

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1188

1 AN ACT TO AMEND SECTION 27-65-85, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO FAIL TO PAY A SALES
3 TAX RETURN FILED WITH THE STATE TAX COMMISSION; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 27-65-85, Mississippi Code of 1972, is
7 amended as follows:

8 27-65-85. It shall be unlawful for any person to engage or
9 continue in any business for which a tax is imposed by this
10 chapter without procuring a license as required by Section
11 27-65-27 of this chapter, or after such license has been revoked.

12 It shall be unlawful for any person to fail or refuse to make
13 the return provided to be made in Section 27-65-33 of this
14 chapter.

15 It shall be unlawful for any person to fail to pay any sales
16 tax levied by this chapter.

17 It shall be unlawful for any person to make any false or
18 fraudulent return or false statement in any return, with intent to
19 defraud the state or to evade the payment of the tax or any part
20 thereof.

21 It shall be unlawful for any person to aid or abet another in
22 any attempt to evade the payment of the tax, or any part thereof.

23 It shall be unlawful for the president, vice president,
24 secretary or treasurer of any company to make or permit to be made
25 for any company or association any false return, or any false
26 statement in any return required by this chapter with the intent
27 to evade the payment of the tax due.

28 It shall be unlawful for any person to fail or refuse to
29 permit the examination of any book, paper, account, record, or
30 other data by the commissioner, or his duly appointed agent, as
31 required by this chapter, including the records of any common
32 carrier, bank, wholesale or retail dealer in any kind of
33 merchandise whether in regard to his own or another's return.

34 It shall be unlawful to fail or refuse to permit the
35 inspection or appraisal of any property by the commissioner or his
36 duly appointed agent.

37 It shall be unlawful to refuse to offer testimony or produce
38 any record as required by this chapter.

39 It shall be unlawful for any person using the public roads
40 and highways of this state for the transportation of merchandise
41 for sale, whether such person be a contract carrier or operating a
42 private vehicle, other than a common carrier operating under the
43 Interstate Commerce Commission or the Mississippi Public Service
44 Commission, and having a permanent office in this state where
45 proper records of merchandise transported are kept and available
46 for inspection by the commissioner or his agents, to fail to have
47 in his or her possession at all times while such merchandise is
48 being transported, and allow inspection of, the invoices or sales
49 tickets correctly disclosing the nature and quantity of such
50 merchandise and the consignor and consignee of each article being
51 transported. However, the records of a common carrier shall be
52 open for inspection at any time for the purpose of obtaining any
53 information bearing upon the administration of this chapter. In
54 the case of any vehicle engaged in the transportation of
55 merchandise for sale, neither belonging to nor operated by a
56 regulated common carrier and not keeping complete records in this
57 state, the commissioner or his authorized agents may examine any
58 invoices or sales tickets carried by the person in charge of such
59 vehicle, and may compare them with the character and quantity of
60 merchandise being transported and the consignee thereof, for the

61 purpose of ascertaining whether or not the provisions of law are
62 being complied with. The absence of such invoices or delivery or
63 sales tickets indicating to whom said merchandise belongs, or is
64 to be delivered, in the hands of such person so engaged in
65 transporting the merchandise, shall be prima facie evidence that
66 such person is transporting such merchandise in violation of this
67 chapter and liable for all penalties imposed under this section.

68 Any person violating any of the provisions of this chapter
69 shall be guilty of a misdemeanor and on conviction thereof shall
70 be fined not more than Five Hundred Dollars (\$500.00), or
71 imprisoned not exceeding six (6) months in the county jail, or
72 punished by both such fine and imprisonment, at the discretion of
73 the court, within the limitations aforesaid. In addition to the
74 foregoing penalties, any person who shall knowingly swear to or
75 verify any false or fraudulent return or statement, with the
76 intent aforesaid shall be guilty of the offense of perjury and, on
77 conviction thereof, shall be punished in the manner provided by
78 law.

79 The commissioner may require the attendance of any person and
80 take his testimony with respect to any matter pertaining to any
81 taxpayer's liability for taxes under this chapter, with power to
82 administer oaths to such person or persons. If any person
83 summoned as a witness shall fail to obey any summons to appear
84 before the commissioner or his authorized agent, or shall refuse
85 to testify or answer any material question or to produce any book,
86 record, paper or other data when required to do so, such failure
87 or refusal shall be reported to the Attorney General, the district
88 attorney or county attorney, who shall thereupon institute
89 proceedings in the circuit court of the county where such witness
90 resides to compel obedience to any summons of the commissioner, or
91 his authorized agent. Said proceedings shall be by petition for
92 citation to such person refusing to obey such summons, to show
93 cause why such person should not be required to obey such summons;

94 and the circuit judge of the district may hear such petition in
95 termtime or vacation upon two (2) days' notice to the person
96 sought to be cited; and the circuit judge may enter such order as
97 he may deem proper, and punish any failure to comply with such
98 order as for any other contempt of said court. Officers who serve
99 summonses or subpoenas, and witnesses attending, shall receive
100 like compensation as officers and witnesses in the justice of the
101 peace courts; and such compensation shall be paid from the proper
102 appropriation for the administration of this chapter.

103 **SECTION 2.** This act shall take effect and be in force from
104 and after July 1, 2005.