL BE REPORTED 6 7 AND PAID DIRECTLY TO THE STATE TAX COMMISSION BY THE PURCHASER OF 8 SUCH TRUCK-TRACTOR OR SEMITRAILER AT THE TIME OF REGISTRATION; TO 9 10 AMEND SECTION 27-65-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES. 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI: 12 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is 13 amended as follows: 14 27-65-17. (1) Upon every person engaging or continuing 15 16 within this state in the business of selling any tangible personal property whatsoever there is hereby levied, assessed and shall be 17 collected a tax equal to seven percent (7%) of the gross proceeds 18 19 of the retail sales of the business, except as otherwise provided herein. 2.0 Retail sales of farm tractors shall be taxed at the rate of 21 one percent (1%) when made to farmers for agricultural purposes. 22 Retail sales of farm implements sold to farmers and used 23 24 directly in the production of poultry, ratite, domesticated fish as defined in Section 69-7-501, livestock, livestock products, 25

agricultural crops or ornamental plant crops or used for other

(3%) when used on the farm. The three percent (3%) rate shall

also apply to all equipment used in logging, pulpwood operations

or tree farming which is either (a) self-propelled or which is (b)

agricultural purposes shall be taxed at the rate of three percent

26

2.7

28

29

30

- 31 mounted so that it is (i) permanently attached to other equipment
- 32 which is self-propelled or (ii) permanently attached to other
- 33 equipment drawn by a vehicle which is self-propelled.
- 34 Except as otherwise provided in subsection (3) of this
- 35 <u>section</u>, retail sales of aircraft, automobiles, trucks,
- 36 truck-tractors, semitrailers and mobile homes shall be taxed at
- 37 the rate of three percent (3%).
- 38 Sales of manufacturing machinery or manufacturing machine
- 39 parts when made to a manufacturer or custom processor for plant
- 40 use only when said machinery and machine parts will be used
- 41 exclusively and directly within this state in manufacturing a
- 42 commodity for sale, rental or in processing for a fee shall be
- 43 taxed at the rate of one and one-half percent (1-1/2%).
- Sales of materials for use in track and track structures to a
- 45 railroad whose rates are fixed by the Interstate Commerce
- 46 Commission or the Mississippi Public Service Commission shall be
- 47 taxed at the rate of three percent (3%).
- 48 Sales of tangible personal property to electric power
- 49 associations for use in the ordinary and necessary operation of
- 50 their generating or distribution systems shall be taxed at the
- 51 rate of one percent (1%).
- 52 Wholesale sales of beer shall be taxed at the rate of seven
- 53 percent (7%), and the retailer shall file a return and compute the
- 54 retail tax on retail sales but may take credit for the amount of
- 55 the tax paid to the wholesaler on said return covering the
- 56 subsequent sales of same property, provided adequate invoices and
- 57 records are maintained to substantiate the credit.
- Wholesale sales of food and drink for human consumption to
- 59 full service vending machine operators to be sold through vending
- 60 machines located apart from and not connected with other taxable
- 61 businesses shall be taxed at the rate of eight percent (8%).
- A manufacturer selling at retail in this state shall be
- 63 required to make returns of the gross proceeds of such sales and
- 64 pay the tax imposed in this section.
- Any person exercising any privilege taxable under Section
- 66 27-65-15 and selling his natural resource products at wholesale or
- 67 to exempt persons shall pay the tax levied by said section in lieu

- 68 of the tax levied by this section.
- 69 (2) From and after January 1, 1995, retail sales of private
- 70 carriers of passengers and light carriers of property, as defined
- 71 in Section 27-51-101, shall be taxed an additional two percent
- 72 (2%).
- 73 (3) In lieu of the tax levied in subsection (1) of this
- 74 section, there is levied on retail sales of truck-tractors and
- 75 <u>semitrailers used in interstate commerce and registered under the</u>
- 76 International Registration Plan (IRP) or any similar reciprocity
- 77 agreement or compact relating to the proportional registration of
- 78 <u>commercial vehicles entered into as provided for in Section</u>
- 79 27-19-143, a tax at the rate of three percent (3%) of the portion
- 80 of the sale that is attributable to the usage of such
- 81 <u>truck-tractor or semitrailer in Mississippi. The portion of the</u>
- 82 <u>retail sale that is attributable to the usage of such</u>
- 83 <u>truck-tractor or semitrailer in Mississippi is the retail sales</u>
- 84 price of the truck-tractor or semitrailer multiplied by the
- 85 percentage of the total miles traveled by the vehicle that are
- 86 <u>traveled in Mississippi. The tax levied pursuant to this</u>
- 87 <u>subsection (3) shall be collected by the State Tax Commission from</u>
- 88 the purchaser of such truck-tractor or semitrailer at the time of
- 89 <u>registration of such truck-tractor or semitrailer.</u>
- 90 SECTION 2. Section 27-65-31, Mississippi Code of 1972, is
- 91 amended as follows:
- 92 27-65-31. Any person liable for a privilege tax levied and
- 93 assessed by this chapter except the taxes levied by Sections
- 94 27-65-15, 27-65-17(3) and 27-65-21, Mississippi Code of 1972,
- 95 shall add the amount of such tax due by him to the sales price or
- 96 gross income and, in addition thereto, shall collect, insofar as
- 97 practicable, the amount of the tax due by him from the purchaser
- 98 at the time the sales price or gross income is collected.
- The commissioner is * * * authorized, in his discretion, to
- 100 prescribe by rule or regulation, brackets or schedules by which

