SENATE BILL NO. 3166

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

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

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

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

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

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

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

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

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

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

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

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

(g) Sales to elementary and secondary grade schools, junior and senior colleges owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are exempt from state income taxation, provided that this exemption does not apply to sales of property or services which are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.
(h) The gross proceeds of retail sales and the use or consumption in this state of drugs and medicines:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) The gross proceeds of sales of motor fuel.
(o) Retail sales of food for human consumption purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, from and after October 1, 1987, or from and after the expiration of any waiver granted pursuant to federal law, the effect of which waiver is to permit the collection by the state of tax on such retail sales of food for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

(x) The gross collections from the operation of self-service, coin-operated car washing equipment and sales of the service of washing motor vehicles with portable high pressure washing equipment on the premises of the customer.
(y) From and after July 1, 2002, retail sales of an article of clothing or footwear designed to be worn on or about the human body if the sales price of the article is less than One Hundred Dollars ($100.00) and the sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12:00 midnight the following Saturday. This paragraph (y) shall not apply to:

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

(ii) The rental of clothing or footwear; and

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

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

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

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

27-65-201. (1) For the purposes of this section, unless the context otherwise requires, the term "motor vehicle" means a motor vehicle...
vehicle required to be registered or licensed by the county tax


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

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

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

(5) Upon every person, firm or corporation that purchases a
private carrier of passengers or a light carrier of property as
defined in Section 27-51-101, Mississippi Code of 1972, and upon
which a use tax for such purchase is levied pursuant to subsection (3) of this section, there shall be levied an additional use tax at the rate of two percent (2%) of the true value of such private carrier of passengers or light carrier of property purchased as calculated by using the most current official motor vehicle assessment schedule supplied by the State Tax Commission.

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

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

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

Each tax collector of the several counties shall, on or before the twentieth day of each month, file a report with and pay to the State Tax Commission all funds collected under the provisions of this section, less a commission of three percent (3%) which shall be retained by the tax collector as a commission for collecting such tax, and such commission shall be deposited in the county general fund. The report required to be filed shall
cover all collections made during the calendar month next preceding the date on which the report is due and filed. All funds remitted to the State Tax Commission shall be deposited to the credit of the State General Fund.

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

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

The tax levied by this section shall not apply to the following:

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

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

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

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