

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

HOUSE BILL NO. 581
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO TAX THE RETAIL SALE OF TRUCK-TRACTORS AND SEMITRAILERS USED IN
3 INTERSTATE COMMERCE AND REGISTERED UNDER THE INTERNATIONAL
4 REGISTRATION PLAN AT THE RATE OF THREE PERCENT OF THE PORTION OF
5 THE SALE THAT IS ATTRIBUTABLE TO THE USAGE OF SUCH TRUCK-TRACTOR
6 OR SEMITRAILER IN MISSISSIPPI; TO PROVIDE THAT THE TAX LEVIED ON
7 THE SALE OF SUCH TRUCK-TRACTOR AND SEMITRAILER SHALL BE REPORTED
8 AND PAID DIRECTLY TO THE STATE TAX COMMISSION BY THE PURCHASER OF
9 SUCH TRUCK-TRACTOR OR SEMITRAILER AT THE TIME OF REGISTRATION; TO
10 AMEND SECTION 27-65-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY
11 THERETO; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is
14 amended as follows:

15 27-65-17. (1) Upon every person engaging or continuing
16 within this state in the business of selling any tangible personal
17 property whatsoever there is hereby levied, assessed and shall be
18 collected a tax equal to seven percent (7%) of the gross proceeds
19 of the retail sales of the business, except as otherwise provided
20 herein.

21 Retail sales of farm tractors shall be taxed at the rate of
22 one percent (1%) when made to farmers for agricultural purposes.

23 Retail sales of farm implements sold to farmers and used
24 directly in the production of poultry, ratite, domesticated fish
25 as defined in Section 69-7-501, livestock, livestock products,
26 agricultural crops or ornamental plant crops or used for other
27 agricultural purposes shall be taxed at the rate of three percent
28 (3%) when used on the farm. The three percent (3%) rate shall
29 also apply to all equipment used in logging, pulpwood operations
30 or tree farming which is either (a) self-propelled or which is (b)

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 section, 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%).

44 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.

58 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%).

62 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.

65 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 semitrailers used in interstate commerce and registered under the
76 International Registration Plan (IRP) or any similar reciprocity
77 agreement or compact relating to the proportional registration of
78 commercial vehicles entered into as provided for in Section
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 truck-tractor or semitrailer in Mississippi. The portion of the
82 retail sale that is attributable to the usage of such
83 truck-tractor or semitrailer in Mississippi is the retail sales
84 price of the truck-tractor or semitrailer multiplied by the
85 percentage of the total miles traveled by the vehicle that are
86 traveled in Mississippi. The tax levied pursuant to this
87 subsection (3) shall be collected by the State Tax Commission from
88 the purchaser of such truck-tractor or semitrailer at the time of
89 registration of such truck-tractor or semitrailer.

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.

99 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.

102 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,
111 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.

115 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.

120 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.

131 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.

144 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.