

By: Representative Smith (39th)

To: Ways and Means

HOUSE BILL NO. 1680

1 AN ACT TO AMEND SECTION 27-65-11, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF THE TERMS "TO MANUFACTURE" AND  
3 "MANUFACTURING" UNDER THE SALES TAX LAW TO CLARIFY THAT CERTAIN  
4 ACTIVITIES BY SCRAP METAL RECYCLERS ARE INCLUDED IN SUCH  
5 DEFINITIONS; AND FOR RELATED PURPOSES.

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

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

9 27-65-11. (a) "Manufacturer" means one who is exclusively  
10 or predominately engaged in the business of manufacturing as  
11 defined under the terms "to manufacture" or "manufacturing." A  
12 person who is engaged in manufacturing and nonmanufacturing  
13 activities may be classified as a manufacturer as to his  
14 manufacturing activities which are operated as a separate business  
15 or division.

16 (b) "To manufacture" or "manufacturing" embraces activities  
17 of an industrial or commercial nature wherein labor or skill is  
18 applied, by hand or machinery, to materials belonging to the  
19 manufacturer so that a new, different, or more useful article of



20 tangible personal property or substance of trade or commerce or  
21 electric power is produced for sale or rental and includes the  
22 production or fabrication of special-made or custom-made articles  
23 for sale or rental. Activities of scrap metal recyclers that  
24 primarily convert material into a more useful product such as a  
25 specification-grade commodity, by processing the metal into  
26 separate types, removing waste material, and/or cutting, chipping,  
27 sorting, sizing or shaping the material into a usable product for  
28 sale such as a specification-grade commodity, shall be included in  
29 the terms "to manufacture" and "manufacturing."

30 "To manufacture" or "manufacturing" does not include  
31 activities such as cooking or preparing food or food products by a  
32 retailer in the regular course of retail trade; repairing and  
33 reconditioning property; the filling of prescriptions by a  
34 pharmacist; the washing or screening of mineral products; the  
35 cutting, hauling and decking of logs; or similar preparatory  
36 functions even when performed by a manufacturer. Activities of  
37 scrap metal recyclers that involve the gathering of recycled  
38 material and flattening, sorting, bundling or performing some  
39 other similar function solely to allow ease of transportation or  
40 storage and not to produce specification-grade commodities and/or  
41 the removal of parts for resale, shall not be included in the  
42 terms "to manufacture" and "manufacturing."

43 (c) "Remanufacturing" embraces activities of an industrial  
44 or commercial nature wherein labor or skill is applied by hand or



45 machinery to materials, a portion of which may belong to the  
46 customer, so that rebuilt articles of tangible personal property,  
47 comparable in quality to new articles of the same property, are  
48 created, a majority of the value of which is produced by the  
49 remanufacturing activity.

50 (d) "Custom processor" means one who is exclusively or  
51 predominately engaged in the business of custom processing or  
52 remanufacturing as defined under the terms "custom processing" and  
53 "remanufacturing."

54 (e) "Custom processing" means the performance of a  
55 manufacturing service done or made to order upon the property of  
56 the customer and shall include laundering, cleaning and pressing,  
57 but shall not include "repairs" or "maintenance" as these terms  
58 are defined herein; nor self-service commercial laundering,  
59 drying, cleaning and pressing equipment.

60 (f) "Manufacturing machinery" shall mean and include that  
61 machinery owned or leased by a manufacturer or custom processor  
62 for use by said manufacturer or custom processor in his plant  
63 directly and exclusively in manufacturing tangible personal  
64 property for subsequent sale, rental or in custom processing for a  
65 fee. Motorized units, conveyors, track and track structures,  
66 conduits, and similar items for use in transporting the unfinished  
67 product from storage or from one phase of the manufacturing  
68 process to another may be classed as "manufacturing machinery."



69 "Manufacturing machinery" shall also include laboratory  
70 machinery which shall include X-ray machines and film, scales,  
71 chemical equipment, pressure and tensile analysis machines and  
72 similar equipment to determine the quality of the product in  
73 process of manufacture, and equipment used in the processing of  
74 waste materials to avoid air and water pollution, but only when  
75 located at the manufacturer's plant site.

76 Machinery used by a manufacturer to move, repair, clean,  
77 alter, improve, or otherwise recondition, rail rolling stock for  
78 sale or rental shall likewise constitute "manufacturing  
79 machinery."

80 "Manufacturing machinery" shall also include machinery and  
81 equipment used in the production of motion pictures such as  
82 editing equipment, audio equipment, lighting equipment, projection  
83 equipment, camera equipment, sound equipment, cables, computer  
84 equipment used in the editing process, computer equipment used in  
85 the creation of special effects, and computer equipment used in  
86 the graphic and animation process. For the purposes of this  
87 paragraph the term "motion picture" means a nationally distributed  
88 feature-length film, video, television series or commercial made  
89 in Mississippi, in whole or in part, for theatrical or television  
90 viewing or as a television pilot. The term "motion picture" shall  
91 not include the production of television coverage of news and  
92 athletic events, or a film, video, television series or commercial  
93 that contains any material or performance defined in Section



94 97-29-103. Manufacturing machinery used in the production of  
95 motion pictures shall not be limited to a plant site.

96 "Manufacturing machinery" shall not include machinery for use  
97 in the hatching of baby chicks, the severance of timber, sand,  
98 gravel, oil, gas or other natural resources produced or severed  
99 from the soil or water, maintenance or repair machinery, research  
100 laboratory machinery, storage warehouse machinery, equipment for  
101 protection of the plant or comfort of the personnel, or other  
102 equipment and supplies of like character. "Manufacturing  
103 machinery" does not include machine foundations or materials for  
104 their construction.

105 (g) "Machine parts" are component parts of manufacturing  
106 machinery and do not include parts for service equipment,  
107 nonmanufacturing machinery, fuels, lubricants, paints, or tools  
108 for maintenance.

109 (h) "Manufacturing plant" means the real and personal  
110 property owned or leased by a manufacturer which is assembled and  
111 used at a fixed location to perform activities defined as  
112 "manufacturing."

113 (i) "Repair," "repairs," or "maintenance" means the  
114 restoring of property in some measure to its original condition,  
115 which may involve the use of either personal property or labor or  
116 both, but, for the purposes of this chapter, the total charge for  
117 the service shall constitute gross income taxable in the class in  
118 which it falls.



119           (j) "Producer" means any person producing natural resource  
120 products or agricultural or horticultural products from the soil  
121 or water for sale.

122           **SECTION 2.** This act shall take effect and be in force from  
123 and after July 1, 2013.

