

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2168

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,  
2 TO EXEMPT FROM SALES TAXATION RETAIL SALES OF CERTAIN FOOD FOR  
3 HUMAN CONSUMPTION; AND FOR RELATED PURPOSES.

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

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

7 27-65-111. The exemptions from the provisions of this  
8 chapter which are not industrial, agricultural or governmental, or  
9 which do not relate to utilities or taxes, or which are not  
10 properly classified as one of the exemption classifications of  
11 this chapter, shall be confined to persons or property exempted by  
12 this section or by the Constitution of the United States or the  
13 State of Mississippi. No exemptions as now provided by any other  
14 section, except the classified exemption sections of this chapter  
15 set forth herein, shall be valid as against the tax herein levied.  
16 Any subsequent exemption from the tax levied hereunder, except as  
17 indicated above, shall be provided by amendments to this section.

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

20 The tax levied by this chapter shall not apply to the  
21 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

125 1987, or from and after the expiration of any waiver granted  
126 pursuant to federal law, the effect of which waiver is to permit  
127 the collection by the state of tax on such retail sales of food  
128 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

155 (y) Sales of tangible personal property or services to  
156 the Mississippi Technology Alliance.

157                   (z) Retail sales of food for human consumption not  
158 purchased with food stamps issued by the United States Department  
159 of Agriculture, or other federal agency, but which would be exempt  
160 under paragraph (o) of this section from the taxes imposed by this  
161 chapter if the food items were purchased with food stamps.

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