

By: Senator(s) McDaniel, Watson, Tindell

To: Finance

SENATE BILL NO. 2244  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-103, MISSISSIPPI CODE OF 1972,  
2 TO INCLUDE THE SALES BY PRODUCERS OF HONEY BEES OR OTHER PRODUCTS  
3 OF APIARIES IN THE LIST OF AGRICULTURAL PRODUCTS EXEMPT FROM SALES  
4 TAX; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO  
5 EXEMPT FROM SALES TAXATION THE GROSS PROCEEDS OF SALES OF TANGIBLE  
6 PERSONAL PROPERTY MADE FOR THE SOLE PURPOSE OF RAISING FUNDS FOR A  
7 SCHOOL OR AN ORGANIZATION AFFILIATED WITH A SCHOOL; TO EXEMPT FROM  
8 SALES TAXATION SALES OF DURABLE MEDICAL EQUIPMENT AND HOME MEDICAL  
9 SUPPLIES WHEN ORDERED OR PRESCRIBED BY A LICENSED PHYSICIAN FOR  
10 MEDICAL PURPOSES OF A PATIENT, AND WHEN PAYMENT FOR THE EQUIPMENT  
11 OR SUPPLIES IS MADE, IN PART OR IN WHOLE, ON BEHALF OF OR FOR THE  
12 BENEFIT OF AN INSURED AS A COVERED BENEFIT UNDER AN INSURANCE  
13 POLICY, CONTRACT OR PLAN; TO EXEMPT FROM SALES TAXATION SALES OF  
14 TANGIBLE PERSONAL PROPERTY OR SERVICES TO MISSISSIPPI BLOOD  
15 SERVICES; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 27-65-103, Mississippi Code of 1972, is  
18 amended as follows:

19 27-65-103. The exemptions from the provisions of this  
20 chapter which are of an agricultural nature or which are more  
21 properly classified as agricultural exemptions than any other  
22 exemption classification of this chapter shall be confined to  
23 those persons or property exempted by this section or by  
24 provisions of the Constitution of the United States or the State



25 of Mississippi. No agricultural exemption as now provided by any  
26 other section shall be valid as against the tax herein levied.  
27 Any subsequent agricultural exemption from the tax levied  
28 hereunder shall be provided by amendment to this section.

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

31 The tax levied by this chapter shall not apply to the  
32 following:

33 (a) The gross proceeds of sales of lint cotton, seed  
34 cotton, baled cotton, whether compressed or not, and cottonseed  
35 and soybeans in their original condition. Retail sales of seeds,  
36 livestock feed, poultry feed, fish feed and fertilizers. Sales of  
37 defoliants, insecticides, fungicides, herbicides and baby chicks  
38 used in growing agricultural products for market. Bagging and  
39 ties for baling cotton, hay-baling wire and twine, boxes, bags and  
40 cans used in growing or preparing agricultural products for market  
41 when possession thereof will pass to the customer at the time of  
42 sale of the product contained therein. Sales of ice to commercial  
43 fishermen purchased for use in the preservation of seafood or to  
44 producers for use in the refrigeration of vegetables for market.

45 (b) The sales by producers of livestock, poultry, fish,  
46 honey bees or other products of farm, grove, apiary or garden when  
47 such products are sold in the original state or condition of  
48 preparation for sale before such products are subjected to any  
49 other process within a class of business or sold by a producer



50 through an established store, as defined in the Privilege Tax Law.  
51 However, this exemption shall not apply to ornamental plants which  
52 bear no fruit of commercial value. All sales by agricultural  
53 cooperative associations organized under Article 9 \* \* \*, Chapter  
54 7 \* \* \*, Title 69, or under \* \* \* Chapter 17 or 19 \* \* \*, Title  
55 79, Mississippi Code of 1972, of agricultural products produced by  
56 members for market before such products are subjected to any  
57 manufacturing process.

58 (c) The gross proceeds of retail sales of mules,  
59 horses, honey bees and other livestock.

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

63 (e) The gross proceeds of sales of all antibiotics,  
64 hormones and hormone preparations, drugs, medicines and other  
65 medications including serums and vaccines, vitamins, minerals or  
66 other nutrients for use in the production and growing of fish,  
67 livestock, honey bees and poultry by whomever sold. Such  
68 exemption shall be in addition to the exemption provided in this  
69 section for feed for fish, livestock, honey bees and poultry.

70 (f) Sales of food products and honey that are grown,  
71 made or processed in Mississippi and sold from farmers' markets  
72 that have been certified by the Mississippi Department of  
73 Agriculture and Commerce.



74           **SECTION 2.** Section 27-65-111, Mississippi Code of 1972, is  
75 amended as follows:

76           27-65-111. The exemptions from the provisions of this  
77 chapter which are not industrial, agricultural or governmental, or  
78 which do not relate to utilities or taxes, or which are not  
79 properly classified as one (1) of the exemption classifications of  
80 this chapter, shall be confined to persons or property exempted by  
81 this section or by the Constitution of the United States or the  
82 State of Mississippi. No exemptions as now provided by any other  
83 section, except the classified exemption sections of this chapter  
84 set forth herein, shall be valid as against the tax herein levied.  
85 Any subsequent exemption from the tax levied hereunder, except as  
86 indicated above, shall be provided by amendments to this section.

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

89           The tax levied by this chapter shall not apply to the  
90 following:

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

96           Only sales of tangible personal property or services which  
97 are ordinary and necessary to the operation of such hospitals and  
98 infirmaries are exempted from tax.



