

By: Representative Moody

To: Ways and Means

HOUSE BILL NO. 1395

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

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

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

15 27-69-15. Any retailer, transient vendor, distributing
16 agent, salesman, or other dealer who shall receive any cigarettes
17 other than from a wholesaler having a permit as herein provided,
18 and not having the necessary stamps already affixed, shall, after
19 the receipt of such cigarettes, within the time limit herein
20 provided, present the same to some wholesaler having such permit,
21 for the affixing of the stamps required, and it shall be the duty
22 of such wholesaler, thereupon and upon the payment to him by such
23 retailer of the face value of the stamps required, to affix the
24 stamps to said cigarettes in the same manner as if the cigarettes
25 were handled and sold by such wholesaler, provided, that such
26 wholesaler, before affixing the stamps, shall require of the
27 retailer, transient vendor, distributing agent, salesman, or other
28 dealer, the original invoice for the cigarettes to be stamped, and
29 such wholesaler shall in each instance note upon the invoice, the
30 denominations and number of stamps affixed to the cigarettes

31 covered by said invoice, the notation to be made in ink, or other
32 manner not easy to erase, at the time the stamps are affixed.

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

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

61 Stamps shall not be affixed to any cigarettes except by a
62 wholesale dealer having a permit, except as otherwise provided in
63 this chapter.

64 Stamps shall not be required to be affixed to any cigarettes
65 while the same is in interstate commerce, except as provided in
66 Section 27-69-33.

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

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

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

82 27-69-19. The provisions of this chapter shall not apply to
83 dealers in tobacco made the subject of interstate sales, except as
84 provided in Section 27-69-33.

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

87 27-69-33. Manufacturers, distributors and wholesalers of
88 cigars, cigarettes or smoking tobacco subject to the tax under
89 this chapter, doing both intrastate and interstate business in
90 such tobacco, must qualify as interstate dealers in such tobacco
91 by applying to the commissioner for permission to engage in such
92 business, and, upon receipt of such permission, he shall be
93 permitted to set aside such part of his stock as may be absolutely
94 necessary for the conduct of such interstate business, without
95 affixing the stamps of this state to cigarettes required by this
96 chapter. Said interstate stock shall be kept in an entirely

97 separate part of the building, separate and apart from intrastate
98 stock, and the said interstate business shall be conducted by the
99 said wholesale dealer in accordance with rules and regulations to
100 be promulgated by the commissioner.

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

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

115 It is further provided that any manufacturer, distributor, or
116 wholesaler of cigars, cigarettes or smoking tobacco, engaged in
117 interstate commerce in such tobaccos, shall report to the
118 commissioner on or before the fifteenth day of each month, on
119 forms prescribed by the commissioner, the quantity of each brand
120 style of cigarettes for all sales of cigarettes made in interstate
121 commerce during the preceding month to which Mississippi stamps
122 were not affixed, along with the name and address of each
123 recipient of the cigarettes. These reports must be made
124 supplementary to the reports required to be filed by Section
125 27-69-35 of this chapter.

126 Each shipment must be covered by a complete copy of invoice
127 of the consignor, and supported by properly receipted bill of
128 lading of the transportation company, or post office department as
129 specified in the foregoing, and the receipted bills of lading and

130 invoices shall be subject to inspection by the commissioner for a
131 period of three (3) years.

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

138 **SECTION 4.** This act shall take effect and be in force from
139 and after July 1, 2004.