

By: Representative Eaton

To: Ways and Means

HOUSE BILL NO. 1611

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-103, MISSISSIPPI
2 CODE OF 1972, TO REDUCE FROM SEVEN PERCENT TO THREE PERCENT THE
3 SALES TAX CHARGED ON RETAIL SALES TO A BONA FIDE FARMER OF ANY
4 ITEM, OR MATERIAL OR OTHER TANGIBLE PERSONAL PROPERTY THAT WILL BE
5 USED DIRECTLY FOR AN AGRICULTURAL PURPOSE IN THE ORDINARY COURSE
6 OF OPERATING A FARM; TO DEFINE BONA FIDE FARMER AS A PERSON OR
7 OTHER LEGAL ENTITY WHO POSSESSES A FARMER'S PERMIT ISSUED BY THE
8 MISSISSIPPI STATE TAX COMMISSION; AND FOR RELATED PURPOSES.

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

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

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

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

21 (c) Retail sales of farm implements sold to farmers and
22 used directly in the production of poultry, ratite, domesticated
23 fish as defined in Section 69-7-501, livestock, livestock
24 products, agricultural crops or ornamental plant crops or used for
25 other agricultural purposes, or any retail sale to a bona fide
26 farmer as defined in Section 27-65-103 of any item, material or
27 other tangible personal property that will be used directly for an
28 agricultural purpose, shall be taxed at the rate of three percent
29 (3%) when used on the farm. The three percent (3%) rate shall

30 also apply to all equipment used in logging, pulpwood operations
31 or tree farming which is either:

32 (i) Self-propelled, or

33 (ii) Mounted so that it is permanently attached to
34 other equipment which is self-propelled or permanently attached to
35 other equipment drawn by a vehicle which is self-propelled.

36 (d) Except as otherwise provided in subsection (3) of
37 this section, retail sales of aircraft, automobiles, trucks,
38 truck-tractors, semitrailers and manufactured or mobile homes
39 shall be taxed at the rate of three percent (3%).

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

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

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

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

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

61 (iv) The enterprise shall manufacture plastics,
62 chemicals, automobiles, aircraft, computers or electronics; or

63 shall be a research and development facility, a computer design or
64 related facility, or a software publishing facility or other
65 technology intensive facility or enterprise as determined by the
66 Mississippi Development Authority;

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

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

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

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

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

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

91 (k) Sales of equipment used or designed for the purpose
92 of assisting disabled persons, such as wheelchair equipment and
93 lifts, that is mounted or attached to or installed on a private
94 carrier of passengers or light carrier of property, as defined in
95 Section 27-51-101, at the time when the private carrier of

96 passengers or light carrier of property is sold shall be taxed at
97 the same rate as the sale of such vehicles under this section.

98 (1) Sales of the factory-built components of modular
99 homes, panelized homes and precut homes, and panel constructed
100 homes consisting of structural insulated panels, shall be taxed at
101 the rate of three percent (3%).

102 (2) From and after January 1, 1995, retail sales of private
103 carriers of passengers and light carriers of property, as defined
104 in Section 27-51-101, shall be taxed an additional two percent
105 (2%).

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

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

126 (5) Any person exercising any privilege taxable under
127 Section 27-65-15 and selling his natural resource products at

128 wholesale or to exempt persons shall pay the tax levied by said
129 section in lieu of the tax levied by this section.

130 **SECTION 2.** Section 27-65-103, Mississippi Code of 1972, is
131 amended as follows:

132 27-65-103. (1) The exemptions from the provisions of this
133 chapter which are of an agricultural nature or which are more
134 properly classified as agricultural exemptions than any other
135 exemption classification of this chapter shall be confined to
136 those persons or property exempted by this section or by
137 provisions of the Constitution of the United States or the State
138 of Mississippi. No agricultural exemption as now provided by any
139 other section shall be valid as against the tax herein levied.
140 Any subsequent agricultural exemption from the tax levied
141 hereunder shall be provided by amendment to this section.

