

By: King

To: Finance

SENATE BILL NO. 2098

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,  
2 TO EXEMPT FROM SALES TAXATION THE RETAIL SALES OF CERTAIN ARTICLES  
3 OF CLOTHING DURING THE FIRST WEEKEND IN AUGUST; AND FOR RELATED  
4 PURPOSES.

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

6 SECTION 1. Section 27-65-111, Mississippi Code of 1972, is  
7 amended as follows:[JU1]

8 27-65-111. The exemptions from the provisions of this  
9 chapter which are not industrial, agricultural or governmental, or  
10 which do not relate to utilities or taxes, or which are not  
11 properly classified as one of the exemption classifications of  
12 this chapter, shall be confined to persons or property exempted by  
13 this section or by the Constitution of the United States or the  
14 State of Mississippi. No exemptions as now provided by any other  
15 section, except the classified exemption sections of this chapter  
16 set forth herein, shall be valid as against the tax herein levied.  
17 Any subsequent exemption from the tax levied hereunder, except as  
18 indicated above, shall be provided by amendments to this section.

19 No exemption provided in this section shall apply to taxes  
20 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

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

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

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

31           (b) Sales of daily or weekly newspapers, and  
32 periodicals or publications of scientific, literary or educational  
33 organizations exempt from federal income taxation under Section  
34 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
35 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

50           (g) Sales to elementary and secondary grade schools,  
51 junior and senior colleges owned and operated by a corporation or  
52 association in which no part of the net earnings inures to the  
53 benefit of any private shareholder, group or individual, and which

54 are exempt from state income taxation, provided that this  
55 exemption does not apply to sales of property or services which  
56 are not to be used in the ordinary operation of the school, or  
57 which are to be resold to the students or the public.

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

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

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

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

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

73 (v) Sold to this state or any political  
74 subdivision or municipal corporation thereof, for use in the  
75 treatment of a human being or furnished for the treatment of a  
76 human being by a medical facility or clinic maintained by this  
77 state or any political subdivision or municipal corporation  
78 thereof.

79 "Medicines," as used in this paragraph (h), shall mean  
80 and include any substance or preparation intended for use by  
81 external or internal application to the human body in the

82 diagnosis, cure, mitigation, treatment or prevention of disease  
83 and which is commonly recognized as a substance or preparation  
84 intended for such use; provided that "medicines" do not include  
85 any auditory, prosthetic, ophthalmic or ocular device or  
86 appliance, any dentures or parts thereof or any artificial limbs  
87 or their replacement parts, articles which are in the nature of  
88 splints, bandages, pads, compresses, supports, dressings,  
89 instruments, apparatus, contrivances, appliances, devices or other  
90 mechanical, electronic, optical or physical equipment or article  
91 or the component parts and accessories thereof, or any alcoholic  
92 beverage or any other drug or medicine not commonly referred to as  
93 a prescription drug.

94           Notwithstanding the preceding sentence of this paragraph  
95 (h), "medicines" as used in this paragraph (h), shall mean and  
96 include sutures, whether or not permanently implanted, bone  
97 screws, bone pins, pacemakers and other articles permanently  
98 implanted in the human body to assist the functioning of any  
99 natural organ, artery, vein or limb and which remain or dissolve  
100 in the body.

101           "Hospital," as used in this paragraph (h), shall have  
102 the meaning ascribed to it in Section 41-9-3, Mississippi Code of  
103 1972.

104           Insulin furnished by a registered pharmacist to a person  
105 for treatment of diabetes as directed by a physician shall be  
106 deemed to be dispensed on prescription within the meaning of this  
107 paragraph (h).

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

110 hours and registered and first used in another state.

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

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

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

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

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

125 (o) Retail sales of food for human consumption  
126 purchased with food stamps issued by the United States Department  
127 of Agriculture, or other federal agency, from and after October 1,  
128 1987, or from and after the expiration of any waiver granted  
129 pursuant to federal law, the effect of which waiver is to permit  
130 the collection by the state of tax on such retail sales of food  
131 for human consumption purchased with food stamps.

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

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

137 (r) Sales of tangible personal property or services to

138 alumni associations of state-supported colleges or universities.

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

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

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

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

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

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

158           (y) Retail sale of an article of clothing or footwear  
159 designed to be worn on or about the human body if the sales price  
160 of the article is less than One Hundred Dollars (\$100.00) and the  
161 sale takes place during a period beginning at 12:01 a.m. on the  
162 first Friday in August and ending at 12 midnight the following  
163 Sunday. This paragraph (y) shall not apply to:

164           (i) Any special clothing or footwear that is  
165 primarily designed for athletic activity or protective use and

166 that is not normally worn except when used for the athletic  
167 activity or protective use for which it is designed;

168 (ii) Accessories including jewelry, handbags,  
169 luggage, umbrellas, wallets, watches and similar items carried on  
170 or about the human body, without regard to whether worn on the  
171 body in a manner characteristic of clothing; and

172 (iii) The rental of clothing or footwear.

173 SECTION 2. Nothing in this act shall affect or defeat any  
174 claim, assessment, appeal, suit, right or cause of action for  
175 taxes due or accrued under the sales tax laws before the date on  
176 which this act becomes effective, whether such claims,  
177 assessments, appeals, suits or actions have been begun before the  
178 date on which this act becomes effective or are begun thereafter;  
179 and the provisions of the sales tax laws are expressly continued  
180 in full force, effect and operation for the purpose of the  
181 assessment, collection and enrollment of liens for any taxes due  
182 or accrued and the execution of any warrant under such laws before  
183 the date on which this act becomes effective, and for the  
184 imposition of any penalties, forfeitures or claims for failure to  
185 comply with such laws.

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