SENATE BILL NO. 2610

AN ACT TO AMEND SECTION 27-67-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CREDIT FOR SALES OR USE TAX PAID TO ANOTHER STATE SHALL NOT APPLY ON THE PURCHASE PRICE OF TRAILERS, BOATS, TRAVEL TRAILERS, MOTORCYCLES AND ALL-TERRAIN CYCLES IMPORTED AND FIRST USED IN MISSISSIPPI; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-67-7, Mississippi Code of 1972, is amended as follows:

27-67-7. The tax levied by this article shall not be collected in the following instances:

(a) On the use, storage or consumption of any tangible personal property if the sale thereof has already been included in the measure of this tax or the tax imposed by Section 27-65-24 or Section 27-65-17, 27-65-19 or 27-65-25, or has already been included in the measure of a sales tax imposed by another state in which the property was sold or use tax imposed by some other state in which the property was used. If the rate of sales or use tax paid another state by the person using the property in Mississippi is not equal to or greater than the rate imposed by this article, then the user or purchaser shall apply the difference in these rates to the purchase price or value of the property and pay to the commissioner the amount of tax thus computed. Persons using business property in this state which has been used by them in other states shall be entitled to a credit for sales and/or use tax paid to other states equal to the aggregate of all such state rates multiplied by the value of the property at the time of importation into this state. Persons using business property in this state which was acquired from another person who used it in
other states shall be entitled to a credit equal to the applicable rate in the state of last prior use multiplied by the value of the property at the time of importation into this state. Provided, however, that credit for use tax paid to another state shall not apply on the purchase price of tangible personal property that has been only stored or warehoused in the other state and the first use of the property occurs in Mississippi. Provided, further, that credit for sales or use tax paid to another state shall not apply on the purchase price or value of automobiles, trucks, truck-tractors, semitrailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles imported and first used in Mississippi.

Credit for sales or use tax paid to another state as provided above shall be evidenced by an invoice clearly and correctly showing the amount of such tax as a separate item, and no credit shall be allowed otherwise.

(b) On the use, storage or consumption of tangible personal property to the extent that sales of similar property in Mississippi are either excluded or specifically exempt from sales tax or are taxed at the wholesale rate. This exemption shall be confined to the use of property the sale of which is an itemized exemption in the Mississippi Sales Tax Law, or to use by persons who are listed in said law as being exempt from sales tax.

(c) On the use, storage or consumption of tangible personal property brought into this state by a nonresident for his or her use or enjoyment while temporarily within the state, but not including tangible personal property brought in for use in connection with a business activity. This exemption shall not apply to property which remains situated in this state for the repeated use, storage or consumption by out-of-state visitors, or which is acquired by visitors and first used in this state.
(d) On the use of a motor vehicle for which a registration is required by the motor vehicle law, when such motor vehicle was purchased by a natural person for his personal or family use while such person was a bona fide resident of another state and who thereafter became a resident of this state, but not to include a motor vehicle which is transferred by the owner thereof for commercial use or for use by another person within this state.

(e) On the use of personal and household effects by a natural person acquired while such person was a bona fide resident of another state, and who thereafter became a resident of this state.

(f) On the use or rental of motion picture film, video-audio tapes and phonograph records for exhibition either by a person paying Mississippi sales tax on gross income from admissions for such exhibitions or by a person operating a television or radio broadcasting station.

(g) On any vehicle purchased in another state for use outside of this state by a Mississippi citizen serving in the Armed Forces and stationed in another state who elects to license the vehicle in Mississippi.

(h) On the cost or value and on the use, storage and consumption of rail rolling stock and component parts thereof.

(i) On the use, storage or consumption of literature, video tapes and photographic slides used by religious institutions for the propagation of their creeds or for carrying on their customary nonprofit religious activities, and on the use of any tangible personal property purchased and first used in another state by religious institutions for the propagation of their creeds or for carrying on their customary nonprofit religious activities. "Religious institution," for the purpose of this exemption, means any religious institution granted an exemption under 26 USCS Section 501(c)(3). Any exemption under this
paragraph obtained by fraud, misstatement or misrepresentation, shall be cancelled by the State Tax Commission, and the person committing the fraud, misstatement or misrepresentation shall be liable for prosecution for fraud on the assessment, and, on conviction, shall be fined not less than One Thousand Dollars ($1,000.00), or punished by imprisonment in the State Penitentiary for a term not to exceed five (5) years, or both, within the discretion of the court.

(j) The tax on the cost or value of farm machinery used in the harvesting of agricultural products shall be limited to the ratio of use within this state to the life of the property.

(k) On the use, storage or consumption, between July 1, 1993, and June 30, 1994, of machinery and equipment to corporations qualified as tax-exempt organizations under Section 501(c)(4) of the Internal Revenue Code and established in response to the Federal Oil Pollution Act of 1990 to provide a private capability to respond to major oil spills. For purposes of this exemption, "machinery and equipment" means property with a useful life of at least three (3) years which is used primarily in the operations of the Marine Oil Spill Response Corporation and shall include, without limitation, vessels, barges, booms and skimmers. This paragraph shall stand repealed on July 1, 1995.

(l) On the use of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; or repair services thereon; by a taxpayer other than the manufacturer when the manufacturer still holds title to the items and the items are purchased by the manufacturer as a part of a project as defined in Section 57-75-5(f)(iv).1

(m) On the use, storage or consumption of utilities purchased by a manufacturer described in Section 27-65-101(x).
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 amended by this act prior to the date on which such amendments become effective whether such assessments, appeals, suits, claims or actions have been begun before the date on which such amendments become effective or begun thereafter, and the provisions of sales tax laws are expressly continued in full force, effect and operation for the purposes of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws prior to the date on which such amendments become 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 its passage.