

By: Senator(s) Ross

To: Finance

SENATE BILL NO. 2046

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 REQUIRE THE LEGISLATURE TO APPROPRIATE A
 4 CERTAIN SUM TO EACH INCORPORATED MUNICIPALITY TO COMPENSATE
 5 MUNICIPALITIES FOR THE REVENUE LOSS THEY SUFFER AS A RESULT OF THE
 6 REDUCTION IN SALES TAX REVENUE PURSUANT TO THIS ACT; TO AMEND
 7 SECTION 27-65-111, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 8 THERETO; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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

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

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

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

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

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

62 Any person exercising any privilege taxable under Section
63 27-65-15 and selling his natural resource products at wholesale or



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

66 (2) From and after January 1, 1995, retail sales of private
67 carriers of passengers and light carriers of property, as defined
68 in Section 27-51-101, shall be taxed an additional two percent
69 (2%).

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

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

93 (a) From and after July 1, 2002, through June 30, 2003,
94 such retail sales shall be taxed at the rate of five percent (5%);



95 (b) From and after July 1, 2003, through June 30, 2004,
96 such retail sales shall be taxed at the rate of three percent
97 (3%);

98 (c) From and after July 1, 2004, through June 30, 2005,
99 such retail sales shall be taxed at the rate of one percent (1%);
100 and

101 (d) From and after July 1, 2005, such retail sales
102 shall be exempt from sales tax as provided in Section 27-65-111.

103 SECTION 2. During the 2004 Regular Session, the Legislature
104 shall appropriate to each incorporated municipality an amount
105 equal to the difference between the amount of the distributions
106 that such municipality received pursuant to Section 27-65-75(1)
107 during fiscal year 2002, and the amount that was actually
108 distributed to such municipality during the previous fiscal year
109 plus an additional amount determined by the State Tax Commission
110 that is equal to the percentage of growth in sales tax collections
111 in such municipality during fiscal year 2002. During each regular
112 session thereafter, the Legislature shall appropriate to each
113 incorporated municipality an amount equal to the amount
114 appropriated during the previous fiscal year under this section
115 plus an amount determined by the State Tax Commission that is
116 equal to the percentage of growth sales tax revenue collections in
117 such municipality during the fiscal year two (2) years prior to
118 the one during which the appropriation is being made.

119 SECTION 3. Section 27-65-111, Mississippi Code of 1972, is
120 amended as follows:

121 27-65-111. The exemptions from the provisions of this
122 chapter which are not industrial, agricultural or governmental, or
123 which do not relate to utilities or taxes, or which are not
124 properly classified as one of the exemption classifications of
125 this chapter, shall be confined to persons or property exempted by
126 this section or by the Constitution of the United States or the
127 State of Mississippi. No exemptions as now provided by any other



128 section, except the classified exemption sections of this chapter
129 set forth herein, shall be valid as against the tax herein levied.
130 Any subsequent exemption from the tax levied hereunder, except as
131 indicated above, shall be provided by amendments to this section.

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

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

140 Only sales of tangible personal property or services which
141 are ordinary and necessary to the operation of such hospitals and
142 infirmaries are exempted from tax.

143 (b) Sales of daily or weekly newspapers, and
144 periodicals or publications of scientific, literary or educational
145 organizations exempt from federal income taxation under Section
146 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
147 March 31, 1975, and subscription sales of all magazines.

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

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

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

156 (f) Sales of tangible personal property, labor or
157 services taxable under Sections 27-65-17, 27-65-19, and 27-65-23,
158 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
159 corporation or association in which no part of the net earnings



160 inures to the benefit of any private shareholder, group or
161 individual.

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

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

172 (i) Prescribed for the treatment of a human being
173 by a person authorized to prescribe the medicines, and dispensed
174 or prescription filled by a registered pharmacist in accordance
175 with law; or

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

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

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

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

191 "Medicines," as used in this paragraph (h), shall mean and
192 include any substance or preparation intended for use by external



193 or internal application to the human body in the diagnosis, cure,
194 mitigation, treatment or prevention of disease and which is
195 commonly recognized as a substance or preparation intended for
196 such use; provided that "medicines" do not include any auditory,
197 prosthetic, ophthalmic or ocular device or appliance, any dentures
198 or parts thereof or any artificial limbs or their replacement
199 parts, articles which are in the nature of splints, bandages,
200 pads, compresses, supports, dressings, instruments, apparatus,
201 contrivances, appliances, devices or other mechanical, electronic,
202 optical or physical equipment or article or the component parts
203 and accessories thereof, or any alcoholic beverage or any other
204 drug or medicine not commonly referred to as a prescription drug.

205 Notwithstanding the preceding sentence of this paragraph (h),
206 "medicines" as used in this paragraph (h), shall mean and include
207 sutures, whether or not permanently implanted, bone screws, bone
208 pins, pacemakers and other articles permanently implanted in the
209 human body to assist the functioning of any natural organ, artery,
210 vein or limb and which remain or dissolve in the body.

211 "Hospital," as used in this paragraph (h), shall have the
212 meaning ascribed to it in Section 41-9-3, Mississippi Code of
213 1972.

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

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

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

223 (k) From July 1, 1985, through December 31, 1992,
224 retail sales of "alcohol blended fuel" as such term is defined in
225 Section 75-55-5. The gasoline-alcohol blend or the straight



226 alcohol eligible for this exemption shall not contain alcohol
227 distilled outside the State of Mississippi.

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

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

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

235 (o) Retail sales of food for human consumption
236 purchased with food stamps issued by the United States Department
237 of Agriculture, or other federal agency, from and after October 1,
238 1987, or from and after the expiration of any waiver granted
239 pursuant to federal law, the effect of which waiver is to permit
240 the collection by the state of tax on such retail sales of food
241 for human consumption purchased with food stamps.

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

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

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

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

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

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

256 (v) Retail sales of food for human consumption
257 purchased with food instruments issued the Mississippi Band of



258 Choctaw Indians under the Women, Infants and Children Program
259 (WIC) funded by the United States Department of Agriculture.

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

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

268 (y) From and after July 1, 2005, retail sales of food
269 for human consumption not purchased with food stamps issued by the
270 United States Department of Agriculture, or other federal agency,
271 but which would be exempt under paragraph (o) of this section from
272 the taxes imposed by this chapter if the food items were purchased
273 with food stamps.

274 SECTION 4. This act shall take effect and be in force from
275 and after July 1, 2002.