142 (2) No exemption provided in this section shall apply to
143 taxes levied by Section 27-65-15 or 27-65-21, Mississippi Code of
144 1972.

145 (3) The tax levied by this chapter shall not apply to the
146 following:

147 (a) The gross proceeds of sales of lint cotton, seed
148 cotton, baled cotton, whether compressed or not, and cottonseed
149 and soybeans in their original condition. Retail sales of seeds,
150 livestock feed, poultry feed, fish feed and fertilizers. Sales of
151 defoliants, insecticides, fungicides, herbicides and baby chicks
152 used in growing agricultural products for market. Bagging and
153 ties for baling cotton, hay baling wire and twine, boxes, bags and
154 cans used in growing or preparing agricultural products for market
155 when possession thereof will pass to the customer at the time of
156 sale of the product contained therein. Sales of ice to commercial
157 fishermen purchased for use in the preservation of seafood or to
158 producers for use in the refrigeration of vegetables for market.

159 (b) The sales by producers of livestock, poultry, fish
160 or other products of farm, grove or garden when such products are

161 sold in the original state or condition of preparation for sale
162 before such products are subjected to any other process within a
163 class of business or sold by a producer through an established
164 store, as defined in the Privilege Tax Law. Provided, however,
165 that this exemption shall not apply to ornamental plants which
166 bear no fruit of commercial value. All sales by agricultural
167 cooperative associations organized under Article 9 of Chapter 7 of
168 Title 69, or under Chapters 17 or 19 of Title 79, Mississippi Code
169 of 1972, of agricultural products produced by members for market
170 before such products are subjected to any manufacturing process.

171 (c) The gross proceeds of retail sales of mules, horses
172 and other livestock.

173 (d) Income from grading, excavating, ditching, dredging
174 or landscaping activities performed for a farmer on a farm for
175 agricultural or soil erosion purposes.

176 (e) The gross proceeds of sales of all antibiotics,
177 hormones and hormone preparations, drugs, medicines and other
178 medications including serums and vaccines, vitamins, minerals or
179 other nutrients for use in the production and growing of fish,
180 livestock and poultry by whomever sold. Such exemption shall be
181 in addition to the exemption provided in this section for feed for
182 fish, livestock and poultry.

183 (4) Retail sales to a bona fide farmer of any item, material
184 or other tangible personal property that will be used directly for
185 an agricultural purpose in the ordinary course of operating a farm
186 shall be taxed at the rate of three percent (3%). For all sales
187 tax purposes, a "bona fide farmer" is a person, corporation,
188 limited liability corporation or agricultural cooperative
189 association, or an agent thereof, who possesses a farmer's permit
190 issued by the Mississippi State Tax Commission and who presents
191 the permit to the seller at the time of purchase. The commission
192 shall establish an application process for a farmer's permit to be
193 issued, which shall include a requirement that the applicant

194 submit a copy of Schedule F (Schedule of Farm Income) filed as a
195 part of the applicant's federal tax return for the calendar year
196 before the application is made. The commission may charge a fee
197 of up to Fifty Dollars (\$50.00) for the processing of an
198 application for a farmer's permit. Upon a determination that an
199 applicant is a bona fide farmer, the commission shall issue the
200 applicant a numbered farmer's permit.

201 **SECTION 3.** Nothing in this act shall affect or defeat any
202 claim, assessment, appeal, suit, right or cause of action for
203 taxes due or accrued under the sales tax laws before the date on
204 which this act becomes effective, whether such claims,
205 assessments, appeals, suits or actions have been begun before the
206 date on which this act becomes effective or are begun thereafter;
207 and the provisions of the sales tax laws are expressly continued
208 in full force, effect and operation for the purpose of the
209 assessment, collection and enrollment of liens for any taxes due
210 or accrued and the execution of any warrant under such laws before
211 the date on which this act becomes effective, and for the
212 imposition of any penalties, forfeitures or claims for failure to
213 comply with such laws.

214 **SECTION 4.** This act shall take effect and be in force from
215 and after July 1, 2007.