

By: Senator(s) Lee (35th), Hyde-Smith, King, Browning, Hewes, Jackson (15th), Yancey, Hudson, Dickerson, Jordan, Frazier, Ward, Albritton, Wilemon, Flowers, Horhn, McDaniel, Gordon, Jackson (11th), Davis (1st), Brown, Clarke, Davis (36th), Fillingane, Montgomery, Stone, Watson To: Finance

SENATE BILL NO. 2606 (As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE SALES TAX RATE ON RETAIL SALES OF FARM TRACTORS TO
3 FARMERS FOR AGRICULTURAL PURPOSES; TO REDUCE THE SALES TAX RATE ON
4 RETAIL SALES OF FARM IMPLEMENTS SOLD TO FARMERS FOR CERTAIN
5 AGRICULTURAL PURPOSES AND SALES OF EQUIPMENT TO PROFESSIONAL
6 LOGGERS FOR USE IN LOGGING, PULPWOOD OPERATIONS OR TREE FARMING;
7 TO REDUCE THE SALES TAX RATE ON RETAIL SALES OF PARTS USED IN THE
8 REPAIR AND MAINTENANCE OF SUCH IMPLEMENTS AND EQUIPMENT AND LABOR
9 USED FOR SUCH PURPOSES; TO DEFINE THE TERM "PROFESSIONAL LOGGER";
10 TO REDUCE THE SALES TAX RATE ON SALES OF MATERIALS USED IN THE
11 REPAIR, RENOVATION, EXPANSION AND IMPROVEMENT OF BUILDINGS USED BY
12 DAIRY PRODUCERS FOR THE PRODUCTION OF DAIRY PRODUCTS; TO PROVIDE
13 THAT THE SPECIAL SALES TAX AUTHORIZED IN SENATE BILL NO. 3268,
14 2009 REGULAR SESSION, SHALL NOT BE LEVIED IN A MUNICIPALITY AFTER
15 A CERTAIN DATE UNLESS AN ELECTION IS HELD IN THE MUNICIPALITY AND
16 AT LEAST 3/5 OF THE QUALIFIED ELECTORS WHO VOTE IN THE ELECTION
17 VOTE IN FAVOR OF CONTINUING THE LEVY OF THE SPECIAL SALES TAX; AND
18 FOR RELATED PURPOSES.

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

20 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is
21 amended as follows:

22 27-65-17. (1) (a) Except as otherwise provided in this
23 section, upon every person engaging or continuing within this
24 state in the business of selling any tangible personal property
25 whatsoever there is hereby levied, assessed and shall be collected
26 a tax equal to seven percent (7%) of the gross proceeds of the
27 retail sales of the business.

28 (b) Retail sales of farm tractors and parts and labor
29 used to maintain and/or repair such tractors shall be taxed at the
30 rate of one and one-half percent (1-1/2%) when made to farmers for
31 agricultural purposes.

32 (c) (i) Retail sales of farm implements sold to
33 farmers and used directly in the production of poultry, ratite,
34 domesticated fish as defined in Section 69-7-501, livestock,



35 livestock products, agricultural crops or ornamental plant crops  
36 or used for other agricultural purposes, and parts and labor used  
37 to maintain and/or repair such implements, shall be taxed at the  
38 rate of one and one-half percent (1-1/2%) when used on the farm.

39 (ii) The one and one-half percent (1-1/2%) rate  
40 shall also apply to all equipment used in logging, pulpwood  
41 operations or tree farming, and parts and labor used to maintain  
42 and/or repair such equipment, which is either:

43 1. Self-propelled, or

44 2. Mounted so that it is permanently attached  
45 to other equipment which is self-propelled or permanently attached  
46 to other equipment drawn by a vehicle which is self-propelled.

47 In order to be eligible for the rate of tax provided for in  
48 this subparagraph (ii), such sales must be made to a professional  
49 logger. For the purposes of this subparagraph (ii), a  
50 "professional logger" is a person, corporation, limited liability  
51 company or other entity, or an agent thereof, who possesses a  
52 professional logger's permit issued by the Mississippi State Tax  
53 Commission and who presents the permit to the seller at the time  
54 of purchase. The commission shall establish an application  
55 process for a professional logger's permit to be issued, which  
56 shall include a requirement that the applicant submit a copy of  
57 documentation verifying that the applicant is certified according  
58 to Sustainable Forestry Initiative guidelines. Upon a  
59 determination that an applicant is a professional logger, the  
60 commission shall issue the applicant a numbered professional  
61 logger's permit.

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

66 (e) Sales of manufacturing machinery or manufacturing  
67 machine parts when made to a manufacturer or custom processor for



68 plant use only when the machinery and machine parts will be used  
69 exclusively and directly within this state in manufacturing a  
70 commodity for sale, rental or in processing for a fee shall be  
71 taxed at the rate of one and one-half percent (1-1/2%).

