

By: Representatives Snowden, Baker (74th)

To: Ways and Means

HOUSE BILL NO. 795

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, 2006, 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, 2006, through June 30, 2007,
128 such sales shall be taxed at the rate of six percent (6%);

129 (b) From and after July 1, 2007, through June 30, 2008,
130 such sales shall be taxed at the rate of five percent (5%);

131 (c) From and after July 1, 2008, through June 30, 2009,
132 such sales shall be taxed at the rate of three percent (3%);

133 (d) From and after July 1, 2009, through June 30, 2010,
134 such sales shall be taxed at the rate of two percent (2%);

135 (e) From and after July 1, 2010, 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, 2010, 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.