

By: Representatives Montgomery, Sullivan

To: Agriculture; Ways and Means

HOUSE BILL NO. 664

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO DECREASE FROM SEVEN PERCENT TO FOUR PERCENT THE TAX IMPOSED ON
3 SALES OF ALL-TERRAIN VEHICLES WHICH ARE USED FOR AGRICULTURAL
4 PURPOSES AND WHICH ARE REGISTERED WITH THE FARM SERVICE AGENCY OF
5 THE UNITED STATES DEPARTMENT OF AGRICULTURE; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 27-65-17, Mississippi Code of 1972, is
9 amended as follows:

10 27-65-17. (1) (a) Except as otherwise provided in this
11 section, upon every person engaging or continuing within this
12 state in the business of selling any tangible personal property
13 whatsoever there is hereby levied, assessed and shall be collected
14 a tax equal to seven percent (7%) of the gross proceeds of the
15 retail sales of the business.

16 (b) Retail sales of farm tractors shall be taxed at the
17 rate of one percent (1%) when made to farmers for agricultural
18 purposes.

19 (c) Retail sales of farm implements sold to farmers and
20 used directly in the production of poultry, ratite, domesticated
21 fish as defined in Section 69-7-501, livestock, livestock
22 products, agricultural crops or ornamental plant crops or used for
23 other agricultural purposes shall be taxed at the rate of three
24 percent (3%) when used on the farm. The three percent (3%) rate
25 shall also apply to all equipment used in logging, pulpwood
26 operations or tree farming which is either:

27 (i) Self-propelled, or

28 (ii) Mounted so that it is permanently attached to
29 other equipment which is self-propelled or permanently attached to
30 other equipment drawn by a vehicle which is self-propelled.

31 (d) Except as otherwise provided in subsection (3) of
32 this section, retail sales of aircraft, automobiles, trucks,
33 truck-tractors, semitrailers and mobile homes shall be taxed at
34 the rate of three percent (3%).

35 (e) Sales of manufacturing machinery or manufacturing
36 machine parts when made to a manufacturer or custom processor for
37 plant use only when the machinery and machine parts will be used
38 exclusively and directly within this state in manufacturing a
39 commodity for sale, rental or in processing for a fee shall be
40 taxed at the rate of one and one-half percent (1-1/2%).

41 (f) Sales of machinery and machine parts when made to a
42 technology intensive enterprise for plant use only when the
43 machinery and machine parts will be used exclusively and directly
44 within this state for industrial purposes, including, but not
45 limited to, manufacturing or research and development activities,
46 shall be taxed at the rate of one and one-half percent (1-1/2%).
47 In order to be considered a technology intensive enterprise for
48 purposes of this paragraph:

49 (i) The enterprise shall meet minimum criteria
50 established by the Mississippi Development Authority;

51 (ii) The enterprise shall employ at least ten (10)
52 persons in full-time jobs;

53 (iii) At least ten percent (10%) of the workforce
54 in the facility operated by the enterprise shall be scientists,
55 engineers or computer specialists;

56 (iv) The enterprise shall manufacture plastics,
57 chemicals, automobiles, aircraft, computers or electronics; or
58 shall be a research and development facility, a computer design or
59 related facility, or a software publishing facility or other

60 technology intensive facility or enterprise as determined by the
61 Mississippi Development Authority;

62 (v) The average wage of all workers employed by
63 the enterprise at the facility shall be at least one hundred fifty
64 percent (150%) of the state average annual wage; and

65 (vi) The enterprise must provide a basic health
66 care plan to all employees at the facility.

67 (g) Sales of materials for use in track and track
68 structures to a railroad whose rates are fixed by the Interstate
69 Commerce Commission or the Mississippi Public Service Commission
70 shall be taxed at the rate of three percent (3%).

71 (h) Sales of tangible personal property to electric
72 power associations for use in the ordinary and necessary operation
73 of their generating or distribution systems shall be taxed at the
74 rate of one percent (1%).