- 101 the applicable tax shall be collected from the purchaser.
- The commissioner shall have the authority to make changes as
- 103 necessary by rule or regulation to implement an agreement for the
- 104 collection of sales tax by direct marketers with limited contact
- 105 in Mississippi if, in his discretion, it is beneficial to the
- 106 state for him to do so.
- 107 It shall be unlawful for any person, who is liable for a
- 108 privilege tax levied by this chapter except the taxes levied by
- 109 Sections 27-65-15, 27-65-17(3) and 27-65-21, Mississippi Code of
- 110 1972, to fail or refuse to add to the sales price and collect,
- insofar as practicable, the amount of tax due by him on each sale,
- 112 except where the tax was included in the cost of furnishing
- 113 service when said cost was a factor in the fixing of rates and
- 114 charges.
- The tax due under the provisions of this chapter shall be
- 116 computed and paid on gross income or gross proceeds of sales of
- 117 the business, regardless of the fact that small unit sales may be
- 118 within the bracket of one (1) of the schedules which does not
- 119 provide for the collection of the tax from the customer.
- Nothing in this section with reference to the collection of
- 121 the tax from the customer shall be construed to impair, abridge,
- 122 alter or affect the obligation of any contract in existence at the
- 123 time it becomes effective.
- 124 When the tax collected for any filing period is in excess of
- 125 the amount due, the total tax collected, including that in excess
- 126 of the computed liability, shall be paid to the commissioner.
- 127 This provision shall be construed with other provisions of the law
- 128 and given effect so as to result in the payment to the
- 129 commissioner of the total tax collected if in excess of the amount
- 130 due when computed at the applicable rates.
- The funds collected by the taxpayer (seller) from the
- 132 purchaser pursuant to the provisions of this chapter shall be
- 133 considered "trust fund monies" and the taxpayer shall hold these

- 134 funds in trust for the State of Mississippi; said funds to be
- 135 separately accounted for as provided by regulation of the
- 136 commissioner. If the taxpayer fails to remit these trust fund
- 137 monies as required by law, then the taxpayer may be assessed with
- 138 a penalty in three (3) times the amount of taxes due. This
- 139 penalty is to be assessed and collected in the same manner as
- 140 taxes imposed by this chapter and shall be in addition to all
- 141 other penalties and/or interest otherwise imposed. For purposes
- 142 of this section there shall be a presumption that the taxpayer
- 143 collected the tax from the customer or purchaser.
- Any person violating the provisions of this section shall be
- 145 guilty of a misdemeanor and, upon conviction, shall be fined in a
- 146 sum not less than Fifty Dollars (\$50.00) nor more than One Hundred
- 147 Dollars (\$100.00).
- 148 SECTION 3. Nothing in this act shall affect or defeat any
- 149 claim, assessment, appeal, suit, right or cause of action for
- 150 taxes due or accrued under the sales tax laws before the date on
- 151 which this act becomes effective, whether such claims,
- 152 assessments, appeals, suits or actions have been begun before the
- 153 date on which this act becomes effective or are begun thereafter;
- 154 and the provisions of the sales tax laws are expressly continued
- 155 in full force, effect and operation for the purpose of the
- 156 assessment, collection and enrollment of liens for any taxes due
- 157 or accrued and the execution of any warrant under such laws before
- 158 the date on which this act becomes effective, and for the
- 159 imposition of any penalties, forfeitures or claims for failure to
- 160 comply with such laws.
- 161 SECTION 4. This act shall take effect and be in force from
- 162 and after July 1, 1999.