

By: Representative Williams

To: Ways and Means

HOUSE BILL NO. 670

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-111, MISSISSIPPI
2 CODE OF 1972, TO PHASE OUT THE SALES TAX ON SALES OF TANGIBLE
3 PERSONAL PROPERTY OR SERVICES TO CERTAIN RELIGIOUS INSTITUTIONS;
4 AND FOR RELATED PURPOSES.

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

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

8 27-65-17. (1) Upon every person engaging or continuing
9 within this state in the business of selling any tangible personal
10 property whatsoever there is hereby levied, assessed and shall be
11 collected a tax equal to seven percent (7%) of the gross proceeds
12 of the retail sales of the business, except as otherwise provided
13 herein.

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

16 Retail sales of farm implements sold to farmers and used
17 directly in the production of poultry, ratite, domesticated fish
18 as defined in Section 69-7-501, livestock, livestock products,
19 agricultural crops or ornamental plant crops or used for other
20 agricultural purposes shall be taxed at the rate of three percent
21 (3%) when used on the farm. The three percent (3%) rate shall
22 also apply to all equipment used in logging, pulpwood operations
23 or tree farming which is either (a) self-propelled or which is (b)
24 mounted so that it is (i) permanently attached to other equipment
25 which is self-propelled or (ii) permanently attached to other
26 equipment drawn by a vehicle which is self-propelled.

27 Retail sales of aircraft, automobiles, trucks,

28 truck-tractors, semitrailers and mobile homes shall be taxed at
29 the rate of three percent (3%).

30 Sales of manufacturing machinery or manufacturing machine
31 parts when made to a manufacturer or custom processor for plant
32 use only when said machinery and machine parts will be used
33 exclusively and directly within this state in manufacturing a
34 commodity for sale, rental or in processing for a fee shall be
35 taxed at the rate of one and one-half percent (1-1/2%).

36 Sales of materials for use in track and track structures to a
37 railroad whose rates are fixed by the Interstate Commerce
38 Commission or the Mississippi Public Service Commission shall be
39 taxed at the rate of three percent (3%).

40 Sales of tangible personal property to electric power
41 associations for use in the ordinary and necessary operation of
42 their generating or distribution systems shall be taxed at the
43 rate of one percent (1%).

44 Sales of tangible personal property or services to religious
45 institutions for the propagation of their creeds or for carrying
46 on their customary nonprofit religious activities shall be taxed
47 at the rates specified in this paragraph. "Religious
48 institution," for the purpose of this paragraph, means any
49 religious institution granted an exemption under 26 USCS Section
50 501(c)(3). The rates at which such sales shall be taxed are as
51 follows: from and after July 1, 1999, through June 30, 2000, at
52 the rate of seven percent (7%); from and after July 1, 2000,
53 through June 30, 2001, at the rate of six percent (6%); from and
54 after July 1, 2001, through June 30, 2002, at the rate of five
55 percent (5%); from and after July 1, 2002 through June 30, 2003,
56 at the rate of four percent (4%); from and after July 1, 2003,
57 through June 30, 2004, at the rate of three percent (3%); from and
58 after July 1, 2004, through June 30, 2005, at the rate of two
59 percent (2%); and from and after July 1, 2005, and each succeeding
60 year thereafter, at the rate of zero percent (0%).

61 Wholesale sales of beer shall be taxed at the rate of seven
62 percent (7%), and the retailer shall file a return and compute the
63 retail tax on retail sales but may take credit for the amount of
64 the tax paid to the wholesaler on said return covering the
65 subsequent sales of same property, provided adequate invoices and
66 records are maintained to substantiate the credit.

67 Wholesale sales of food and drink for human consumption to
68 full service vending machine operators to be sold through vending
69 machines located apart from and not connected with other taxable
70 businesses shall be taxed at the rate of eight percent (8%).

71 A manufacturer selling at retail in this state shall be
72 required to make returns of the gross proceeds of such sales and
73 pay the tax imposed in this section.

74 Any person exercising any privilege taxable under Section
75 27-65-15 and selling his natural resource products at wholesale or
76 to exempt persons shall pay the tax levied by said section in lieu
77 of the tax levied by this section.

78 (2) From and after January 1, 1995, retail sales of private
79 carriers of passengers and light carriers of property, as defined
80 in Section 27-51-101, shall be taxed an additional two percent
81 (2%).

82 SECTION 2. Section 27-65-111, Mississippi Code of 1972, is
83 amended as follows:

84 27-65-111. The exemptions from the provisions of this
85 chapter which are not industrial, agricultural or governmental, or
86 which do not relate to utilities or taxes, or which are not
87 properly classified as one of the exemption classifications of
88 this chapter, shall be confined to persons or property exempted by
89 this section or by the Constitution of the United States or the
90 State of Mississippi. No exemptions as now provided by any other
91 section, except the classified exemption sections of this chapter
92 set forth herein, shall be valid as against the tax herein levied.
93 Any subsequent exemption from the tax levied hereunder, except as

94 indicated above, shall be provided by amendments to this section.

