

By: Representatives Snowden, Baker (74th),
Mims, Formby, Gregory, Denny, Ellington,
Moore, Davis, Fillingane, Wells-Smith, Chism,
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To: Ways and Means

HOUSE BILL NO. 799

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE RETAIL SALES OF CERTAIN ARTICLES
3 OF CLOTHING DURING THE FIRST WEEKEND IN AUGUST; TO PROVIDE THAT
4 BEFORE SUCH EXEMPTION MAY TAKE EFFECT IT MUST FIRST BE AUTHORIZED
5 BY THE GOVERNING AUTHORITIES OF A MUNICIPALITY FOR RETAIL SALES
6 OCCURRING WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY, OR
7 BOARD OF SUPERVISORS OF A COUNTY FOR RETAIL SALES OCCURRING IN THE
8 COUNTY OUTSIDE THE CORPORATE LIMITS OF A MUNICIPALITY; TO PROVIDE
9 THAT THE GOVERNING AUTHORITIES OF A MUNICIPALITY OR BOARD OF
10 SUPERVISORS OF A COUNTY, AS THE CASE MAY BE, THAT HAS AUTHORIZED
11 THE SALES TAX EXEMPTION PROVIDED IN THIS ACT MAY SUSPEND THE
12 APPLICATION OF SUCH EXEMPTION; AND FOR RELATED PURPOSES.

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

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

16 27-65-111. The exemptions from the provisions of this
17 chapter which are not industrial, agricultural or governmental, or
18 which do not relate to utilities or taxes, or which are not
19 properly classified as one of the exemption classifications of
20 this chapter, shall be confined to persons or property exempted by
21 this section or by the Constitution of the United States or the
22 State of Mississippi. No exemptions as now provided by any other
23 section, except the classified exemption sections of this chapter
24 set forth herein, shall be valid as against the tax herein levied.
25 Any subsequent exemption from the tax levied hereunder, except as
26 indicated above, shall be provided by amendments to this section.

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

29 The tax levied by this chapter shall not apply to the
30 following:

31 (a) Sales of tangible personal property and services to
32 hospitals or infirmaries owned and operated by a corporation or

33 association in which no part of the net earnings inures to the
34 benefit of any private shareholder, group or individual, and which
35 are subject to and governed by Sections 41-7-123 through 41-7-127.

36 Only sales of tangible personal property or services which
37 are ordinary and necessary to the operation of such hospitals and
38 infirmaries are exempted from tax.

39 (b) Sales of daily or weekly newspapers, and
40 periodicals or publications of scientific, literary or educational
41 organizations exempt from federal income taxation under Section
42 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
43 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

58 (g) Sales to elementary and secondary grade schools,
59 junior and senior colleges owned and operated by a corporation or
60 association in which no part of the net earnings inures to the
61 benefit of any private shareholder, group or individual, and which
62 are exempt from state income taxation, provided that this
63 exemption does not apply to sales of property or services which
64 are not to be used in the ordinary operation of the school, or
65 which are to be resold to the students or the public.

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

68 (i) Prescribed for the treatment of a human being
69 by a person authorized to prescribe the medicines, and dispensed
70 or prescription filled by a registered pharmacist in accordance
71 with law; or

72 (ii) Furnished by a licensed physician, surgeon,
73 dentist or podiatrist to his own patient for treatment of the
74 patient; or

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

78 (iv) Sold to a licensed physician, surgeon,
79 podiatrist, dentist or hospital for the treatment of a human
80 being; or

81 (v) Sold to this state or any political
82 subdivision or municipal corporation thereof, for use in the
83 treatment of a human being or furnished for the treatment of a
84 human being by a medical facility or clinic maintained by this
85 state or any political subdivision or municipal corporation
86 thereof.

87 "Medicines," as used in this paragraph (h), shall mean and
88 include any substance or preparation intended for use by external
89 or internal application to the human body in the diagnosis, cure,
90 mitigation, treatment or prevention of disease and which is
91 commonly recognized as a substance or preparation intended for
92 such use; provided that "medicines" do not include any auditory,
93 prosthetic, ophthalmic or ocular device or appliance, any dentures
94 or parts thereof or any artificial limbs or their replacement
95 parts, articles which are in the nature of splints, bandages,
96 pads, compresses, supports, dressings, instruments, apparatus,
97 contrivances, appliances, devices or other mechanical, electronic,
98 optical or physical equipment or article or the component parts

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

101 Notwithstanding the preceding sentence of this paragraph (h),
102 "medicines" as used in this paragraph (h), shall mean and include
103 sutures, whether or not permanently implanted, bone screws, bone
104 pins, pacemakers and other articles permanently implanted in the
105 human body to assist the functioning of any natural organ, artery,
106 vein or limb and which remain or dissolve in the body.

107 "Hospital," as used in this paragraph (h), shall have the
108 meaning ascribed to it in Section 41-9-3, Mississippi Code of
109 1972.

110 Insulin furnished by a registered pharmacist to a person for
111 treatment of diabetes as directed by a physician shall be deemed
112 to be dispensed on prescription within the meaning of this
113 paragraph (h).

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

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

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

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

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

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

131 (o) Retail sales of food for human consumption
132 purchased with food stamps issued by the United States Department
133 of Agriculture, or other federal agency, from and after October 1,
134 1987, or from and after the expiration of any waiver granted
135 pursuant to federal law, the effect of which waiver is to permit
136 the collection by the state of tax on such retail sales of food
137 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

160 (x) The gross collections from the operation of
161 self-service, coin-operated car washing equipment and sales of the
162 service of washing motor vehicles with portable high-pressure
163 washing equipment on the premises of the customer.

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

166 (z) Subject to the provisions of this paragraph (z),
167 retail sales of an article of clothing or footwear designed to be
168 worn on or about the human body if the sales price of the article
169 is less than One Hundred Dollars (\$100.00) and the sale takes
170 place during a period beginning at 12:01 a.m. on the first Friday
171 in August and ending at 12:00 midnight the following Sunday. This
172 paragraph (z) shall not apply to:

173 (i) Accessories including jewelry, handbags,
174 luggage, umbrellas, wallets, watches, backpacks, briefcases,
175 garment bags and similar items carried on or about the human body,
176 without regard to whether worn on the body in a manner
177 characteristic of clothing;

178 (ii) The rental of clothing or footwear; and

179 (iii) Skis, swim fins, roller blades, skates and
180 similar items worn on the foot.

181 Before the exemption provided in this paragraph (z) may take
182 effect for retail sales occurring within the corporate limits of a
183 municipality or retail sales occurring in a county outside the
184 corporate limits of a municipality, the governing authorities of
185 the municipality or board of supervisors of the county, as the
186 case may be, must first adopt a resolution to that effect stating
187 the date upon which the exemption shall take effect. A certified
188 copy of such resolution shall be furnished to the State Tax
189 Commission at least thirty (30) days before the date upon which
190 the municipality or county desires such exemption to take effect.
191 The governing authorities of a municipality or board of
192 supervisors of a county, as the case may be, that has authorized
193 the exemption provided in this paragraph (z) may suspend the
194 application of such exemption by adoption of a resolution to that
195 effect stating the date upon which the suspension shall take
196 effect. A certified copy of such resolution shall be furnished to

197 the State Tax Commission at least thirty (30) days before the date
198 upon which the municipality or county desires such suspension to
199 take effect.

200 **SECTION 2.** This act shall take effect and be in force from
201 and after its passage.