

By: Senator(s) Michel, Minor, Mettetal,
Chaney

To: Finance

SENATE BILL NO. 3166

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE RETAIL SALES OF CERTAIN ARTICLES
3 OF CLOTHING FRIDAY AND SATURDAY IN AUGUST; TO ALLOW LOCAL
4 GOVERNMENTS TO SUSPEND THE APPLICATION OF SUCH EXEMPTION FROM AND
5 AFTER JANUARY 1, 2002; TO AMEND SECTION 27-65-201, MISSISSIPPI
6 CODE OF 1972, TO INCREASE THE SALES AND USE TAX UPON CASUAL SALES
7 OF CERTAIN MOTOR VEHICLES BY 2%; AND FOR RELATED PURPOSES.

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

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

11 27-65-111. The exemptions from the provisions of this
12 chapter which are not industrial, agricultural or governmental, or
13 which do not relate to utilities or taxes, or which are not
14 properly classified as one of the exemption classifications of
15 this chapter, shall be confined to persons or property exempted by
16 this section or by the Constitution of the United States or the
17 State of Mississippi. No exemptions as now provided by any other
18 section, except the classified exemption sections of this chapter
19 set forth herein, shall be valid as against the tax herein levied.
20 Any subsequent exemption from the tax levied hereunder, except as
21 indicated above, shall be provided by amendments to this section.

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

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

26 (a) Sales of tangible personal property and services to
27 hospitals or infirmaries owned and operated by a corporation or
28 association in which no part of the net earnings inures to the

29 benefit of any private shareholder, group or individual, and which
30 are subject to and governed by Sections 41-7-123 through 41-7-127.

31 Only sales of tangible personal property or services which
32 are ordinary and necessary to the operation of such hospitals and
33 infirmaries are exempted from tax.

34 (b) Sales of daily or weekly newspapers, and
35 periodicals or publications of scientific, literary or educational
36 organizations exempt from federal income taxation under Section
37 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
38 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

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

63 (i) Prescribed for the treatment of a human being
64 by a person authorized to prescribe the medicines, and dispensed
65 or prescription filled by a registered pharmacist in accordance
66 with law; or

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

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

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

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

82 "Medicines," as used in this paragraph (h), shall mean and
83 include any substance or preparation intended for use by external
84 or internal application to the human body in the diagnosis, cure,
85 mitigation, treatment or prevention of disease and which is
86 commonly recognized as a substance or preparation intended for
87 such use; provided that "medicines" do not include any auditory,
88 prosthetic, ophthalmic or ocular device or appliance, any dentures
89 or parts thereof or any artificial limbs or their replacement
90 parts, articles which are in the nature of splints, bandages,
91 pads, compresses, supports, dressings, instruments, apparatus,
92 contrivances, appliances, devices or other mechanical, electronic,
93 optical or physical equipment or article or the component parts

94 and accessories thereof, or any alcoholic beverage or any other
95 drug or medicine not commonly referred to as a prescription drug.

96 Notwithstanding the preceding sentence of this paragraph (h),
97 "medicines" as used in this paragraph (h), shall mean and include
98 sutures, whether or not permanently implanted, bone screws, bone
99 pins, pacemakers and other articles permanently implanted in the
100 human body to assist the functioning of any natural organ, artery,
101 vein or limb and which remain or dissolve in the body.

102 "Hospital," as used in this paragraph (h), shall have the
103 meaning ascribed to it in Section 41-9-3, Mississippi Code of
104 1972.

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

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

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

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

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

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

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

126 (o) Retail sales of food for human consumption
127 purchased with food stamps issued by the United States Department
128 of Agriculture, or other federal agency, from and after October 1,
129 1987, or from and after the expiration of any waiver granted
130 pursuant to federal law, the effect of which waiver is to permit
131 the collection by the state of tax on such retail sales of food
132 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

159 (y) From and after July 1, 2002, retail sales of an
160 article of clothing or footwear designed to be worn on or about
161 the human body if the sales price of the article is less than One
162 Hundred Dollars (\$100.00) and the sale takes place during a period
163 beginning at 12:01 a.m. on the first Friday in August and ending
164 at 12:00 midnight the following Saturday. This paragraph (y)
165 shall not apply to:

166 (i) Accessories including jewelry, handbags,
167 luggage, umbrellas, wallets, watches, backpacks, briefcases,
168 garment bags and similar items carried on or about the human body,
169 without regard to whether worn on the body in a manner
170 characteristic of clothing;

171 (ii) The rental of clothing or footwear; and

172 (iii) Skis, swim fins, roller blades, skates and
173 similar items worn on the foot.

174 From and after January 1, 2003, the governing authorities of
175 a municipality, for retail sales occurring within the corporate
176 limits of the municipality, or the board of supervisors of a
177 county, for retail sales occurring in the county outside the
178 corporate limits of a municipality, may suspend the application of
179 the exemption provided for in this paragraph (y) by adoption of a
180 resolution to that effect stating the date upon which the
181 suspension shall take effect. A certified copy of the resolution
182 shall be furnished to the State Tax Commission at least thirty
183 (30) days prior to the date upon which the municipality or county
184 desires such suspension to take effect.

