HOUSE BILL NO. 630

AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAXATION RETAIL SALES OF FOOD FOR HUMAN CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH WOULD BE EXEMPT FROM SALES TAX IF SUCH FOOD WAS PURCHASED WITH FOOD STAMPS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-65-111, Mississippi Code of 1972, is amended as follows:

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

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

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

(a) Sales of tangible personal property and services to hospitals or infirmaries owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are subject to and governed by Sections 41-7-123 through 41-7-127.
Only sales of tangible personal property or services which are ordinary and necessary to the operation of such hospitals and infirmaries are exempted from tax.

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

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

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

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

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

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

(h) The gross proceeds of retail sales and the use or consumption in this state of drugs and medicines:
(i) Prescribed for the treatment of a human being
by a person authorized to prescribe the medicines, and dispensed
or prescription filled by a registered pharmacist in accordance
with law; or

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

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

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

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

"Medicines," as used in this paragraph (h), shall mean and
include any substance or preparation intended for use by external
or internal application to the human body in the diagnosis, cure,
mortigation, treatment or prevention of disease and which is
commonly recognized as a substance or preparation intended for
such use; provided that "medicines" do not include any auditory,
prosthetic, ophthalmic or ocular device or appliance, any dentures
or parts thereof or any artificial limbs or their replacement
parts, articles which are in the nature of splints, bandages,
pads, compresses, supports, dressings, instruments, apparatus,
contrivances, appliances, devices or other mechanical, electronic,
optical or physical equipment or article or the component parts
and accessories thereof, or any alcoholic beverage or any other
drug or medicine not commonly referred to as a prescription drug.
Notwithstanding the preceding sentence of this paragraph (h), "medicines" as used in this paragraph (h), shall mean and include sutures, whether or not permanently implanted, bone screws, bone pins, pacemakers and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(y) From and after July 1, 2001, retail sales of food
for human consumption not purchased with food stamps issued by the
United States Department of Agriculture, or other federal agency,
SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

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