

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 709

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 FOOD  
3 FOR HUMAN CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH  
4 WOULD BE EXEMPT FROM SALES TAX IF SUCH FOOD WAS PURCHASED WITH  
5 FOOD STAMPS; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is  
8 amended as follows:

9 27-65-17. (1) Upon every person engaging or continuing  
10 within this state in the business of selling any tangible personal  
11 property whatsoever there is hereby levied, assessed and shall be  
12 collected a tax equal to seven percent (7%) of the gross proceeds  
13 of the retail sales of the business, except as otherwise provided  
14 herein.

15 Retail sales of farm tractors shall be taxed at the rate of  
16 one percent (1%) when made to farmers for agricultural purposes.

17 Retail sales of farm implements sold to farmers and used  
18 directly in the production of poultry, ratite, domesticated fish  
19 as defined in Section 69-7-501, livestock, livestock products,  
20 agricultural crops or ornamental plant crops or used for other  
21 agricultural purposes shall be taxed at the rate of three percent  
22 (3%) when used on the farm. The three percent (3%) rate shall  
23 also apply to all equipment used in logging, pulpwood operations  
24 or tree farming which is either (a) self-propelled or which is (b)  
25 mounted so that it is (i) permanently attached to other equipment  
26 which is self-propelled or (ii) permanently attached to other  
27 equipment drawn by a vehicle which is self-propelled.



28           Except as otherwise provided in subsection (3) of this  
29 section, retail sales of aircraft, automobiles, trucks,  
30 truck-tractors, semitrailers and mobile homes shall be taxed at  
31 the rate of three percent (3%).

32           Sales of manufacturing machinery or manufacturing machine  
33 parts when made to a manufacturer or custom processor for plant  
34 use only when said machinery and machine parts will be used  
35 exclusively and directly within this state in manufacturing a  
36 commodity for sale, rental or in processing for a fee shall be  
37 taxed at the rate of one and one-half percent (1-1/2%).

38           Sales of materials for use in track and track structures to a  
39 railroad whose rates are fixed by the Interstate Commerce  
40 Commission or the Mississippi Public Service Commission shall be  
41 taxed at the rate of three percent (3%).

42           Sales of tangible personal property to electric power  
43 associations for use in the ordinary and necessary operation of  
44 their generating or distribution systems shall be taxed at the  
45 rate of one percent (1%).

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

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

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

59           Any person exercising any privilege taxable under Section  
60 27-65-15 and selling his natural resource products at wholesale or



61 to exempt persons shall pay the tax levied by said section in lieu  
62 of the tax levied by this section.

63 (2) From and after January 1, 1995, retail sales of private  
64 carriers of passengers and light carriers of property, as defined  
65 in Section 27-51-101, shall be taxed an additional two percent  
66 (2%).

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

84 (4) From and after July 1, 2002, in lieu of the tax levied  
85 in subsection (1) of this section, retail sales of food for human  
86 consumption not purchased with food stamps issued by the United  
87 States Department of Agriculture, or other federal agency, but  
88 which would be exempt from the taxes imposed by this chapter under  
89 Section 27-65-111(o) if the food items were purchased with food  
90 stamps, shall be taxed as follows:

91 (a) From and after July 1, 2002, through June 30, 2003,  
92 such sales shall be taxed at the rate of six percent (6%);



93           (b) From and after July 1, 2003, through June 30, 2004,  
94 such sales shall be taxed at the rate of five percent (5%);

95           (c) From and after July 1, 2004, through June 30, 2005,  
96 such sales shall be taxed at the rate of three percent (3%);

97           (d) From and after July 1, 2005, through June 30, 2006,  
98 such sales shall be taxed at the rate of two percent (2%); and

99           (e) From and after July 1, 2006, such sales shall be  
100 exempt from sales tax as provided in Section 27-65-111.

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

103           27-65-111. The exemptions from the provisions of this  
104 chapter which are not industrial, agricultural or governmental, or  
105 which do not relate to utilities or taxes, or which are not  
106 properly classified as one of the exemption classifications of  
107 this chapter, shall be confined to persons or property exempted by  
108 this section or by the Constitution of the United States or the  
109 State of Mississippi. No exemptions as now provided by any other  
110 section, except the classified exemption sections of this chapter  
111 set forth herein, shall be valid as against the tax herein levied.  
112 Any subsequent exemption from the tax levied hereunder, except as  
113 indicated above, shall be provided by amendments to this section.

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

218 (o) Retail sales of food for human consumption  
219 purchased with food stamps issued by the United States Department  
220 of Agriculture, or other federal agency, from and after October 1,  
221 1987, or from and after the expiration of any waiver granted  
222 pursuant to federal law, the effect of which waiver is to permit  
223 the collection by the state of tax on such retail sales of food  
224 for human consumption purchased with food stamps.



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

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

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

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

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

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

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

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

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

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





257 SECTION 3. Nothing in this act shall affect or defeat any  
258 claim, assessment, appeal, suit, right or cause of action for  
259 taxes due or accrued under the sales tax laws before the date on  
260 which this act becomes effective, whether such claims,  
261 assessments, appeals, suits or actions have been begun before the  
262 date on which this act becomes effective or are begun thereafter;  
263 and the provisions of the sales tax laws are expressly continued  
264 in full force, effect and operation for the purpose of the  
265 assessment, collection and enrollment of liens for any taxes due  
266 or accrued and the execution of any warrant under such laws before  
267 the date on which this act becomes effective, and for the  
268 imposition of any penalties, forfeitures or claims for failure to  
269 comply with such laws.

270 SECTION 4. This act shall take effect and be in force from  
271 and after July 1, 2001.

