

By: Senator(s) Nunnelee

To: Finance

SENATE BILL NO. 2083

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-101, MISSISSIPPI
2 CODE OF 1972, TO PHASE OUT OVER A THREE-YEAR PERIOD, THE SALES TAX
3 ON CERTAIN SALES OF ENVIRONMENTAL POLLUTION CONTROL EQUIPMENT SOLD
4 TO MANUFACTURERS OR CUSTOM PROCESSORS; AND FOR RELATED PURPOSES.

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

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

8 amended as follows:

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

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

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

28 Retail sales of aircraft, automobiles, trucks,

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

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

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

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

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

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

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

58 Any person exercising any privilege taxable under Section
59 27-65-15 and selling his natural resource products at wholesale or
60 to exempt persons shall pay the tax levied by said section in lieu
61 of the tax levied by this section. From and after July 1, 2000,

62 sales of pollution control equipment to manufacturers or custom
63 processors for use by a manufacturer or custom processor at the
64 plant site shall be taxed at the rate of one percent (1%). From
65 and after July 1, 2001, such sales shall be taxed at the rate of
66 one-half of one percent (0.5%). From and after July 1, 2002, such
67 sales shall be exempt from sales tax as provided in Section
68 27-65-101. For the purposes of this paragraph, "pollution control
69 equipment" means equipment, devices, machinery or systems required
70 by federal or state law or regulation to monitor or reduce air or
71 water pollution or solid or hazardous waste.

72 (2) From and after January 1, 1995, retail sales of private
73 carriers of passengers and light carriers of property, as defined
74 in Section 27-51-101, shall be taxed an additional two percent
75 (2%).

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

78 27-65-101. (1) The exemptions from the provisions of this
79 chapter which are of an industrial nature or which are more
80 properly classified as industrial exemptions than any other
81 exemption classification of this chapter shall be confined to
82 those persons or property exempted by this section or by the
83 provisions of the Constitution of the United States or the State
84 of Mississippi. No industrial exemption as now provided by any
85 other section except Section 57-3-33 shall be valid as against the
86 tax herein levied. Any subsequent industrial exemption from the
87 tax levied hereunder shall be provided by amendment to this
88 section. No exemption provided in this section shall apply to
89 taxes levied by Section 27-65-15 or 27-65-21.

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

92 (a) Sales of boxes, crates, cartons, cans, bottles and
93 other packaging materials to manufacturers and wholesalers for use
94 as containers or shipping materials to accompany goods sold by

95 said manufacturers or wholesalers where possession thereof will
96 pass to the customer at the time of sale of the goods contained
97 therein and sales to anyone of containers or shipping materials
98 for use in ships engaged in international commerce.

99 (b) Sales of raw materials, catalysts, processing
100 chemicals, welding gases or other industrial processing gases
101 (except natural gas) to a manufacturer for use directly in
102 manufacturing or processing a product for sale or rental or
103 repairing or reconditioning vessels or barges of fifty (50) tons
104 load displacement and over. This exemption shall not apply to any
105 property used as fuel except to the extent that such fuel
106 comprises by-products which have no market value.

107 (c) The gross proceeds of sales of dry docks, offshore
108 drilling equipment for use in oil exploitation or production,
109 vessels or barges of fifty (50) tons load displacement and over,
110 when sold by the manufacturer or builder thereof.

111 (d) Sales to commercial fishermen of commercial fishing
112 boats of over five (5) tons load displacement and not more than
113 fifty (50) tons load displacement as registered with the U.S.
114 Coast Guard and licensed by the Mississippi Marine Conservation
115 Commission.

116 (e) The gross income from repairs to vessels and barges
117 engaged in foreign trade or interstate transportation.

118 (f) Sales of petroleum products to vessels or barges
119 for consumption in marine international commerce or interstate
120 transportation businesses.

121 (g) Sales and rentals of rail rolling stock (and
122 component parts thereof) for ultimate use in interstate commerce
123 and gross income from services with respect to manufacturing,
124 repairing, cleaning, altering, reconditioning or improving such
125 rail rolling stock (and component parts thereof).

126 (h) Sales of raw materials, catalysts, processing
127 chemicals, welding gases or other industrial processing gases

128 (except natural gas) used or consumed directly in manufacturing,
129 repairing, cleaning, altering, reconditioning or improving such
130 rail rolling stock (and component parts thereof). This exemption
131 shall not apply to any property used as fuel.

132 (i) Machinery or tools or repair parts therefor or
133 replacements thereof, fuel or supplies used directly in
134 manufacturing, converting or repairing ships of three thousand
135 (3,000) tons load displacement and over, but not to include office
136 and plant supplies or other equipment not directly used on the
137 ship being built, converted or repaired.

138 (j) Sales of tangible personal property to persons
139 operating ships in international commerce for use or consumption
140 on board such ships. This exemption shall be limited to cases in
141 which procedures satisfactory to the commissioner, ensuring
142 against use in this state other than on such ships, are
143 established.

