

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2367

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 19 such license has been revoked, or who shall fail or refuse to make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
 23 return or false statement in any return, with intent to defraud
 24 the state or to evade the payment of the tax imposed by this
 25 chapter, or any part thereof;

26 (c) * * * Any person to aid or abet another in any
 27 attempt to evade the payment of the tax imposed by this chapter,
 28 or any part 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
56 highways of this state for the transportation of merchandise for
57 sale, whether such person be a contract carrier or operating a
58 private vehicle, other than a common carrier operating under the
59 Interstate Commerce Commission or the Mississippi Public Service
60 Commission, and having a permanent office in this state where
61 proper records of merchandise transported are kept and available
62 for inspection by the commissioner or his agents, to fail to have
63 in his or her possession at all times while such merchandise is
64 being 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 thereof
86 shall be fined not more than Five Hundred Dollars (\$500.00), or
87 imprisoned not exceeding six (6) months in the county jail, or
88 punished by both such fine and imprisonment, at the discretion of
89 the court * * *. In addition to the foregoing penalties, any
90 person who shall knowingly swear to or verify any false or
91 fraudulent return or statement * * * shall be guilty of the
92 offense of perjury and, on conviction thereof, shall be punished
93 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.