

By: Representative Grist

To: Ways and Means

HOUSE BILL NO. 1367

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE STATE TAX COMMISSION TO ESTABLISH A UNIFORM
3 PROCEDURE TO ALLOW TAXPAYERS TO PAY DELINQUENT SALES TAXES; TO
4 PROVIDE A REPEALER ON THIS SECTION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-65-33, Mississippi Code of 1972, is
7 amended as follows:

8 27-65-33. (1) Except as otherwise provided in this section,
9 the taxes levied by this chapter shall be due and payable on or
10 before the twentieth day of the month next succeeding the month in
11 which the tax accrues, except as otherwise provided. Returns and
12 payments placed in the mail must be postmarked by the due date in
13 order to be considered timely filed, except when the due date
14 falls on a weekend or holiday, returns and payments placed in the
15 mail must be postmarked by the first working day following the due
16 date in order to be considered timely filed. The taxpayer shall
17 make a return showing the gross proceeds of sales or the gross
18 income of the business, and any and all allowable deductions, or
19 exempt sales, and compute the tax due for the period covered.

20 As compensation for collecting sales and use taxes, complying
21 fully with the applicable statutes, filing returns and supplements
22 thereto and paying all taxes by the twentieth of the month
23 following the period covered, the taxpayer may discount and retain
24 two percent (2%) of the liability on each return subject to the
25 following limitations:

26 (a) The compensation or discount shall not apply to
27 taxes levied under the provisions of Sections 27-65-19 and
28 27-65-21, or on charges for ginning cotton under Section 27-65-23.



29 (b) The compensation or discount shall not apply to
30 taxes collected by a county official or state agency.

31 (c) The compensation or discount shall not exceed Fifty
32 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per
33 calendar year, per business location on each state sales tax
34 return, or on each use tax return.

35 (d) The compensation or discount shall not apply to any
36 wholesale tax, the rate of which is equal to or greater than the
37 tax rate applicable to retail sales of the same property or
38 service. The retailer of such items shall be entitled to the
39 compensation based on the tax computed on retail sales before
40 application of the credit for any tax paid to the wholesaler,
41 jobber, or other person.

42 (e) The compensation or discount allowed and taken for
43 any filing period may be reassessed and collected when an audit of
44 a taxpayer's records reveals a tax deficiency for that period.

45 (2) A taxpayer required to collect sales taxes under this
46 chapter and having an average monthly sales tax liability of at
47 least Twenty Thousand Dollars (\$20,000.00) for the preceding
48 calendar year shall pay to the State Tax Commission on or before
49 June 25, 2003, and on or before the twenty-fifth day of June of
50 each succeeding year thereafter, an amount equal to at least
51 seventy-five percent (75%) of such taxpayer's estimated sales tax
52 liability for the month of June of the current calendar year, or
53 an amount equal to at least seventy-five percent (75%) of the
54 taxpayer's sales tax liability for the month of June of the
55 preceding calendar year. Payments required to be made under this
56 subsection must be received by the State Tax Commission no later
57 than June 25 in order to be considered timely made. A taxpayer
58 that fails to comply with the requirements of this subsection may
59 be assessed a penalty in an amount equal to ten percent (10%) of
60 the taxpayer's actual sales tax liability for the month of June
61 for which the estimated payment was required to be made. Payments



62 made by a taxpayer under this subsection shall not be considered
63 to be collected for the purposes of any sales tax diversions
64 required by law until the taxpayer files a return for the actual
65 sales taxes collected during the month of June. This subsection
66 shall not apply to any agency, department or instrumentality of
67 the United States, any agency, department, institution,
68 instrumentality or political subdivision of the State of
69 Mississippi, or any agency, department, institution or
70 instrumentality of any political subdivision of the State of
71 Mississippi. Payments made pursuant to this subsection for the
72 month of June 2003, shall be deposited by the State Tax Commission
73 into the Budget Contingency Fund created under Section 27-103-301,
74 and payments made pursuant to this subsection for the month of
75 June of 2004, and each succeeding year thereafter, shall be
76 deposited by the State Tax Commission into the State General Fund.

