

By: Senator(s) Ross, Hawks, Kirby, Hall,
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To: Finance

SENATE BILL NO. 2362

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 RETAIL SALES OF
3 UNPREPARED FOOD FOR HUMAN CONSUMPTION; AND FOR RELATED PURPOSES.
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5
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 Wholesale sales of beer shall be taxed at the rate of seven
45 percent (7%), and the retailer shall file a return and compute the
46 retail tax on retail sales but may take credit for the amount of
47 the tax paid to the wholesaler on said return covering the
48 subsequent sales of same property, provided adequate invoices and
49 records are maintained to substantiate the credit.

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

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

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

61 (2) From and after January 1, 1995, retail sales of private
62 carriers of passengers and light carriers of property, as defined
63 in Section 27-51-101, shall be taxed an additional two percent
64 (2%).

65 (3) (a) From and after July 1, 2000, through June 30, 2001,
66 retail sales of unprepared foods for human consumption shall be
67 taxed at the rate of five percent (5%);

68 (b) From and after July 1, 2001, through June 30, 2002,
69 retail sales of unprepared foods for human consumption shall be
70 taxed at the rate of three percent (3%);

71 (c) From and after July 1, 2002, through June 30, 2003,
72 retail sales of unprepared foods for human consumption shall be
73 taxed at the rate of one percent (1%);

74 (d) From and after July 1, 2003, retail sales of
75 unprepared foods for human consumption shall be exempt from sales
76 tax as provided in Section 27-65-111.

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

79 27-65-111. The exemptions from the provisions of this
80 chapter which are not industrial, agricultural or governmental, or
81 which do not relate to utilities or taxes, or which are not
82 properly classified as one of the exemption classifications of
83 this chapter, shall be confined to persons or property exempted by
84 this section or by the Constitution of the United States or the
85 State of Mississippi. No exemptions as now provided by any other
86 section, except the classified exemption sections of this chapter
87 set forth herein, shall be valid as against the tax herein levied.
88 Any subsequent exemption from the tax levied hereunder, except as
89 indicated above, shall be provided by amendments to this section.

90 No exemption provided in this section shall apply to taxes
91 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.
92 The tax levied by this chapter shall not apply to the following:

93 (a) Sales of tangible personal property and services to

94 hospitals or infirmaries owned and operated by a corporation or
95 association in which no part of the net earnings inures to the
96 benefit of any private shareholder, group or individual, and which
97 are subject to and governed by Sections 41-7-123 through 41-7-127.

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

101 (b) Sales of daily or weekly newspapers, and
102 periodicals or publications of scientific, literary or educational
103 organizations exempt from federal income taxation under Section
104 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
105 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

127 which are to be resold to the students or the public.

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

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

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

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

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

143 (v) Sold to this state or any political
144 subdivision or municipal corporation thereof, for use in the
145 treatment of a human being or furnished for the treatment of a
146 human being by a medical facility or clinic maintained by this
147 state or any political subdivision or municipal corporation
148 thereof.

149 "Medicines," as used in this paragraph (h), shall mean and
150 include any substance or preparation intended for use by external
151 or internal application to the human body in the diagnosis, cure,
152 mitigation, treatment or prevention of disease and which is
153 commonly recognized as a substance or preparation intended for
154 such use; provided that "medicines" do not include any auditory,
155 prosthetic, ophthalmic or ocular device or appliance, any dentures
156 or parts thereof or any artificial limbs or their replacement
157 parts, articles which are in the nature of splints, bandages,
158 pads, compresses, supports, dressings, instruments, apparatus,
159 contrivances, appliances, devices or other mechanical, electronic,

160 optical or physical equipment or article or the component parts
161 and accessories thereof, or any alcoholic beverage or any other
162 drug or medicine not commonly referred to as a prescription drug.

163 Notwithstanding the preceding sentence of this paragraph (h),
164 "medicines" as used in this paragraph (h), shall mean and include
165 sutures, whether or not permanently implanted, bone screws, bone
166 pins, pacemakers and other articles permanently implanted in the
167 human body to assist the functioning of any natural organ, artery,
168 vein or limb and which remain or dissolve in the body.

169 "Hospital," as used in this paragraph (h), shall have the
170 meaning ascribed to it in Section 41-9-3, Mississippi Code of
171 1972.

172 Insulin furnished by a registered pharmacist to a person for
173 treatment of diabetes as directed by a physician shall be deemed
174 to be dispensed on prescription within the meaning of this
175 paragraph (h).

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

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

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

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

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

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

193 (o) Retail sales of food for human consumption
194 purchased with food stamps issued by the United States Department
195 of Agriculture, or other federal agency, from and after October 1,
196 1987, or from and after the expiration of any waiver granted
197 pursuant to federal law, the effect of which waiver is to permit
198 the collection by the state of tax on such retail sales of food
199 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

226 (y) From and after July 1, 2003, retail sales of
227 unprepared food for human consumption.

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