

By: Mitchell

To: Ways and Means

HOUSE BILL NO. 1227

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE THE IMPOSITION OF A TAX ON PAY-PER-CALL SERVICES  
3 THROUGH 900 OR SIMILAR TELEPHONE NUMBERS UNDER THE STATE SALES TAX  
4 LAWS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-65-19, Mississippi Code of 1972, is  
7 amended as follows:

8 27-65-19. (1) (a) Except as otherwise provided in this  
9 subsection, upon every person selling to consumers, electricity,  
10 current, power, potable water, steam, coal, natural gas, liquefied  
11 petroleum gas or other fuel, there is hereby levied, assessed and  
12 shall be collected a tax equal to seven percent (7%) of the gross  
13 income of the business. Provided, gross income from sales to  
14 consumers of electricity, current, power, natural gas, liquefied  
15 petroleum gas or other fuel for residential heating, lighting or  
16 other residential noncommercial or nonagricultural use, and sales  
17 of potable water for residential, noncommercial or nonagricultural  
18 use shall be excluded from taxable gross income of the business.  
19 Provided further, upon every such seller using electricity,  
20 current, power, potable water, steam, coal, natural gas, liquefied  
21 petroleum gas or other fuel for nonindustrial purposes, there is  
22 hereby levied, assessed and shall be collected a tax equal to  
23 seven percent (7%) of the cost or value of the product or service  
24 used.

25 (b) There is hereby levied, assessed and shall be  
26 collected a tax equal to one and one-half percent (1-1/2%) of the  
27 gross income of the business when the electricity, current, power,

28 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
29 sold to or used by a manufacturer, custom processor or public  
30 service company for industrial purposes, which shall include that  
31 used to generate electricity, to operate an electrical  
32 distribution or transmission system, to operate pipeline  
33 compressor or pumping stations or to operate railroad locomotives;  
34 provided, however, that:

35 (i) From and after July 1, 2000, through June 30,  
36 2001, sales of fuel used to produce electric power by a company  
37 primarily engaged in the business of producing, generating or  
38 distributing electric power for sale shall be taxed at the rate of  
39 one and one-eighth percent (1.125%);

40 (ii) From and after July 1, 2001, through June 30,  
41 2002, sales of fuel used to produce electric power by a company  
42 primarily engaged in the business of producing, generating or  
43 distributing electric power for sale shall be taxed at the rate of  
44 three-fourths of one percent (0.75%);

45 (iii) From and after July 1, 2002, through June  
46 30, 2003, sales of fuel used to produce electric power by a  
47 company primarily engaged in the business of producing, generating  
48 or distributing electric power for sale shall be taxed at the rate  
49 of three-eighths of one percent (0.375%);

50 (iv) From and after July 1, 2003, sales of fuel  
51 used to produce electric power by a company primarily engaged in  
52 the business of producing, generating or distributing electric  
53 power for sale shall be exempt from sales tax as provided in  
54 Section 27-65-107.

55 (c) The one and one-half percent (1-1/2%) industrial  
56 rate provided for in this subsection shall also apply when the  
57 electricity, current, power, steam, coal, natural gas, liquefied  
58 petroleum gas or other fuel is sold to a producer or processor for  
59 use directly in the production of poultry or poultry products, the  
60 production of livestock and livestock products, the production of  
61 plants or food by commercial horticulturists, the processing of  
62 milk and milk products, the processing of poultry and livestock  
63 feed, and the irrigation of farm crops.

64 (d) The one and one-half percent (1-1/2%) rate provided

65 for in this subsection shall not apply to sales of fuel for  
66 automobiles, trucks, truck-tractors, buses, farm tractors or  
67 airplanes.

68 (e) Upon every person operating a telegraph or  
69 telephone business for the transmission of messages or  
70 conversations between points within this state and upon every  
71 person operating a pay-per-call service, there is hereby levied,  
72 assessed and shall be collected, a tax equal to seven percent (7%)  
73 of the gross income of such business, with no deduction or  
74 allowance for any part of an intrastate rate charge because of  
75 routing across a state line. However, any sale of a prepaid  
76 telephone calling card or prepaid authorization number, or both,  
77 shall be deemed to be the sale of tangible personal property  
78 subject only to such taxes imposed by law on the sale of tangible  
79 personal property. If the sale of a prepaid telephone calling  
80 card or prepaid authorization number does not take place at the  
81 vendor's place of business, it shall be conclusively determined to  
82 take place at the customer's shipping address. The  
83 reauthorization of a prepaid telephone calling card or a prepaid  
84 authorization number shall be conclusively determined to take  
85 place at the customer's billing address. For purposes of this  
86 paragraph (e), the term "pay-per-call service" means any service  
87 that is accessed through the use of a 900 telephone number or  
88 other prefix or area code designated by the Federal Communications  
89 Commission for which the caller pays a per-call or  
90 per-time-interval charge that is greater than, or in addition to,  
91 the charge for transmission of the call and which, during the  
92 call, a person provides or purports to provide the following:  
93 (i) Audio information or audio entertainment produced  
94 or packaged by the person;  
95 (ii) Access to simultaneous voice conversation  
96 services; or  
97 (iii) Any other service, including the provision of a

98 product, for which charges are assessed on the basis of the  
99 completion of the call.

100 The term "pay-per-call services" does not include directory  
101 assistance services provided by a telephone company.

102 (2) Persons making sales to consumers of electricity,  
103 current, power, natural gas, liquefied petroleum gas or other fuel  
104 for residential heating, lighting or other residential  
105 noncommercial or nonagricultural use or sales of potable water for  
106 residential, noncommercial or nonagricultural use shall indicate  
107 on each statement rendered to customers that such charges are  
108 exempt from sales taxes.

109 (3) There is hereby levied, assessed and shall be paid on  
110 transportation charges on shipments moving between points within  
111 this state when paid directly by the consumer, a tax equal to the  
112 rate applicable to the sale of the property being transported.  
113 Such tax shall be reported and paid directly to the State Tax  
114 Commission by the consumer.

115 SECTION 2. Nothing in this act shall affect or defeat any  
116 claim, assessment, appeal, suit, right or cause of action for  
117 taxes due or accrued under the sales tax laws before the date on  
118 which this act becomes effective, whether such claims,  
119 assessments, appeals, suits or actions have been begun before the  
120 date on which this act becomes effective or are begun thereafter;  
121 and the provisions of the sales tax laws are expressly continued  
122 in full force, effect and operation for the purpose of the  
123 assessment, collection and enrollment of liens for any taxes due  
124 or accrued and the execution of any warrant under such laws before  
125 the date on which this act becomes effective, and for the  
126 imposition of any penalties, forfeitures or claims for failure to  
127 comply with such laws.

128 SECTION 3. This act shall take effect and be in force from  
129 and after July 1, 2000.