

By: Senator(s) Horhn

To: Finance

SENATE BILL NO. 3154

1 AN ACT TO AMEND SECTION 27-65-11, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE THE COMMERCIAL PRODUCTION OF MOTION PICTURES FOR
3 NETWORK TELEVISION RELEASE, CABLE TELEVISION RELEASE AND
4 THEATRICAL RELEASE WITHIN THE DEFINITION OF THE TERM
5 "MANUFACTURING" IN THE MISSISSIPPI SALES TAX LAW; AND FOR RELATED
6 PURPOSES.

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

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

10 27-65-11. (a) "Manufacturer" means one who is exclusively
11 or predominately engaged in the business of manufacturing as
12 defined under the terms "to manufacture" or "manufacturing." A
13 person who is engaged in manufacturing and nonmanufacturing
14 activities may be classified as a manufacturer as to his
15 manufacturing activities which are operated as a separate business
16 or division.

17 (b) "To manufacture" or "manufacturing" embraces activities
18 of an industrial or commercial nature wherein labor or skill is
19 applied, by hand or machinery, to materials belonging to the
20 manufacturer so that a new, different, or more useful article of
21 tangible personal property or substance of trade or commerce or
22 electric power is produced for sale or rental and includes the
23 production or fabrication of special-made or custom-made articles
24 for sale or rental. "To manufacture" or "manufacturing" embraces
25 the commercial production of a motion picture for network
26 television release, cable television release or theatrical
27 release.

28 "To manufacture" or "manufacturing" does not include
29 activities such as cooking or preparing food or food products by a
30 retailer in the regular course of retail trade; repairing and
31 reconditioning property; the filling of prescriptions by a
32 pharmacist; the washing or screening of mineral products; the
33 cutting, hauling and decking of logs; or similar preparatory
34 functions even when performed by a manufacturer.

35 (c) "Remanufacturing" embraces activities of an industrial
36 or commercial nature wherein labor or skill is applied by hand or
37 machinery to materials, a portion of which may belong to the
38 customer, so that rebuilt articles of tangible personal property,
39 comparable in quality to new articles of the same property, are
40 created, a majority of the value of which is produced by the
41 remanufacturing activity.

42 (d) "Custom processor" means one who is exclusively or
43 predominately engaged in the business of custom processing or
44 remanufacturing as defined under the terms "custom processing" and
45 "remanufacturing."

46 (e) "Custom processing" means the performance of a
47 manufacturing service done or made to order upon the property of
48 the customer and shall include laundering, cleaning and pressing,
49 but shall not include "repairs" or "maintenance" as these terms
50 are defined herein; nor self-service commercial laundering,
51 drying, cleaning and pressing equipment.

52 (f) "Manufacturing machinery" shall mean and include that
53 machinery owned or leased by a manufacturer or custom processor
54 for use by said manufacturer or custom processor in his plant
55 directly and exclusively in manufacturing tangible personal
56 property for subsequent sale, rental or in custom processing for a
57 fee. Motorized units, conveyors, track and track structures,
58 conduits, and similar items for use in transporting the unfinished
59 product from storage or from one (1) phase of the manufacturing
60 process to another may be classed as "manufacturing machinery."

61 "Manufacturing machinery" shall also include laboratory
62 machinery which shall include X-ray machines and film, scales,
63 chemical equipment, pressure and tensile analysis machines and
64 similar equipment to determine the quality of the product in
65 process of manufacture, and equipment used in the processing of
66 waste materials to avoid air and water pollution, but only when
67 located at the manufacturer's plant site.

68 Machinery used by a manufacturer to move, repair, clean,
69 alter, improve, or otherwise recondition, rail rolling stock for
70 sale or rental shall likewise constitute "manufacturing
71 machinery."

72 "Manufacturing machinery" shall not include machinery for use
73 in the hatching of baby chicks, the severance of timber, sand,
74 gravel, oil, gas or other natural resources produced or severed
75 from the soil or water, maintenance or repair machinery, research
76 laboratory machinery, storage warehouse machinery, equipment for
77 protection of the plant or comfort of the personnel, or other
78 equipment and supplies of like character. "Manufacturing
79 machinery" does not include machine foundations or materials for
80 their construction.

81 (g) "Machine parts" are component parts of manufacturing
82 machinery and do not include parts for service equipment,
83 nonmanufacturing machinery, fuels, lubricants, paints, or tools
84 for maintenance.

85 (h) "Manufacturing plant" means the real and personal
86 property owned or leased by a manufacturer which is assembled and
87 used at a fixed location to perform activities defined as
88 "manufacturing."

89 (i) "Repair," "repairs," or "maintenance" means the
90 restoring of property in some measure to its original condition,
91 which may involve the use of either personal property or labor or
92 both, but, for the purposes of this chapter, the total charge for

93 the service shall constitute gross income taxable in the class in
94 which it falls.

95 (j) "Producer" means any person producing natural resource
96 products or agricultural or horticultural products from the soil
97 or water for sale.

98 SECTION 2. Nothing in this act shall affect or defeat any
99 claim, assessment, appeal, suit, right or cause of action for
100 taxes due or accrued under the sales tax laws before the date on
101 which this act becomes effective, whether such claims,
102 assessments, appeals, suits or actions have been begun before the
103 date on which this act becomes effective or are begun thereafter;
104 and the provisions of the sales tax laws are expressly continued
105 in full force, effect and operation for the purpose of the
106 assessment, collection and enrollment of liens for any taxes due
107 or accrued and the execution of any warrant under such laws before
108 the date on which this act becomes effective, and for the
109 imposition of any penalties, forfeitures or claims for failure to
110 comply with such laws.

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