72 (f) Sales of machinery and machine parts when made to a  
73 technology intensive enterprise for plant use only when the  
74 machinery and machine parts will be used exclusively and directly  
75 within this state for industrial purposes, including, but not  
76 limited to, manufacturing or research and development activities,  
77 shall be taxed at the rate of one and one-half percent (1-1/2%).  
78 In order to be considered a technology intensive enterprise for  
79 purposes of this paragraph:

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

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

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

87 (iv) The enterprise shall manufacture plastics,  
88 chemicals, automobiles, aircraft, computers or electronics; or  
89 shall be a research and development facility, a computer design or  
90 related facility, or a software publishing facility or other  
91 technology intensive facility or enterprise as determined by the  
92 Mississippi Development Authority;

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

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

98 (g) Sales of materials for use in track and track  
99 structures to a railroad whose rates are fixed by the Interstate



100 Commerce Commission or the Mississippi Public Service Commission  
101 shall be taxed at the rate of three percent (3%).

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

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

112 (j) Wholesale sales of food and drink for human  
113 consumption to full-service vending machine operators to be sold  
114 through vending machines located apart from and not connected with  
115 other taxable businesses shall be taxed at the rate of eight  
116 percent (8%).

117 (k) Sales of equipment used or designed for the purpose  
118 of assisting disabled persons, such as wheelchair equipment and  
119 lifts, that is mounted or attached to or installed on a private  
120 carrier of passengers or light carrier of property, as defined in  
121 Section 27-51-101, at the time when the private carrier of  
122 passengers or light carrier of property is sold shall be taxed at  
123 the same rate as the sale of such vehicles under this section.

124 (l) Sales of the factory-built components of modular  
125 homes, panelized homes and precut homes, and panel constructed  
126 homes consisting of structural insulated panels, shall be taxed at  
127 the rate of three percent (3%).

128 (m) Sales of materials used in the repair, renovation,  
129 addition to, expansion and/or improvement of buildings and related  
130 facilities used by a dairy producer shall be taxed at the rate of  
131 three and one-half percent (3-1/2%). For the purposes of this



132 paragraph (m), "dairy producer" means any person engaged in the  
133 production of milk for commercial use.

134 (2) From and after January 1, 1995, retail sales of private  
135 carriers of passengers and light carriers of property, as defined  
136 in Section 27-51-101, shall be taxed an additional two percent  
137 (2%).

138 (3) In lieu of the tax levied in subsection (1) of this  
139 section, there is levied on retail sales of truck-tractors and  
140 semitrailers used in interstate commerce and registered under the  
141 International Registration Plan (IRP) or any similar reciprocity  
142 agreement or compact relating to the proportional registration of  
143 commercial vehicles entered into as provided for in Section  
144 27-19-143, a tax at the rate of three percent (3%) of the portion  
145 of the sale that is attributable to the usage of such  
146 truck-tractor or semitrailer in Mississippi. The portion of the  
147 retail sale that is attributable to the usage of such  
148 truck-tractor or semitrailer in Mississippi is the retail sales  
149 price of the truck-tractor or semitrailer multiplied by the  
150 percentage of the total miles traveled by the vehicle that are  
151 traveled in Mississippi. The tax levied pursuant to this  
152 subsection (3) shall be collected by the State Tax Commission from  
153 the purchaser of such truck-tractor or semitrailer at the time of  
154 registration of such truck-tractor or semitrailer.

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

158 **SECTION 2.** Nothing in Section 1 of this act shall affect or  
159 defeat any claim, assessment, appeal, suit, right or cause of  
160 action for taxes due or accrued under the sales tax laws before  
161 the date on which Section 1 of this act becomes effective, whether  
162 such claims, assessments, appeals, suits or actions have been  
163 begun before the date on which this act becomes effective or are  
164 begun thereafter; and the provisions of the sales tax laws are



165 expressly continued in full force, effect and operation for the  
166 purpose of the assessment, collection and enrollment of liens for  
167 any taxes due or accrued and the execution of any warrant under  
168 such laws before the date on which this act becomes effective, and  
169 for the imposition of any penalties, forfeitures or claims for  
170 failure to comply with such laws.

171       **SECTION 3.** If the date of repeal contained in Section 1(8)  
172 of Senate Bill No. 3268, 2009 Regular Session, is removed or  
173 extended beyond July 1, 2014, a municipality that is levying a  
174 special sales tax under such section before July 1, 2014, shall  
175 not levy the tax after June 30, 2014, unless an election is  
176 conducted, canvassed and the results determined and adjudicated,  
177 as far as practical, in the manner provided in Section 1(3) of  
178 Senate Bill No. 3268, 2009 Regular Session, and at least  
179 three-fifths (3/5) of the qualified electors who vote in the  
180 election vote in favor of continuing the levy of the special sales  
181 tax.

182       **SECTION 4.** The Attorney General of the State of Mississippi  
183 shall submit Section 3 of this act, immediately upon approval by  
184 the Governor, or upon approval by the Legislature subsequent to a  
185 veto, to the Attorney General of the United States or to the  
186 United States District Court for the District of Columbia in  
187 accordance with the provisions of the Voting Rights Act of 1965,  
188 as amended and extended.

189       **SECTION 5.** Section 3 of this act shall take effect and be in  
190 force from and after the date it is effectuated under Section 5 of  
191 the Voting Rights Act of 1965, as amended and extended. The  
192 remainder of this act shall take effect and be in force from and  
193 after July 1, 2009.

