

By: Representative Watson

To: Ways and Means

## HOUSE BILL NO. 1028

1 AN ACT TO AMEND SECTION 27-65-85, MISSISSIPPI CODE OF 1972,  
2 TO MAKE IT UNLAWFUL FOR ANY PERSON TO REPRESENT TO ANY RETAILER  
3 THAT PURCHASES OF MERCHANDISE ARE FOR RESALE, CAUSING THE RETAILER  
4 TO NOT COLLECT THE TAX IMPOSED BY THE SALES TAX LAW, WHEN IN FACT  
5 THE PURCHASE IS BEING MADE FOR THE USE OF THE PERSON; TO MAKE IT  
6 UNLAWFUL FOR ANY PERSON TO USE ANOTHER PERSON'S PERMIT TO ENGAGE  
7 IN BUSINESS FOR THE PURPOSE OF AVOIDING THE PAYMENT OF TAXES  
8 IMPOSED BY THE SALES TAX LAW; TO MAKE IT UNLAWFUL FOR ANY PERSON  
9 TO USE AN EXEMPTION AUTHORIZED UNDER THIS CHAPTER FOR THE PURPOSE  
10 OF AVOIDING THE PAYMENT OF TAX HE IS REQUIRED TO PAY UNDER THE  
11 SALES TAX LAW; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-65-85, Mississippi Code of 1972, is  
14 amended as follows:

15 27-65-85. (1) It shall be unlawful for:

16 (a) Any person to engage or continue in any business  
17 for which a tax is imposed by this chapter without procuring a  
18 license as required by Section 27-65-27 of this chapter, or after  
19 such license has been revoked, or who shall fail or refuse to make  
20 the return provided to be made in Section 27-65-33 of this  
21 chapter;

22 (b) Any person to make any false or fraudulent return  
23 or false statement in any return, with intent to defraud the state  
24 or to evade the payment of the tax imposed by this chapter, or any  
25 part thereof;

26 (c) Any person to aid or abet another in any attempt to  
27 evade the payment of the tax imposed by this chapter, or any part  
28 thereof;

29 (d) The president, vice president, secretary or  
30 treasurer of any company to make or permit to be made for any  
31 company or association any false return, or any false statement in

32 any return required by this chapter with the intent to evade the  
33 payment of the tax due;

34 (e) Any person to represent to any retailer that  
35 purchases of merchandise are for resale, causing the retailer to  
36 not collect the tax imposed by this chapter, when in fact the  
37 purchase is being made for the use of the person;

38 (f) Any person to use another person's permit to engage  
39 in business issued under Section 27-65-27 for the purpose of  
40 avoiding the payment of taxes imposed by this chapter;

41 (g) Any person to use an exemption authorized under  
42 this chapter for the purpose of avoiding the payment of tax he is  
43 required to pay under this chapter;

44 (h) Any person to fail or refuse to permit the  
45 examination of any book, paper, account, record or other data by  
46 the commissioner, or his duly appointed agent, as required by this  
47 chapter, including the records of any common carrier, bank,  
48 wholesale or retail dealer in any kind of merchandise whether in  
49 regard to his own or another's return;

50 (i) To fail or refuse to permit the inspection or  
51 appraisal of any property by the commissioner or his duly  
52 appointed agent;

53 (j) To refuse to offer testimony or produce any record  
54 as required by this chapter;

55 (k) Any person using the public roads and highways of  
56 this state for the transportation of merchandise for sale, whether  
57 such person be a contract carrier or operating a private vehicle,  
58 other than a common carrier operating under the Interstate  
59 Commerce Commission or the Mississippi Public Service Commission,  
60 and having a permanent office in this state where proper records  
61 of merchandise transported are kept and available for inspection  
62 by the commissioner or his agents, to fail to have in his or her  
63 possession at all times while such merchandise is being  
64 transported, and allow inspection of, the invoices or sales

65 tickets correctly disclosing the nature and quantity of such  
66 merchandise and the consignor and consignee of each article being  
67 transported. However, the records of a common carrier shall be  
68 open for inspection at any time for the purpose of obtaining any  
69 information bearing upon the administration of this chapter. In  
70 the case of any vehicle engaged in the transportation of  
71 merchandise for sale, neither belonging to nor operated by a  
72 regulated common carrier and not keeping complete records in this  
73 state, the commissioner or his authorized agents may examine any  
74 invoices or sales tickets carried by the person in charge of the  
75 vehicle, and may compare them with the character and quantity of  
76 merchandise being transported and the consignee thereof, for the  
77 purpose of ascertaining whether or not the provisions of law are  
78 being complied with. The absence of such invoices or delivery or  
79 sales tickets indicating to whom said merchandise belongs, or is  
80 to be delivered, in the hands of such person so engaged in  
81 transporting the merchandise, shall be prima facie evidence that  
82 such person is transporting such merchandise in violation of this  
83 chapter and liable for all penalties imposed under this section.

84 (2) Any person violating any of the provisions of this  
85 chapter shall be guilty of a misdemeanor and, on conviction  
86 thereof, shall be fined not more than Five Hundred Dollars  
87 (\$500.00), or imprisoned not exceeding six (6) months in the  
88 county jail, or punished by both such fine and imprisonment, at  
89 the discretion of the court \* \* \*. In addition to the foregoing  
90 penalties, any person who shall knowingly swear to or verify any  
91 false or fraudulent return or statement \* \* \* shall be guilty of  
92 the offense of perjury and, on conviction thereof, shall be  
93 punished in the manner provided by law.

94 (3) The commissioner may require the attendance of any  
95 person and take his testimony with respect to any matter  
96 pertaining to any taxpayer's liability for taxes under this  
97 chapter, with power to administer oaths to such person or persons.

98 If any person summoned as a witness shall fail to obey any summons  
99 to appear before the commissioner or his authorized agent, or  
100 shall refuse to testify or answer any material question or to  
101 produce any book, record, paper or other data when required to do  
102 so, the failure or refusal shall be reported to the Attorney  
103 General, the district attorney or county attorney, who shall  
104 thereupon institute proceedings in the circuit court of the county  
105 where such witness resides to compel obedience to any summons of  
106 the commissioner, or his authorized agent. The proceedings shall  
107 be by petition for citation to the person refusing to obey such  
108 summons, to show cause why the person should not be required to  
109 obey such summons. The circuit judge of the district may hear  
110 such petition in termtime or vacation upon two (2) days' notice to  
111 the person sought to be cited; and the circuit judge may enter  
112 such order as he may deem proper, and punish any failure to comply  
113 with the order as for any other contempt of the court. Officers  
114 who serve summonses or subpoenas, and witnesses attending, shall  
115 receive like compensation as officers and witnesses in the  
116 justice \* \* \* courts; and such compensation shall be paid from the  
117 proper appropriation for the administration of this chapter.

118       **SECTION 2.** This act shall take effect and be in force from  
119 and after July 1, 2007.