95 No exemption provided in this section shall apply to taxes
96 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

97 The tax levied by this chapter shall not apply to the
98 following:

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

104 Only sales of tangible personal property or services which
105 are ordinary and necessary to the operation of such hospitals and
106 infirmaries are exempted from tax.

107 (b) Sales of daily or weekly newspapers, and
108 periodicals or publications of scientific, literary or educational
109 organizations exempt from federal income taxation under Section
110 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
111 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

126 (g) Sales to elementary and secondary grade schools,

127 junior and senior colleges owned and operated by a corporation or
128 association in which no part of the net earnings inures to the
129 benefit of any private shareholder, group or individual, and which
130 are exempt from state income taxation, provided that this
131 exemption does not apply to sales of property or services which
132 are not to be used in the ordinary operation of the school, or
133 which are to be resold to the students or the public.

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

136 (i) Prescribed for the treatment of a human being
137 by a person authorized to prescribe the medicines, and dispensed
138 or prescription filled by a registered pharmacist in accordance
139 with law; or

140 (ii) Furnished by a licensed physician, surgeon,
141 dentist or podiatrist to his own patient for treatment of the
142 patient; or

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

146 (iv) Sold to a licensed physician, surgeon,
147 podiatrist, dentist or hospital for the treatment of a human
148 being; or

149 (v) Sold to this state or any political
150 subdivision or municipal corporation thereof, for use in the
151 treatment of a human being or furnished for the treatment of a
152 human being by a medical facility or clinic maintained by this
153 state or any political subdivision or municipal corporation
154 thereof.

155 "Medicines," as used in this paragraph, shall mean and
156 include any substance or preparation intended for use by external
157 or internal application to the human body in the diagnosis, cure,
158 mitigation, treatment or prevention of disease and which is
159 commonly recognized as a substance or preparation intended for

160 such use; provided that "medicines" do not include any auditory,
161 prosthetic, ophthalmic or ocular device or appliance, any dentures
162 or parts thereof or any artificial limbs or their replacement
163 parts, articles which are in the nature of splints, bandages,
164 pads, compresses, supports, dressings, instruments, apparatus,
165 contrivances, appliances, devices or other mechanical, electronic,
166 optical or physical equipment or article or the component parts
167 and accessories thereof, or any alcoholic beverage or any other
168 drug or medicine not commonly referred to as a prescription drug.

169 Notwithstanding the preceding sentence of this subsection,
170 "medicines" as used in this subsection, shall mean and include
171 sutures, whether or not permanently implanted, bone screws, bone
172 pins, pacemakers and other articles permanently implanted in the
173 human body to assist the functioning of any natural organ, artery,
174 vein or limb and which remain or dissolve in the body.

175 "Hospital," as used in this paragraph, shall have the meaning
176 ascribed to it in Section 41-9-3, Mississippi Code of 1972.

177 Insulin furnished by a registered pharmacist to a person for
178 treatment of diabetes as directed by a physician shall be deemed
179 to be dispensed on prescription within the meaning of this
180 subsection.

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

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

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

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

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

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

198 (o) Retail sales of food for human consumption
199 purchased with food stamps issued by the United States Department
200 of Agriculture, or other federal agency, from and after October 1,
201 1987, or from and after the expiration of any waiver granted
202 pursuant to federal law, the effect of which waiver is to permit
203 the collection by the state of tax on such retail sales of food
204 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

223 (w) Sales of tangible personal property or services to
224 a private company, as defined in Section 57-61-5, which is making
225 such purchases with proceeds of bonds issued under Section 57-61-1

226 et seq., the Mississippi Business Investment Act.

227 (x) The gross collections from the operation of
228 self-service, coin-operated car washing equipment and sales of the
229 service of washing motor vehicles with portable high pressure
230 washing equipment on the premises of the customer.

231 (y) From and after July 1, 2005, sales of tangible
232 personal property or services to religious institutions for the
233 propagation of their creeds or for carrying on their customary
234 nonprofit religious activities. "Religious institution," for the
235 purpose of this exemption, means any religious institution granted
236 an exemption under 26 USCS Section 501(c)(3).

237 SECTION 3. Nothing in this act shall effect or defeat any
238 claim, assessment, appeal, suit, right or cause of action for
239 taxes due or accrued under the sales tax laws before the date on
240 which this act becomes effective, whether such claims,
241 assessments, appeals, suits, or actions have been begun before the
242 date on which this act becomes effective or are begun thereafter;
243 and the provisions of the sales tax laws are expressly continued
244 in full force, effect and operation for the purpose of the
245 assessment, collection and enrollment of liens for any taxes due
246 or accrued and the execution of any warrant under such laws before
247 the date on which this act become effective, and for the
248 imposition of any penalties, forfeitures or claims for failure to
249 comply with such laws.

250 SECTION 4. This act shall take effect and be in force from
251 and after July 1, 1999.