77 (3) All returns shall be sworn to by the taxpayer, if made
78 by an individual, or by the president, vice president, secretary
79 or treasurer of a corporation, or authorized agent, if made on
80 behalf of a corporation. If made on behalf of a partnership,
81 joint venture, association, trust, estate, or in any other group
82 or combination acting as a unit, any individual delegated by such
83 firm shall swear to the return on behalf of the taxpayer. The
84 commissioner may prescribe methods by which the taxpayer may swear
85 to his return.

86 (4) The commissioner may promulgate rules and regulations to
87 require or permit filing periods of any duration, in lieu of
88 monthly filing periods, for any taxpayer or group thereof.

89 (5) The commissioner may require the execution and filing by
90 the taxpayer with the commissioner of a good and solvent bond with
91 some surety company authorized to do business in Mississippi as
92 surety thereon in an amount double the aggregate tax liability by
93 such taxpayer for any previous three (3) months' period within the
94 last calendar year or estimated three (3) months' tax liability.



95 Said bond is to be conditioned for the prompt payment of such
96 taxes as may be due for each such return.

97 (6) The commissioner, for good cause, may grant such
98 reasonable additional time within which to make any return
99 required under the provisions of this chapter as he may deem
100 proper, but the time for filing any return shall not be extended
101 beyond the twentieth of the month next succeeding the regular due
102 date of the return without the imposition of interest at the rate
103 of one percent (1%) per month or fractional part of a month from
104 the time the return was due until the tax is paid.

105 (7) For persistent, willful, or recurring failure to make
106 any return and pay the tax shown thereby to be due by the time
107 specified, there shall be added to the amount of tax shown to be
108 due ten percent (10%) damages, or interest at the rate of one
109 percent (1%) per month, or both.

110 (8) Any taxpayer may, upon making application therefor,
111 obtain from the commissioner an extension of time for the payment
112 of taxes due on credit sales until collections thereon have been
113 made. When such extension is granted, the taxpayer shall
114 thereafter include in each monthly or quarterly report all
115 collections made during the preceding month or quarter, and shall
116 pay the taxes due thereon at the time of filing such report. Such
117 permission may be revoked or denied at the discretion of the
118 commissioner when, in his opinion, a total sales basis will best
119 reflect the taxable income or expedite examination of the
120 taxpayer's records.

121 (9) Any taxpayer reporting credit sales before collection
122 thereof has been made may take credit on subsequent returns or
123 reports for bad debts actually charged off, if such amounts
124 charged off have previously been included in taxable gross income
125 or taxable gross proceeds of sales, as the case may be, and the
126 tax paid thereon. However, any amounts subsequently collected on



127 accounts that have been charged off as bad debts shall be included
128 in subsequent reports and the tax shall be paid thereon.

129 (10) In cases where an extension of time has been granted by
130 the commissioner for payment of taxes due on credit sales and the
131 taxpayer thereafter discontinues the business, such taxpayer shall
132 be required to file with the commissioner within ten (10) days, or
133 such further time as the commissioner may direct, from the date of
134 the discontinuance of such business, a special report showing the
135 amounts of any credit sales which have not been included in
136 determining the measure of the tax previously paid and any other
137 information with reference to credit sales as the commissioner may
138 require. The commissioner shall thereupon investigate the facts
139 with reference to credit sales and the condition of the accounts,
140 and shall determine, from the best evidence available, the value
141 of all open accounts, notes, or other evidence of debt arising
142 from credit sales. The value of all notes, open accounts and
143 other evidence of debt, as thus determined by the commissioner,
144 shall be used in determining the amount of the tax for which such
145 taxpayer shall be liable. When the amount of the tax shall have
146 been ascertained, the taxpayer shall be required to pay the same
147 within ten (10) days or such further time as the commissioner may
148 allow, notwithstanding the fact that such note or accounts may
149 still remain uncollected.

150 (11) The commissioner shall establish a uniform procedure to
151 allow taxpayers to file returns and pay taxes that are delinquent
152 under this chapter. This subsection (11) shall be repealed from
153 and after July 1, 2004.

154 **SECTION 2.** This act shall take effect and be in force from
155 and after July 1, 2003.

