

By: Representatives Upshaw, Bondurant,
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To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1708

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE SALE OF NONPERISHABLE FOOD ITEMS
3 TO CERTAIN CHARITABLE ORGANIZATIONS WHOSE PRIMARY PURPOSE IS THE
4 OPERATION OF A FOOD BANK OR FOOD PANTRY OR FOOD LINES; AND FOR
5 RELATED PURPOSES.

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

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

9 27-65-111. The exemptions from the provisions of this
10 chapter which are not industrial, agricultural or governmental, or
11 which do not relate to utilities or taxes, or which are not
12 properly classified as one of the exemption classifications of
13 this chapter, shall be confined to persons or property exempted by
14 this section or by the Constitution of the United States or the
15 State of Mississippi. No exemptions as now provided by any other
16 section, except the classified exemption sections of this chapter
17 set forth herein, shall be valid as against the tax herein levied.
18 Any subsequent exemption from the tax levied hereunder, except as
19 indicated above, shall be provided by amendments to this section.

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

22 The tax levied by this chapter shall not apply to the
23 following:

24 (a) Sales of tangible personal property and services to
25 hospitals or infirmaries owned and operated by a corporation or
26 association in which no part of the net earnings inures to the
27 benefit of any private shareholder, group or individual, and which
28 are subject to and governed by Sections 41-7-123 through 41-7-127.

29 Only sales of tangible personal property or services which
30 are ordinary and necessary to the operation of such hospitals and
31 infirmaries are exempted from tax.

32 (b) Sales of daily or weekly newspapers, and
33 periodicals or publications of scientific, literary or educational
34 organizations exempt from federal income taxation under Section
35 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
36 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

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

61 (i) Prescribed for the treatment of a human being
62 by a person authorized to prescribe the medicines, and dispensed
63 or prescription filled by a registered pharmacist in accordance
64 with law; or

65 (ii) Furnished by a licensed physician, surgeon,
66 dentist or podiatrist to his own patient for treatment of the
67 patient; or

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

71 (iv) Sold to a licensed physician, surgeon,
72 podiatrist, dentist or hospital for the treatment of a human
73 being; or

74 (v) Sold to this state or any political
75 subdivision or municipal corporation thereof, for use in the
76 treatment of a human being or furnished for the treatment of a
77 human being by a medical facility or clinic maintained by this
78 state or any political subdivision or municipal corporation
79 thereof.

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

94 Notwithstanding the preceding sentence of this paragraph (h),
95 "medicines" as used in this paragraph (h), shall mean and include
96 sutures, whether or not permanently implanted, bone screws, bone
97 pins, pacemakers and other articles permanently implanted in the
98 human body to assist the functioning of any natural organ, artery,
99 vein or limb and which remain or dissolve in the body.

100 "Hospital," as used in this paragraph (h), shall have the
101 meaning ascribed to it in Section 41-9-3, Mississippi Code of
102 1972.

103 Insulin furnished by a registered pharmacist to a person for
104 treatment of diabetes as directed by a physician shall be deemed
105 to be dispensed on prescription within the meaning of this
106 paragraph (h).

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

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

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

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

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

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

124 (o) Retail sales of food for human consumption
125 purchased with food stamps issued by the United States Department
126 of Agriculture, or other federal agency, from and after October 1,

127 1987, or from and after the expiration of any waiver granted
128 pursuant to federal law, the effect of which waiver is to permit
129 the collection by the state of tax on such retail sales of food
130 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

153 (x) The gross collections from the operation of
154 self-service, coin-operated car washing equipment and sales of the
155 service of washing motor vehicles with portable high-pressure
156 washing equipment on the premises of the customer.

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

159 (z) Sales of tangible personal property to nonprofit
160 organizations that provide foster care, adoption services and
161 temporary housing for unwed mothers and their children if the
162 organization is exempt from federal income taxation under Section
163 501(c)(3) of the Internal Revenue Code.

164 (aa) Sales of tangible personal property to nonprofit
165 organizations that provide residential rehabilitation for persons
166 with alcohol and drug dependencies if the organization is exempt
167 from federal income taxation under Section 501(c)(3) of the
168 Internal Revenue Code.

169 (bb) Sales of nonperishable food items to charitable
170 organizations that are exempt from federal income taxation under
171 Section 501(c)(3) of the Internal Revenue Code whose primary
172 purpose is the operation of a food bank or food pantry or food
173 lines.

174 **SECTION 2.** Nothing in this act shall affect or defeat any
175 claim, assessment, appeal, suit, right or cause of action for
176 taxes due or accrued under the sales tax laws before the date on
177 which this act becomes effective, whether such claims,
178 assessments, appeals, suits or actions have been begun before the
179 date on which this act becomes effective or are begun thereafter;
180 and the provisions of the sales tax laws are expressly continued
181 in full force, effect and operation for the purpose of the
182 assessment, collection and enrollment of liens for any taxes due
183 or accrued and the execution of any warrant under such laws before
184 the date on which this act becomes effective, and for the
185 imposition of any penalties, forfeitures or claims for failure to
186 comply with such laws.

187 **SECTION 3.** This act shall take effect and be in force from
188 and after July 1, 2007.