

By: Representatives Snowden, Baker (74th)

To: Ways and Means

HOUSE BILL NO. 791

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-111, MISSISSIPPI  
2 CODE OF 1972, TO PHASE OUT THE SALES TAX ON RETAIL SALES OF FOOD  
3 FOR HUMAN CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH  
4 WOULD BE EXEMPT FROM SALES TAX IF SUCH FOOD WERE PURCHASED WITH  
5 FOOD STAMPS; AND FOR RELATED PURPOSES.

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

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

9 27-65-17. (1) (a) Except as otherwise provided in this  
10 section, upon every person engaging or continuing within this  
11 state in the business of selling any tangible personal property  
12 whatsoever there is hereby levied, assessed and shall be collected  
13 a tax equal to seven percent (7%) of the gross proceeds of the  
14 retail sales of the business.

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

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

26 (i) Self-propelled, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

92 (2) From and after January 1, 1995, retail sales of private  
93 carriers of passengers and light carriers of property, as defined  
94 in Section 27-51-101, shall be taxed an additional two percent  
95 (2%).

96 (3) In lieu of the tax levied in subsection (1) of this  
97 section, there is levied on retail sales of truck-tractors and  
98 semitrailers used in interstate commerce and registered under the  
99 International Registration Plan (IRP) or any similar reciprocity  
100 agreement or compact relating to the proportional registration of  
101 commercial vehicles entered into as provided for in Section  
102 27-19-143, a tax at the rate of three percent (3%) of the portion  
103 of the sale that is attributable to the usage of such  
104 truck-tractor or semitrailer in Mississippi. The portion of the  
105 retail sale that is attributable to the usage of such  
106 truck-tractor or semitrailer in Mississippi is the retail sales  
107 price of the truck-tractor or semitrailer multiplied by the  
108 percentage of the total miles traveled by the vehicle that are  
109 traveled in Mississippi. The tax levied pursuant to this  
110 subsection (3) shall be collected by the State Tax Commission from  
111 the purchaser of such truck-tractor or semitrailer at the time of  
112 registration of such truck-tractor or semitrailer.

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

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

120 (6) From and after July 1, 2007, in lieu of the tax levied  
121 in subsection (1) of this section, retail sales of food for human  
122 consumption not purchased with food stamps issued by the United  
123 States Department of Agriculture, or other federal agency, but  
124 which would be exempt under Section 27-65-111(o) from the taxes

125 imposed by this chapter if the food were purchased with food  
126 stamps, shall be taxed as follows:

127 (a) From and after July 1, 2007, through June 30, 2008,  
128 such sales shall be taxed at the rate of six percent (6%);

129 (b) From and after July 1, 2008, through June 30, 2009,  
130 such sales shall be taxed at the rate of five percent (5%);

131 (c) From and after July 1, 2009, through June 30, 2010,  
132 such sales shall be taxed at the rate of three percent (3%);

133 (d) From and after July 1, 2010, through June 30, 2011,  
134 such sales shall be taxed at the rate of two percent (2%); and

135 (e) From and after July 1, 2011, such sales shall be  
136 exempt from sales tax as provided in Section 27-65-111.

137 **SECTION 2.** Section 27-65-111, Mississippi Code of 1972, is  
138 amended as follows:

139 27-65-111. The exemptions from the provisions of this  
140 chapter which are not industrial, agricultural or governmental, or  
141 which do not relate to utilities or taxes, or which are not  
142 properly classified as one of the exemption classifications of  
143 this chapter, shall be confined to persons or property exempted by  
144 this section or by the Constitution of the United States or the  
145 State of Mississippi. No exemptions as now provided by any other  
146 section, except the classified exemption sections of this chapter  
147 set forth herein, shall be valid as against the tax herein levied.  
148 Any subsequent exemption from the tax levied hereunder, except as  
149 indicated above, shall be provided by amendments to this section.

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

152 The tax levied by this chapter shall not apply to the  
153 following:

154 (a) Sales of tangible personal property and services to  
155 hospitals or infirmaries owned and operated by a corporation or  
156 association in which no part of the net earnings inures to the

157 benefit of any private shareholder, group or individual, and which  
158 are subject to and governed by Sections 41-7-123 through 41-7-127.

159         Only sales of tangible personal property or services which  
160 are ordinary and necessary to the operation of such hospitals and  
161 infirmaries are exempted from tax.