185 This paragraph (y) shall stand repealed from and after July
186 1, 2004.

187 SECTION 2. Section 27-65-201, Mississippi Code of 1972, is
188 amended as follows:

189 27-65-201. (1) For the purposes of this section, unless the
190 context otherwise requires, the term "motor vehicle" means a motor

191 vehicle required to be registered or licensed by the county tax
192 collectors pursuant to Section 27-19-43, Mississippi Code of 1972.

193 (2) Upon every person, firm or corporation purchasing other
194 than at wholesale within this state any motor vehicle required to
195 be registered or licensed with the tax collector of any county in
196 this state from any person, firm or corporation which is not a
197 licensed dealer engaged in selling motor vehicles, there shall be
198 levied and collected a sales tax at the rate of three percent (3%)
199 of the true value of the motor vehicle as calculated by using the
200 most current official motor vehicle assessment schedule supplied
201 by the State Tax Commission.

202 (3) Upon every person, firm or corporation purchasing other
203 than at wholesale outside the state any motor vehicle required to
204 be registered or licensed with the tax collector of any county in
205 this state from any person, firm or corporation which is not a
206 licensed dealer engaged in selling motor vehicles, for use,
207 storage or other consumption within this state there is levied a
208 use tax at the rate of three percent (3%) of the true value of the
209 motor vehicle as calculated by using the most current official
210 motor vehicle assessment schedule supplied by the State Tax
211 Commission.

212 (4) Upon every person, firm or corporation that purchases a
213 private carrier of passengers or a light carrier of property as
214 defined in Section 27-51-101, Mississippi Code of 1972, and upon
215 which a sales tax is levied pursuant to subsection (2) of this
216 section, there shall be levied and collected an additional sales
217 tax at a rate of two percent (2%) of the true value of such
218 private carrier of passengers or light carrier of property
219 purchased as calculated by using the most current official motor
220 vehicle assessment schedule supplied by the State Tax Commission.

221 (5) Upon every person, firm or corporation that purchases a
222 private carrier of passengers or a light carrier of property as
223 defined in Section 27-51-101, Mississippi Code of 1972, and upon

224 which a use tax for such purchase is levied pursuant to subsection
225 (3) of this section, there shall be levied an additional use tax
226 at the rate of two percent (2%) of the true value of such private
227 carrier of passengers or light carrier of property purchased as
228 calculated by using the most current official motor vehicle
229 assessment schedule supplied by the State Tax Commission.

230 (6) Where any motor vehicle is taken in trade as a credit or
231 part payment on the sale of a motor vehicle taxable under this
232 section, the tax levied by this section shall be paid on the net
233 difference, that is, the true value of the motor vehicle sold less
234 the credit for the motor vehicle taken in trade.

235 (7) The tax levied by this section shall be collected by the
236 tax collector at the time of, and as a prerequisite to, the
237 registration of or licensing of any such motor vehicle. The tax
238 collector shall give to the person registering the vehicle a
239 receipt in a form prescribed and furnished by the State Tax
240 Commission for the amount of tax collected.

241 (8) County tax collectors shall be liable for the tax they
242 are required to collect, and taxes which are in fact collected,
243 under this section and failure to properly collect or maintain
244 proper records shall not relieve them of liability for payment to
245 the State Tax Commission. Deficiencies in collection or payment
246 shall be assessed against the tax collector, or his successor, in
247 the same manner and subject to the same penalties and provisions
248 for appeal as are deficiencies assessed against taxpayers under
249 Chapter 65, Title 27, Mississippi Code of 1972.

250 Each tax collector of the several counties shall, on or
251 before the twentieth day of each month, file a report with and pay
252 to the State Tax Commission all funds collected under the
253 provisions of this section, less a commission of three percent
254 (3%) which shall be retained by the tax collector as a commission
255 for collecting such tax, and such commission shall be deposited in
256 the county general fund. The report required to be filed shall

257 cover all collections made during the calendar month next
258 preceding the date on which the report is due and filed. All
259 funds remitted to the State Tax Commission shall be deposited to
260 the credit of the State General Fund.

261 Any error in the report and remittance to the State Tax
262 Commission may be adjusted on a subsequent report. If the error
263 was in the collection by the tax collector, it shall be adjusted
264 through the tax collector with the taxpayer before credit is
265 allowed by the State Tax Commission.

266 All information relating to the collection of this tax by tax
267 collectors and such records as the State Tax Commission may
268 require shall be preserved in the tax collector's office for a
269 period of three (3) years for audit by the State Tax Commission.

270 (9) The tax levied by this section shall not apply to the
271 following:

272 (a) Transfers of legal ownership of motor vehicles
273 between husband and wife, parent and child, or grandparents and
274 grandchildren, unless the transferor is a licensed dealer of motor
275 vehicles and the transfer of the motor vehicle is made in the
276 regular course of business.

277 (b) Transfers of legal ownership of motor vehicles
278 pursuant to a will or pursuant to any law providing for the
279 distribution of the property of one dying intestate.

280 (c) Transfers of legal ownership of motor vehicles ten
281 (10) or more years after the date of the manufacture of such
282 vehicle.

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