

By: White (5th)

To: Finance

SENATE BILL NO. 2206

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO PHASE OUT THE SALES TAX ON RETAIL SALES OF CERTAIN FOOD FOR
3 HUMAN CONSUMPTION; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF
4 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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 Except as otherwise provided in subsection (3) of this
28 section, 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.

62 (2) From and after January 1, 1995, retail sales of private
63 carriers of passengers and light carriers of property, as defined
64 in Section 27-51-101, shall be taxed an additional two percent
65 (2%).

66 (3) In lieu of the tax levied in subsection (1) of this
67 section, there is levied on retail sales of truck-tractors and
68 semitrailers used in interstate commerce and registered under the
69 International Registration Plan (IRP) or any similar reciprocity
70 agreement or compact relating to the proportional registration of
71 commercial vehicles entered into as provided for in Section
72 27-19-143, a tax at the rate of three percent (3%) of the portion
73 of the sale that is attributable to the usage of such
74 truck-tractor or semitrailer in Mississippi. The portion of the
75 retail sale that is attributable to the usage of such
76 truck-tractor or semitrailer in Mississippi is the retail sales
77 price of the truck-tractor or semitrailer multiplied by the
78 percentage of the total miles traveled by the vehicle that are
79 traveled in Mississippi. The tax levied pursuant to this
80 subsection (3) shall be collected by the State Tax Commission from
81 the purchaser of such truck-tractor or semitrailer at the time of

82 registration of such truck-tractor or semitrailer.

83 (4) Retail sales of food for human consumption not purchased
84 with food stamps issued by the United States Department of
85 Agriculture, or other federal agency, but which would be exempt
86 under Section 27-65-111(o) from the taxes imposed by this chapter
87 if the food items were purchased with food stamps, shall be taxed
88 at the following rates:

89 (a) From and after July 1, 2000, through June 30, 2001,
90 such retail sales shall be taxed at the rate of six percent (6%);

91 (b) From and after July 1, 2001, through June 30, 2002,
92 such retail sales shall be taxed at the rate of five percent (5%);

93 (c) From and after July 1, 2002, through June 30, 2003,
94 such retail sales shall be taxed at the rate of four percent (4%);

95 (d) From and after July 1, 2003, through June 30, 2004,
96 such retail sales shall be taxed at the rate of three percent (3%);

97 (e) From and after July 1, 2004, through June 30, 2005, such
98 retail sales shall be taxed at the rate of two percent (2%);

99 (f) From and after July 1, 2005, through June 30, 2006,
100 such retail sales shall be taxed at the rate of one percent (1%);

101 and

102 (g) From and after July 1, 2006, such retail sales
103 shall be exempt from sales tax as provided in Section 27-65-111.

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

106 27-65-111. The exemptions from the provisions of this
107 chapter which are not industrial, agricultural or governmental, or
108 which do not relate to utilities or taxes, or which are not
109 properly classified as one of the exemption classifications of

110 this chapter, shall be confined to persons or property exempted by
111 this section or by the Constitution of the United States or the
112 State of Mississippi. No exemptions as now provided by any other
113 section, except the classified exemption sections of this chapter
114 set forth herein, shall be valid as against the tax herein levied.
115 Any subsequent exemption from the tax levied hereunder, except as
116 indicated above, shall be provided by amendments to this section.

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

120 (a) Sales of tangible personal property and services to
121 hospitals or infirmaries 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 subject to and governed by Sections 41-7-123 through 41-7-127.

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

128 (b) Sales of daily or weekly newspapers, and
129 periodicals or publications of scientific, literary or educational
130 organizations exempt from federal income taxation under Section
131 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
132 March 31, 1975, and subscription sales of all magazines.

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

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

137 (e) Sales of tangible personal property to an

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

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

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

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

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

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

164 (iii) Furnished by a hospital for treatment of any
165 person pursuant to the order of a licensed physician, surgeon,

166 dentist or podiatrist; or

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

170 (v) Sold to this state or any political
171 subdivision or municipal corporation thereof, for use in the
172 treatment of a human being or furnished for the treatment of a
173 human being by a medical facility or clinic maintained by this
174 state or any political subdivision or municipal corporation
175 thereof.

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

190 Notwithstanding the preceding sentence of this paragraph (h),
191 "medicines" as used in this paragraph (h), shall mean and include
192 sutures, whether or not permanently implanted, bone screws, bone
193 pins, pacemakers and other articles permanently implanted in the

194 human body to assist the functioning of any natural organ, artery,
195 vein or limb and which remain or dissolve in the body.

196 "Hospital," as used in this paragraph (h), shall have the
197 meaning ascribed to it in Section 41-9-3, Mississippi Code of
198 1972.

199 Insulin furnished by a registered pharmacist to a person for
200 treatment of diabetes as directed by a physician shall be deemed
201 to be dispensed on prescription within the meaning of this
202 paragraph (h).

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

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

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

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

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

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

220 (o) Retail sales of food for human consumption
221 purchased with food stamps issued by the United States Department

222 of Agriculture, or other federal agency, from and after October 1,
223 1987, or from and after the expiration of any waiver granted
224 pursuant to federal law, the effect of which waiver is to permit
225 the collection by the state of tax on such retail sales of food
226 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

249 (x) The gross collections from the operation of

250 self-service, coin-operated car washing equipment and sales of the
251 service of washing motor vehicles with portable high pressure
252 washing equipment on the premises of the customer.

253 (y) From and after July 1, 2006, retail sales of food
254 for human consumption not purchased with food stamps issued by the
255 United States Department of Agriculture, or other federal agency,
256 but which would be exempt under paragraph (o) of this section from
257 the taxes imposed by this chapter if the food items were purchased
258 with food stamps.

259 SECTION 3. This act shall take effect and be in force from
260 and after July 1, 2001.