

By: Representatives Wallace, Coleman (29th), To: Ways and Means
Thornton

HOUSE BILL NO. 1181

1 AN ACT TO AMEND SECTION 27-3-31, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE STATE TAX COMMISSION TO DESIGN AND ISSUE
3 IDENTIFICATION CARDS VERIFYING ELIGIBILITY FOR AN EXEMPTION FROM
4 SALES TAX ON FOOD ITEMS TO CITIZENS OF THE STATE WHO ARE
5 SIXTY-FIVE YEARS OF AGE OR OLDER OR WHO ARE TOTALLY DISABLED UNDER
6 THE GUIDELINES OF THE SOCIAL SECURITY ADMINISTRATION; TO AMEND
7 SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES
8 TAX FOOD ITEMS SOLD TO CITIZENS OF THE STATE WHO SHOW AN
9 IDENTIFICATION CARD ISSUED BY THE STATE TAX COMMISSION VERIFYING
10 THAT THEY ARE SIXTY-FIVE YEARS OF AGE OR OLDER OR ARE TOTALLY
11 DISABLED UNDER THE GUIDELINES OF THE SOCIAL SECURITY
12 ADMINISTRATION; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Section 27-3-31, Mississippi Code of 1972, is
15 amended as follows:

16 27-3-31. It shall specifically be the duty of the State Tax
17 Commission, and it shall have power and authority:

18 (a) To adopt, amend or repeal those rules or
19 regulations necessary to implement the duties assigned to the
20 commission in this section.

21 (b) Each commissioner and authorized agent, and the
22 secretary of the commission is empowered to administer and certify
23 oaths.

24 (c) To confer with and advise assessing officers,
25 boards of supervisors and other county officers as to their duties
26 relative to taxation under the law; and to advise them in the
27 collection, filing and preservation of data relative to matters of
28 assessment.

29 (d) To prepare and have printed in pamphlet form full
30 instructions governing the duties of and the application of the
31 revenue laws of the state to county tax assessors, the clerk and

32 members of the boards of supervisors, and to promptly advise such
33 officers of all decisions of the Supreme Court relating to matters
34 of revenue and taxation when such decisions affect the duties of
35 such officers.

36 (e) To become familiar with property values and general
37 conditions in the counties of the state and to direct the
38 collection and preservation of data and information pertaining to
39 the quantity and value of property in each county in the state,
40 subject to assessment, necessary to enable the commission to
41 determine the assessed value of classes of property and whether
42 assessments comply with acceptable performance standards as
43 required by Section 27-35-113.

44 (f) To direct the collection, preparation and
45 preservation of data and information pertaining to the quantity,
46 value and location of property belonging to railroads, persons,
47 corporations and associations which is required to be assessed by
48 the State Tax Commission.

49 (g) To supervise and direct the preparation of forms
50 for the assessment of property of railroads and public service
51 corporations assessed by the commission, and the filing of their
52 rolls or schedules of assessment.

53 (h) To determine the location of all property subject
54 to assessment by the commission in the various counties of the
55 state, the municipalities and taxing districts therein, and to
56 ascertain and report as far as practicable the value and ownership
57 of all such property.

58 (i) To keep informed of the work of the assessors and
59 supervisors of the various counties of the state as required by
60 Section 27-3-51, and to have charge of the details necessary to
61 the equalization by the commission of assessments among the
62 various counties pursuant to Section 27-35-113.

63 (j) To prepare all forms for tax lists, assessment
64 rolls and perform other duties relating thereto.

65 (k) To prepare data and statistics relating to property
66 assessments which are deemed advisable for publication or which
67 may be required by the Legislature.

68 (l) To confer with assessors, supervisors and other

69 local taxing officials who may have business with the commission.

70 (m) To consider and approve or disapprove all orders of
71 boards of supervisors making increases and decreases in
72 assessments and orders of boards of supervisors granting homestead
73 exemptions.

74 (n) To have jurisdiction of all taxpayer appeals from
75 decisions on the chairman of the commission to the entire
76 commission, to arrange the time and place of hearing and appeals,
77 and to provide for the preparation and presentation to the full
78 commission of all evidence, documents and other matters necessary
79 and proper for a decision on the matters and questions involved in
80 the appeal.

81 (o) To direct and supervise the preparation of any
82 record to be filed in any court of the state.

83 (p) To attend to all appeals from decisions of the
84 State Tax Commission to the courts, and cooperate with the
85 Attorney General and district attorneys to the end that the
86 interests of the state shall be presented fairly and properly to
87 the courts, without undue delay.

88 (q) To administer and enforce the "Local Option
89 Alcoholic Beverage Control Law," being Section 67-1-1 et seq.,
90 except as provided in Section 67-1-23.

91 (r) To adopt and enforce rules and regulations
92 prescribing the manner and method by which tax returns and
93 documents may be filed with the commission as provided under
94 Section 27-3-83.

95 (s) To design and issue identification cards verifying
96 eligibility for an exemption from sales tax on food items under
97 Section 27-65-111 to citizens of the state who are sixty-five (65)
98 years of age or older or totally disabled under the guidelines of
99 the Social Security Administration.

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

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

No exemption provided in this section shall apply to taxes levied by Section 27-65-15 or 27-65-21.

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

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

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

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

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

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

(e) Sales of tangible personal property to an

orphanage, old men's or ladies' home, supported wholly or in part by a religious denomination, fraternal nonprofit organization or other nonprofit organization.

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

(g) Sales to elementary and secondary grade schools, junior and senior colleges owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are exempt from state income taxation, provided that this exemption does not apply to sales of property or services which are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.

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

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

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

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

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

(v) Sold to this state or any political

subdivision or municipal corporation thereof, for use in the treatment of a human being or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

"Medicines," as used in this paragraph, shall mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include any auditory, prosthetic, ophthalmic or ocular device or appliance, any dentures or parts thereof or any artificial limbs or their replacement parts, articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, or any alcoholic beverage or any other drug or medicine not commonly referred to as a prescription drug.

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

"Hospital," as used in this paragraph, shall have the meaning ascribed to it in Section 41-9-3.

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

(i) Retail sales of automobiles, trucks and truck-tractors if exported from this state within forty-eight (48)

201 hours and registered and first used in another state.

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

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

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

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

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

216 (o) Retail sales of food for human consumption
217 purchased with food stamps issued by the United States Department
218 of Agriculture, or other federal agency, from and after October 1,
219 1987, or from and after the expiration of any waiver granted
220 pursuant to federal law, the effect of which waiver is to permit
221 the collection by the state of tax on such retail sales of food
222 for human consumption purchased with food stamps.

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

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

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

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

232 (t) Sales of tangible personal property or services to
233 domestic violence shelters which qualify for state funding under

Sections 93-21-101 through 93-21-113.

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

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

(w) Sales of tangible personal property or services to a private company, as defined in Section 57-61-5, which is making such purchases with proceeds of bonds issued under Section 57-61-1 et seq., the Mississippi Business Investment Act.

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

(y) Sales of food items to citizens of the state who are sixty-five (65) years of age or older or who are totally disabled under the guidelines of the Social Security Administration. In order to receive this sales tax exemption on food items such persons must verify their eligibility by showing an identification card issued by the State Tax Commission.

SECTION 3. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to

267 comply with such laws.

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