75 (i) Wholesale sales of beer shall be taxed at the rate
76 of seven percent (7%), and the retailer shall file a return and
77 compute the retail tax on retail sales but may take credit for the
78 amount of the tax paid to the wholesaler on said return covering
79 the subsequent sales of same property, provided adequate invoices
80 and records are maintained to substantiate the credit.

81 (j) Wholesale sales of food and drink for human
82 consumption to full service vending machine operators to be sold
83 through vending machines located apart from and not connected with
84 other taxable businesses shall be taxed at the rate of eight
85 percent (8%).

86 (k) Sales of equipment used or designed for the purpose
87 of assisting disabled persons, such as wheelchair equipment and
88 lifts, that is mounted or attached to or installed on a private
89 carrier of passengers or light carrier of property, as defined in
90 Section 27-51-101, at the time when the private carrier of
91 passengers or light carrier of property is sold shall be taxed at
92 the same rate as the sale of such vehicles under this section.

93 (1) Retail sales of all-terrain vehicles sold to
94 farmers, which are used directly in the production of poultry,
95 ratite, domesticated fish as defined in Section 69-7-501,
96 livestock, livestock products, agricultural crops or ornamental
97 plant crops or used for other agricultural purposes, and which are
98 registered with the Farm Service Agency of the United States
99 Department of Agriculture, shall be taxed at the rate of four
100 percent (4%) when used on the farm. For purposes of this
101 provision, the term "all-terrain vehicle" means any motorized
102 vehicle manufactured and designed exclusively for off-road use
103 that is fifty (50) inches or less in width, has an unladen dry
104 weight of six hundred (600) pounds or less, travels on three (3),
105 four (4) or more low pressure tires, has a seat designed to be
106 straddled by the operator and uses handlebars for steering
107 control.

108 (2) From and after January 1, 1995, retail sales of private
109 carriers of passengers and light carriers of property, as defined
110 in Section 27-51-101, shall be taxed an additional two percent
111 (2%).

112 (3) In lieu of the tax levied in subsection (1) of this
113 section, there is levied on retail sales of truck-tractors and
114 semitrailers used in interstate commerce and registered under the
115 International Registration Plan (IRP) or any similar reciprocity
116 agreement or compact relating to the proportional registration of
117 commercial vehicles entered into as provided for in Section
118 27-19-143, a tax at the rate of three percent (3%) of the portion
119 of the sale that is attributable to the usage of such
120 truck-tractor or semitrailer in Mississippi. The portion of the
121 retail sale that is attributable to the usage of such
122 truck-tractor or semitrailer in Mississippi is the retail sales
123 price of the truck-tractor or semitrailer multiplied by the
124 percentage of the total miles traveled by the vehicle that are
125 traveled in Mississippi. The tax levied pursuant to this

126 subsection (3) shall be collected by the State Tax Commission from
127 the purchaser of such truck-tractor or semitrailer at the time of
128 registration of such truck-tractor or semitrailer.

129 (4) A manufacturer selling at retail in this state shall be
130 required to make returns of the gross proceeds of such sales and
131 pay the tax imposed in this section.

132 (5) Any person exercising any privilege taxable under
133 Section 27-65-15 and selling his natural resource products at
134 wholesale or to exempt persons shall pay the tax levied by said
135 section in lieu of the tax levied by this section.

136 **SECTION 2.** Nothing in this act shall affect or defeat any
137 claim, assessment, appeal, suit, right or cause of action for
138 taxes due or accrued under the sales tax laws before the date on
139 which this act becomes effective, whether such claims,
140 assessments, appeals, suits or actions have been begun before the
141 date on which this act becomes effective or are begun thereafter;
142 and the provisions of the sales tax laws are expressly continued
143 in full force, effect and operation for the purpose of the
144 assessment, collection and enrollment of liens for any taxes due
145 or accrued and the execution of any warrant under such laws before
146 the date on which this act becomes effective, and for the
147 imposition of any penalties, forfeitures or claims for failure to
148 comply with such laws.

149 **SECTION 3.** This act shall take effect and be in force from
150 and after July 1, 2006.