

By: Senator(s) Michel, Hewes, Dawkins, Kirby, Gollott, Pickering, Flowers, Lee (35th), Jackson (15th), Chaney, Albritton, Walley, Simmons, Burton, Lee (47th), Doxey, Thames, Chamberlin, Horhn, Hyde-Smith, Clarke, Carmichael, Nunnelee, Brown, Butler, Thomas, Wilemon, Cuevas, Huggins, White

To: Finance

SENATE BILL NO. 2015

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 DURING THE FIRST WEEKEND IN AUGUST; TO ALLOW LOCAL  
4 GOVERNMENTS TO SUSPEND THE APPLICATION OF SUCH EXEMPTION FROM AND  
5 AFTER JANUARY 1, 2005; AND FOR RELATED PURPOSES.

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

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

9 27-65-111. The exemptions from the provisions of this  
10 chapter which are not industrial, agricultural or governmental, or  
11 which do not relate to utilities or taxes, or which are not  
12 properly classified as one of the exemption classifications of  
13 this chapter, shall be confined to persons or property exempted by  
14 this section or by the Constitution of the United States or the  
15 State of Mississippi. No exemptions as now provided by any other  
16 section, except the classified exemption sections of this chapter  
17 set forth herein, shall be valid as against the tax herein levied.  
18 Any subsequent exemption from the tax levied hereunder, except as  
19 indicated above, shall be provided by amendments to this section.

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

22 The tax levied by this chapter shall not apply to the  
23 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

124 (o) Retail sales of food for human consumption  
125 purchased with food stamps issued by the United States Department  
126 of Agriculture, or other federal agency, from and after October 1,

127 1987, or from and after the expiration of any waiver granted  
128 pursuant to federal law, the effect of which waiver is to permit  
129 the collection by the state of tax on such retail sales of food  
130 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

157 (y) Retail sales of an article of clothing or footwear  
158 designed to be worn on or about the human body if the sales price  
159 of the article is less than One Hundred Dollars (\$100.00) and the

160 sale takes place during a period beginning at 12:01 a.m. on the  
161 first Friday in August and ending at 12:00 midnight the following  
162 Saturday. This paragraph (y) shall not apply to:

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

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

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

171 From and after January 1, 2005, the governing authorities of  
172 a municipality, for retail sales occurring within the corporate  
173 limits of the municipality, or the board of supervisors of a  
174 county, for retail sales occurring in the county outside the  
175 corporate limits of a municipality, may suspend the application of  
176 the exemption provided for in this paragraph (y) by adoption of a  
177 resolution to that effect stating the date upon which the  
178 suspension shall take effect. A certified copy of the resolution  
179 shall be furnished to the State Tax Commission at least thirty  
180 (30) days prior to the date upon which the municipality or county  
181 desires such suspension to take effect.

182 **SECTION 2.** This act shall take effect and be in force from  
183 and after its passage.