

By: Representatives Davis, Formby, Jennings To: Ways and Means

## HOUSE BILL NO. 1101

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE ADDITIONAL 2% SALES TAX LEVIED UPON CERTAIN  
3 MOTOR VEHICLES SHALL NOT APPLY TO CERTAIN RENTAL MOTOR VEHICLES;  
4 TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972, TO CLARIFY  
5 THAT THE IMPOSITION OF THE 7% SALES TAX ON THE BUSINESS OF RENTING  
6 OR LEASING PERSONAL PROPERTY DOES NOT APPLY TO THE RENTAL OF SUCH  
7 MOTOR VEHICLES; AND FOR RELATED PURPOSES.

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

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

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

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

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

29 equipment drawn by a vehicle which is self-propelled.

30 Retail sales of aircraft, automobiles, trucks,  
31 truck-tractors, semitrailers and mobile homes shall be taxed at  
32 the rate of three percent (3%).

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

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

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

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

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

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

60 Any person exercising any privilege taxable under Section  
61 27-65-15 and selling his natural resource products at wholesale or  
62 to exempt persons shall pay the tax levied by said section in lieu  
63 of the tax levied by this section.

64 (2) From and after January 1, 1995, retail sales of private  
65 carriers of passengers and light carriers of property, as defined

66 in Section 27-51-101, shall be taxed an additional two percent  
67 (2%); however, the additional tax provided for in this subsection  
68 (2) shall not apply to motor vehicles primarily used as rentals  
69 under agreements with a term of not more than thirty (30)  
70 continuous days each and under the control of persons who are  
71 engaged in the business of renting such motor vehicles and who are  
72 subject to the tax under Section 27-65-231.

73 SECTION 2. Section 27-65-23, Mississippi Code of 1972, is  
74 amended as follows:

75 27-65-23. Upon every person engaging or continuing in any of  
76 the following businesses or activities there is \* \* \* levied,  
77 assessed and shall be collected a tax equal to seven percent (7%)  
78 of the gross income of the business, except as otherwise provided:

79 Air conditioning installation or repairs;

80 Automobile, aircraft, motorcycle, boat or any other  
81 vehicle repairing or servicing;

82 Billiards, pool or domino parlors;

83 Bowling or tenpin alleys;

84 Burglar and fire alarm systems or services;

85 Car washing--automatic, self-service, or manual;

86 Computer software sales and services;

87 Cotton compresses or cotton warehouses;

88 Custom creosoting or treating, custom planing, custom  
89 sawing;

90 Custom meat processing;

91 Electricians, electrical work, wiring, all repairs or  
92 installation of electrical equipment;

93 Elevator or escalator installing, repairing or servicing;

94 Film developing or photo finishing;

95 Foundries, machine or general repairing;

96 Furniture repairing or upholstering;

97 Grading, excavating, ditching, dredging or landscaping;

98 Hotels, motels, tourist courts or camps, trailer parks;

99           Insulating services or repairs;  
100           Jewelry or watch repairing;  
101           Laundering, cleaning, pressing or dyeing;  
102           Marina services;  
103           Mattress renovating;  
104           Office and business machine repairing;  
105           Parking garages and lots;  
106           Plumbing or pipe fitting;  
107           Public storage warehouses;  
108           Refrigerating equipment repairs;  
109           Radio or television installing, repairing, or servicing;  
110           Renting or leasing personal property, other than the  
111 renting of motor vehicles which is subject to the tax under  
112 Section 27-65-231, used within this state;  
113           Services performed in connection with geophysical  
114 surveying, exploring, developing, drilling, producing,  
115 distributing, or testing of oil, gas, water and other mineral  
116 resources;  
117           Shoe repairing;  
118           Storage lockers;  
119           Telephone answering or paging services;  
120           Termite or pest control services;  
121           Tin and sheet metal shops;  
122           TV cable systems, subscription TV services, and other  
123 similar activities;  
124           Vulcanizing, repairing or recapping of tires or tubes;  
125           Welding; and  
126           Woodworking or wood turning shops.  
127           Income from services taxed herein performed for electric  
128 power associations in the ordinary and necessary operation of  
129 their generating or distribution systems shall be taxed at the  
130 rate of one percent (1%).  
131           Income from services taxed herein performed on materials for

132 use in track or track structures to a railroad whose rates are  
133 fixed by the Interstate Commerce Commission or the Mississippi  
134 Public Service Commission shall be taxed at the rate of three  
135 percent (3%).

136         Income from renting or leasing tangible personal property  
137 used within this state shall be taxed at the same rates as sales  
138 of the same property.

139         Persons doing business in this state who rent transportation  
140 equipment with a situs within or without the state to common,  
141 contract or private commercial carriers are taxed on that part of  
142 the income derived from use within this state. If specific  
143 accounting is impracticable, a formula may be used with approval  
144 of the commissioner.

145         A lessor may deduct from the tax computed on the rental  
146 income from tangible personal property a credit for sales or use  
147 tax paid to this state at the time of purchase of the specific  
148 personal property being leased or rented until such credit has  
149 been exhausted.

150         Charges for custom processing and repairing services may be  
151 excluded from gross taxable income when the property on which the  
152 service was performed is delivered to the customer in another  
153 state either by common carrier or in the seller's equipment.

154         When a taxpayer performs unitary services covered by this  
155 section, which are performed both in intrastate and interstate  
156 commerce, the commissioner is \* \* \* vested with authority to  
157 formulate in each particular case and to fix for such taxpayer in  
158 each instance formulae of apportionment which will apportion to  
159 this state, for taxation, that portion of the services which are  
160 performed within the State of Mississippi.

161         SECTION 3. Nothing in this act shall affect or defeat any  
162 claim, assessment, appeal, suit, right or cause of action for  
163 taxes due or accrued under the sales tax laws before the date on  
164 which this act becomes effective, whether such claims,

165 assessments, appeals, suits or actions have been begun before the  
166 date on which this act becomes effective or are begun thereafter;  
167 and the provisions of the sales tax laws are expressly continued  
168 in full force, effect and operation for the purpose of the  
169 assessment, collection and enrollment of liens for any taxes due  
170 or accrued and the execution of any warrant under such laws before  
171 the date on which this act becomes effective, and for the  
172 imposition of any penalties, forfeitures or claims for failure to  
173 comply with such laws.

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