HOUSE BILL NO. 996

AN ACT TO AMEND SECTIONS 27-69-15, 27-69-19 AND 27-69-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FOR CIGARETTES TO BE TRANSPORTED FROM MISSISSIPPI FOR SALE IN ANOTHER STATE, CERTAIN STAMPS MUST BE AFFIXED TO THE CIGARETTES OR EXCISE TAXES PAID, ACCORDING TO THE REQUIREMENTS OF THE OTHER STATE; TO PROVIDE THAT THIS REQUIREMENT SHALL NOT APPLY WHEN SUCH OTHER STATE PROHIBITS STAMPS FROM BEING AFFIXED TO THE CIGARETTES, PROHIBITS PAYMENT OF EXCISE TAXES ON THE CIGARETTES, OR PROHIBITS THE SALE OF CIGARETTES; TO REQUIRE THE INCLUSION OF ADDITIONAL INFORMATION IN REPORTS RELATED TO TOBACCO PRODUCTS IN INTERSTATE COMMERCE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-69-15, Mississippi Code of 1972, is amended as follows:

27-69-15. Any retailer, transient vendor, distributing agent, salesman, or other dealer who shall receive any cigarettes other than from a wholesaler having a permit as herein provided, and not having the necessary stamps already affixed, shall, after the receipt of such cigarettes, within the time limit herein provided, present the same to some wholesaler having such permit, for the affixing of the stamps required, and it shall be the duty of such wholesaler, thereupon and upon the payment to him by such retailer of the face value of the stamps required, to affix the stamps to said cigarettes in the same manner as if the cigarettes were handled and sold by such wholesaler, provided, that such wholesaler, before affixing the stamps, shall require of the retailer, transient vendor, distributing agent, salesman, or other dealer, the original invoice for the cigarettes to be stamped, and such wholesaler shall in each instance note upon the invoice, the denominations and number of stamps affixed to the cigarettes.
covered by said invoice, the notation to be made in ink, or other manner not easy to erase, at the time the stamps are affixed.

It is further provided that, in addition hereto, the wholesaler shall keep a separate record of all stamps affixed to taxable cigarettes presented by retailers, transient vendors, distributing agents, salesmen, or other dealers, showing the name of the retailer, transient vendor, distributing agent, salesman, or other dealer, name of the shipper, date of shipper's invoice, the date stamps were affixed, denomination of stamps affixed, and total value of stamps affixed.

When the request is made to any wholesaler in this state by a retailer, transient vendor, distributing agent, salesman, or other dealer in this state, said request being duly and seasonably made for the affixing of stamps, and the request is accompanied by proper remittance and invoice, and such wholesaler refuses to affix the stamps to cigarettes as requested, said wholesaler shall forfeit to the state a penalty of Twenty-five Dollars ($25.00) for each offense, the same to be collected by the commissioner and, in addition thereto, in the discretion of the commissioner, forfeit his permit to handle stamps. In the event of such refusal on the part of any wholesaler to affix stamps said retailer, transient vendor, distributing agent, salesman, or other dealer may make application to the commissioner for stamps to be placed on the cigarettes upon which the wholesaler refused to affix the stamps, said application to be accompanied by an affidavit from the retailer, transient vendor, distributing agent, salesman, or other dealer, or some other credible person, setting forth the facts, whereupon the commissioner may issue and sell to such retailer, transient vendor, distributing agent, salesman, or other dealer, a sufficient number of stamps to be affixed to the cigarettes.

Stamps shall not be affixed to any cigarettes except by a wholesale dealer having a permit, except as otherwise provided in this chapter.
Stamps shall not be required to be affixed to any cigarettes while the same is in interstate commerce, except as provided in Section 27-69-33.

Any person who receives cigars, smoking tobacco, chewing tobacco, snuff or any other tobacco products except cigarettes from anyone other than a wholesaler having a tobacco permit issued by this state and the excise tax on the tobacco received has not been paid, shall compute the excise tax due the State of Mississippi at the rate prescribed herein on forms furnished by the commissioner for that purpose. Such report shall be accompanied by the remittance for the tax due and shall be filed with the commissioner within forty-eight (48) hours after receipt of the tobacco by such person.

In no case shall the provisions of this chapter be construed to require the payment of a tax upon any tobacco upon which the tax herein levied has once been paid to the state.

SECTION 2. Section 27-69-19, Mississippi Code of 1972, is amended as follows:

27-69-19. The provisions of this chapter shall not apply to dealers in tobacco made the subject of interstate sales, except as provided in Section 27-69-33.

SECTION 3. Section 27-69-33, Mississippi Code of 1972, is amended as follows:

27-69-33. Manufacturers, distributors and wholesalers of cigars, cigarettes or smoking tobacco subject to the tax under this chapter, doing both intrastate and interstate business in such tobacco, must qualify as interstate dealers in such tobacco by applying to the commissioner for permission to engage in such business, and, upon receipt of such permission, he shall be permitted to set aside such part of his stock as may be absolutely necessary for the conduct of such interstate business, without affixing the stamps of this state to cigarettes required by this chapter. Said interstate stock shall be kept in an entirely
separate part of the building, separate and apart from intrastate
stock, and the said interstate business shall be conducted by the
said wholesale dealer in accordance with rules and regulations to
be promulgated by the commissioner.

It is further provided that shipment of such merchandise be
made only by a railroad, express company, boat line, or motor
freight line certified by the Mississippi Public Service
Commission as a common carrier, or by registered or insured parcel
post.

Before a person may transport or cause to be transported from
this state cigarettes for sale in another state, he shall affix to
the cigarettes any stamp required, or pay any other excise tax on
the cigarettes which may be imposed, by the state in which the
cigarettes are to be sold. However, if the other state prohibits
stamps from being affixed to the cigarettes, prohibits the payment
of any other excise tax on the cigarettes, or prohibits the sale
of cigarettes, the requirement to affix a stamp or pay a tax on
the cigarettes shall not apply.

It is further provided that any manufacturer, distributor, or
wholesaler of cigars, cigarettes or smoking tobacco, engaged in
interstate commerce in such tobaccos, shall report to the
commissioner on or before the fifteenth day of each month, on
forms prescribed by the commissioner, the quantity of each brand
style of cigarettes for all sales of cigarettes made in interstate
commerce during the preceding month to which Mississippi stamps
were not affixed, along with the name and address of each
recipient of the cigarettes. These reports must be made
supplementary to the reports required to be filed by Section
27-69-35 of this chapter.

Each shipment must be covered by a complete copy of invoice
of the consignor, and supported by properly receipted bill of
lading of the transportation company, or post office department as
specified in the foregoing, and the receipted bills of lading and
invoices shall be subject to inspection by the commissioner for a period of three (3) years.

The commissioner is further authorized to verify the actual delivery to the consignee of such unstamped taxable cigarettes before allowing credit, and for the purpose of such verification, the commissioner may exchange information with the proper authorities of other states as to movement of taxable tobacco to and from other states into and from the State of Mississippi.

SECTION 4. This act shall take effect and be in force from and after July 1, 2003.