144 (k) Sales of materials used in the construction of a
145 building, or any addition or improvement thereon, and sales of any
146 machinery and equipment not later than three (3) months after the
147 completion of construction of the building, or any addition
148 thereon, to be used therein, to qualified businesses, as defined
149 in Section 57-51-5, which are located in a county or portion
150 thereof designated as an enterprise zone pursuant to Sections
151 57-51-1 through 57-51-15.

152 (l) Sales of materials used in the construction of a
153 building, or any addition or improvement thereon, and sales of any
154 machinery and equipment not later than three (3) months after the
155 completion of construction of the building, or any addition
156 thereon, to be used therein, to qualified businesses, as defined
157 in Section 57-54-5.

158 (m) Income from storage and handling of perishable
159 goods by a public storage warehouse.

160 (n) The value of natural gas lawfully injected into the

161 earth for cycling, repressuring or lifting of oil, or lawfully
162 vented or flared in connection with the production of oil;
163 however, if any gas so injected into the earth is sold for such
164 purposes, then the gas so sold shall not be exempt.

165 (o) The gross collections from self-service commercial
166 laundering, drying, cleaning and pressing equipment.

167 (p) Sales of materials used in the construction of a
168 building, or any addition or improvement thereon, and sales of any
169 machinery and equipment not later than three (3) months after the
170 completion of construction of the building, or any addition
171 thereon, to be used therein, to qualified companies, certified as
172 such by the Mississippi Department of Economic and Community
173 Development under Section 57-53-1.

174 (q) Sales of component materials used in the
175 construction of a building, or any addition or improvement
176 thereon, sales of machinery and equipment to be used therein, and
177 sales of manufacturing or processing machinery and equipment which
178 is permanently attached to the ground or to a permanent foundation
179 and which is not by its nature intended to be housed within a
180 building structure, not later than three (3) months after the
181 initial start-up date, to permanent business enterprises engaging
182 in manufacturing or processing in less developed areas (as such
183 term is defined in Section 57-73-5), which businesses are
184 certified by the State Tax Commission as being eligible for the
185 exemption granted in this paragraph (q).

186 (r) Sales of component materials used in the
187 construction of a building, or any addition or improvement
188 thereon, and sales of any machinery and equipment not later than
189 three (3) months after the completion of the building, addition or
190 improvement thereon, to be used therein, for any company
191 establishing or transferring its national or regional headquarters
192 from within or outside the State of Mississippi and creating a
193 minimum of thirty-five (35) jobs at the new headquarters in this

194 state. The Tax Commission shall establish criteria and prescribe
195 procedures to determine if a company qualifies as a national or
196 regional headquarters for the purpose of receiving the exemption
197 provided in this paragraph.

198 (s) The gross proceeds from the sale of semitrailers,
199 trailers, boats, travel trailers, motorcycles and all-terrain
200 cycles if exported from this state within forty-eight (48) hours
201 and registered and first used in another state.

202 (t) Gross income from the storage and handling of
203 natural gas in underground salt domes and in other underground
204 reservoirs, caverns, structures and formations suitable for such
205 storage.

206 (u) Sales between July 1, 1993, and June 30, 1994, of
207 machinery and equipment to corporations qualified as tax-exempt
208 organizations under Section 501(c)(4) of the Internal Revenue Code
209 and established in response to the Federal Oil Pollution Act of
210 1990 to provide a private capability to respond to major oil
211 spills. For purposes of this exemption, "machinery and equipment"
212 means property with a useful life of at least three (3) years
213 which is used primarily in the operations of the Marine Oil Spill
214 Response Corporation and shall include, without limitation,
215 vessels, barges, booms and skimmers. This paragraph shall stand
216 repealed on July 1, 1995.

217 (v) From and after July 1, 2002, sales to manufacturers
218 or custom processors of pollution control equipment for use by a
219 manufacturer or custom processor at the plant site. For the
220 purposes of this exemption, "pollution control equipment" means
221 equipment, devices, machinery or systems required by federal or
222 state law or regulation to monitor or reduce air or water
223 pollution or solid or hazardous waste.

224 (2) Sales of component materials used in the construction of
225 a building, or any addition or improvement thereon, sales of
226 machinery and equipment to be used therein, and sales of

227 manufacturing or processing machinery and equipment which is
228 permanently attached to the ground or to a permanent foundation
229 and which is not by its nature intended to be housed within a
230 building structure, not later than three (3) months after the
231 initial start-up date, to permanent business enterprises engaging
232 in manufacturing or processing in moderately developed areas and
233 developed areas (as such areas are designated in accordance with
234 Section 57-73-21), which businesses are certified by the State Tax
235 Commission as being eligible for the exemption granted in this
236 paragraph, shall be exempt from one-half (1/2) of the taxes
237 imposed on such transactions under this chapter.

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

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