

By: Representative Grist

To: Ways and Means

HOUSE BILL NO. 1020

1 AN ACT TO AMEND SECTIONS 27-51-9 AND 27-65-31, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE STATE SALES TAX ON RETAIL SALES
3 OF EQUIPMENT AND UTILITY TRAILERS SHALL NOT BE COLLECTED BY THE
4 SELLER FROM THE PURCHASER AT THE TIME OF SALE BUT SHALL BE PAID BY
5 THE PURCHASER AT THE TIME THE AD VALOREM TAXES ARE PAID ON THE
6 TRAILER; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 27-51-9, Mississippi Code of 1972, is
9 amended as follows:

10 27-51-9. For the purposes of this chapter, the fiscal year
11 shall commence on August 1 and shall end on July 31 of each year.
12 The taxable year shall run concurrently with the taxable year in
13 effect in the law pertaining to the payment of the road and bridge
14 privilege license tax on motor vehicles. Except as otherwise
15 provided in Section 27-41-2, ad valorem taxes on motor vehicles
16 shall be collected by the county tax collector for the county and
17 state and by the municipal tax collector for the municipalities.
18 Ad valorem taxes for any ensuing year may be paid during the month
19 as provided in Section 27-19-31, however, and said ad valorem
20 taxes on any motor vehicle must be paid at the same time or prior
21 to the time that the road and bridge privilege license is issued
22 for the subject motor vehicle, unless herein otherwise
23 specifically exempt from such ad valorem taxes. The ad valorem
24 tax on motor vehicles shall be computed on the millage rates in
25 effect at the time such privilege license tax is to be paid.
26 The taxpayer shall also pay the sales tax due on the sale of an
27 equipment or utility trailer at the time the ad valorem taxes are
28 paid on the trailer, if the taxpayer purchased such trailer on or

29 after July 1, 1999.

30 SECTION 2. Section 27-65-31, Mississippi Code of 1972, is
31 amended as follows:

32 27-65-31. Any person liable for a privilege tax levied and
33 assessed by this chapter except the taxes levied by Sections
34 27-65-15 and 27-65-21, Mississippi Code of 1972, shall add the
35 amount of such tax due by him to the sales price or gross income
36 and, in addition thereto, shall collect, insofar as practicable,
37 the amount of the tax due by him from the purchaser at the time
38 the sales price or gross income is collected. However, from and
39 after July 1, 1999, on retail sales of equipment and utility
40 trailers, the seller shall not be required to add the amount of
41 the tax to the sales price or gross income and collect the tax
42 from the purchaser at the time the sales price or gross income is
43 collected, and the purchaser shall pay the amount of the tax due
44 on the sales price when the ad valorem taxes are paid on the
45 trailer.

46 The commissioner is hereby authorized, in his discretion, to
47 prescribe by rule or regulation, brackets or schedules by which
48 the applicable tax shall be collected from the purchaser.

49 The commissioner shall have the authority to make changes as
50 necessary by rule or regulation to implement an agreement for the
51 collection of sales tax by direct marketers with limited contact
52 in Mississippi if, in his discretion, it is beneficial to the
53 state for him to do so.

54 It shall be unlawful for any person, who is liable for a
55 privilege tax levied by this chapter except the taxes levied by
56 Sections 27-65-15 and 27-65-21, Mississippi Code of 1972, to fail
57 or refuse to add to the sales price and collect, insofar as
58 practicable, the amount of tax due by him on each sale, except
59 where the tax was included in the cost of furnishing service when
60 said cost was a factor in the fixing of rates and charges.

61 The tax due under the provisions of this chapter shall be
62 computed and paid on gross income or gross proceeds of sales of
63 the business, regardless of the fact that small unit sales may be
64 within the bracket of one (1) of the schedules which does not
65 provide for the collection of the tax from the customer.

66 Nothing in this section with reference to the collection of
67 the tax from the customer shall be construed to impair, abridge,
68 alter or affect the obligation of any contract in existence at the
69 time it becomes effective.

70 When the tax collected for any filing period is in excess of
71 the amount due, the total tax collected, including that in excess
72 of the computed liability, shall be paid to the commissioner.
73 This provision shall be construed with other provisions of the law
74 and given effect so as to result in the payment to the
75 commissioner of the total tax collected if in excess of the amount
76 due when computed at the applicable rates.

77 The funds collected by the taxpayer (seller) from the
78 purchaser pursuant to the provisions of this chapter shall be
79 considered "trust fund monies" and the taxpayer shall hold these
80 funds in trust for the State of Mississippi; said funds to be
81 separately accounted for as provided by regulation of the
82 commissioner. If the taxpayer fails to remit these trust fund
83 monies as required by law, then the taxpayer may be assessed with
84 a penalty in three (3) times the amount of taxes due. This
85 penalty is to be assessed and collected in the same manner as
86 taxes imposed by this chapter and shall be in addition to all
87 other penalties and/or interest otherwise imposed. For purposes
88 of this section there shall be a presumption that the taxpayer
89 collected the tax from the customer or purchaser.

90 Any person violating the provisions of this section shall be
91 guilty of a misdemeanor and, upon conviction, shall be fined in a
92 sum not less than Fifty Dollars (\$50.00) nor more than One Hundred
93 Dollars (\$100.00).

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