162             (b) Sales of daily or weekly newspapers, and  
163 periodicals or publications of scientific, literary or educational  
164 organizations exempt from federal income taxation under Section  
165 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
166 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

181             (g) Sales to elementary and secondary grade schools,  
182 junior and senior colleges owned and operated by a corporation or  
183 association in which no part of the net earnings inures to the  
184 benefit of any private shareholder, group or individual, and which  
185 are exempt from state income taxation, provided that this  
186 exemption does not apply to sales of property or services which  
187 are not to be used in the ordinary operation of the school, or  
188 which are to be resold to the students or the public.

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

191           (i) Prescribed for the treatment of a human being  
192 by a person authorized to prescribe the medicines, and dispensed  
193 or prescription filled by a registered pharmacist in accordance  
194 with law; or

195           (ii) Furnished by a licensed physician, surgeon,  
196 dentist or podiatrist to his own patient for treatment of the  
197 patient; or

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

201           (iv) Sold to a licensed physician, surgeon,  
202 podiatrist, dentist or hospital for the treatment of a human  
203 being; or

204           (v) Sold to this state or any political  
205 subdivision or municipal corporation thereof, for use in the  
206 treatment of a human being or furnished for the treatment of a  
207 human being by a medical facility or clinic maintained by this  
208 state or any political subdivision or municipal corporation  
209 thereof.

210           "Medicines," as used in this paragraph (h), shall mean and  
211 include any substance or preparation intended for use by external  
212 or internal application to the human body in the diagnosis, cure,  
213 mitigation, treatment or prevention of disease and which is  
214 commonly recognized as a substance or preparation intended for  
215 such use; provided that "medicines" do not include any auditory,  
216 prosthetic, ophthalmic or ocular device or appliance, any dentures  
217 or parts thereof or any artificial limbs or their replacement  
218 parts, articles which are in the nature of splints, bandages,  
219 pads, compresses, supports, dressings, instruments, apparatus,  
220 contrivances, appliances, devices or other mechanical, electronic,  
221 optical or physical equipment or article or the component parts

222 and accessories thereof, or any alcoholic beverage or any other  
223 drug or medicine not commonly referred to as a prescription drug.

224 Notwithstanding the preceding sentence of this paragraph (h),  
225 "medicines" as used in this paragraph (h), shall mean and include  
226 sutures, whether or not permanently implanted, bone screws, bone  
227 pins, pacemakers and other articles permanently implanted in the  
228 human body to assist the functioning of any natural organ, artery,  
229 vein or limb and which remain or dissolve in the body.

230 "Hospital," as used in this paragraph (h), shall have the  
231 meaning ascribed to it in Section 41-9-3, Mississippi Code of  
232 1972.

233 Insulin furnished by a registered pharmacist to a person for  
234 treatment of diabetes as directed by a physician shall be deemed  
235 to be dispensed on prescription within the meaning of this  
236 paragraph (h).

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

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

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

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

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

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



254           (o) Retail sales of food for human consumption  
255 purchased with food stamps issued by the United States Department  
256 of Agriculture, or other federal agency, from and after October 1,  
257 1987, or from and after the expiration of any waiver granted  
258 pursuant to federal law, the effect of which waiver is to permit  
259 the collection by the state of tax on such retail sales of food  
260 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

283           (x) The gross collections from the operation of  
284 self-service, coin-operated car washing equipment and sales of the  
285 service of washing motor vehicles with portable high-pressure  
286 washing equipment on the premises of the customer.

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

289 (z) From and after July 1, 2011, retail sales of food  
290 for human consumption not purchased with food stamps issued by the  
291 United States Department of Agriculture, or other federal agency,  
292 but which would be exempt under paragraph (o) of this section from  
293 the taxes imposed by this chapter if the food were purchased with  
294 food stamps.

295 **SECTION 3.** Nothing in this act shall affect or defeat any  
296 claim, assessment, appeal, suit, right or cause of action for  
297 taxes due or accrued under the sales tax laws before the date on  
298 which this act becomes effective, whether such claims,  
299 assessments, appeals, suits or actions have been begun before the  
300 date on which this act becomes effective or are begun thereafter;  
301 and the provisions of the sales tax laws are expressly continued  
302 in full force, effect and operation for the purpose of the  
303 assessment, collection and enrollment of liens for any taxes due  
304 or accrued and the execution of any warrant under such laws before  
305 the date on which this act becomes effective, and for the  
306 imposition of any penalties, forfeitures or claims for failure to  
307 comply with such laws.

308 **SECTION 4.** This act shall take effect and be in force from  
309 and after July 1, 2006.