99                   (b) Sales of daily or weekly newspapers, and  
100 periodicals or publications of scientific, literary or educational  
101 organizations exempt from federal income taxation under Section  
102 501(c) (3) of the Internal Revenue Code of 1954, as it exists as of  
103 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

118                   (g) Sales to elementary and secondary grade schools,  
119 junior and senior colleges owned and operated by a corporation or  
120 association in which no part of the net earnings inures to the  
121 benefit of any private shareholder, group or individual, and which  
122 are exempt from state income taxation, provided that this  
123 exemption does not apply to sales of property or services which



124 are not to be used in the ordinary operation of the school, or  
125 which are to be resold to the students or the public.

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

128 (i) Prescribed for the treatment of a human being  
129 by a person authorized to prescribe the medicines, and dispensed  
130 or prescription filled by a registered pharmacist in accordance  
131 with law; or

132 (ii) Furnished by a licensed physician, surgeon,  
133 dentist or podiatrist to his own patient for treatment of the  
134 patient; or

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

138 (iv) Sold to a licensed physician, surgeon,  
139 podiatrist, dentist or hospital for the treatment of a human  
140 being; or

141 (v) Sold to this state or any political  
142 subdivision or municipal corporation thereof, for use in the  
143 treatment of a human being or furnished for the treatment of a  
144 human being by a medical facility or clinic maintained by this  
145 state or any political subdivision or municipal corporation  
146 thereof.

147 "Medicines," as used in this paragraph (h), shall mean and  
148 include any substance or preparation intended for use by external



149 or internal application to the human body in the diagnosis, cure,  
150 mitigation, treatment or prevention of disease and which is  
151 commonly recognized as a substance or preparation intended for  
152 such use; provided that "medicines" do not include any auditory,  
153 prosthetic, ophthalmic or ocular device or appliance, any dentures  
154 or parts thereof or any artificial limbs or their replacement  
155 parts, articles which are in the nature of splints, bandages,  
156 pads, compresses, supports, dressings, instruments, apparatus,  
157 contrivances, appliances, devices or other mechanical, electronic,  
158 optical or physical equipment or article or the component parts  
159 and accessories thereof, or any alcoholic beverage or any other  
160 drug or medicine not commonly referred to as a prescription drug.

161 Notwithstanding the preceding sentence of this paragraph (h),  
162 "medicines" as used in this paragraph (h), shall mean and include  
163 sutures, whether or not permanently implanted, bone screws, bone  
164 pins, pacemakers and other articles permanently implanted in the  
165 human body to assist the functioning of any natural organ, artery,  
166 vein or limb and which remain or dissolve in the body.

167 "Hospital," as used in this paragraph (h), shall have the  
168 meaning ascribed to it in Section 41-9-3, Mississippi Code of  
169 1972.

170 Insulin furnished by a registered pharmacist to a person for  
171 treatment of diabetes as directed by a physician shall be deemed  
172 to be dispensed on prescription within the meaning of this  
173 paragraph (h).



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

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

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

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

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

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

191 (o) Retail sales of food for human consumption  
192 purchased with food stamps issued by the United States Department  
193 of Agriculture, or other federal agency, from and after October 1,  
194 1987, or from and after the expiration of any waiver granted  
195 pursuant to federal law, the effect of which waiver is to permit  
196 the collection by the state of tax on such retail sales of food  
197 for human consumption purchased with food stamps.





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

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

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

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

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

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

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

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

220 (x) The gross collections from the operation of  
221 self-service, coin-operated car washing equipment and sales of the



222 service of washing motor vehicles with portable high-pressure  
223 washing equipment on the premises of the customer.

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

226 (z) Sales of tangible personal property to nonprofit  
227 organizations that provide foster care, adoption services and  
228 temporary housing for unwed mothers and their children if the  
229 organization is exempt from federal income taxation under Section  
230 501(c) (3) of the Internal Revenue Code.

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

236 (bb) Retail sales of an article of clothing or footwear  
237 designed to be worn on or about the human body if the sales price  
238 of the article is less than One Hundred Dollars (\$100.00) and the  
239 sale takes place during a period beginning at 12:01 a.m. on the  
240 last Friday in July and ending at 12:00 midnight the following  
241 Saturday. This paragraph (bb) shall not apply to:

242 (i) Accessories including jewelry, handbags,  
243 luggage, umbrellas, wallets, watches, backpacks, briefcases,  
244 garment bags and similar items carried on or about the human body,  
245 without regard to whether worn on the body in a manner  
246 characteristic of clothing;



- 247 (ii) The rental of clothing or footwear; and  
248 (iii) Skis, swim fins, roller blades, skates and  
249 similar items worn on the foot.

250 From and after January 1, 2010, the governing authorities of  
251 a municipality, for retail sales occurring within the corporate  
252 limits of the municipality, may suspend the application of the  
253 exemption provided for in this paragraph (bb) by adoption of a  
254 resolution to that effect stating the date upon which the  
255 suspension shall take effect. A certified copy of the resolution  
256 shall be furnished to the \* \* \* Department of Revenue at least  
257 ninety (90) days prior to the date upon which the municipality  
258 desires such suspension to take effect.

259 (cc) The gross proceeds of sales of tangible personal  
260 property made for the sole purpose of raising funds for a school  
261 or an organization affiliated with a school.

262 As used in this paragraph (cc), "school" means any public or  
263 private school that teaches courses of instruction to students in  
264 any grade from Kindergarten through Grade 12.

265 (dd) Sales of durable medical equipment and home  
266 medical supplies when ordered or prescribed by a licensed  
267 physician for medical purposes of a patient, and when payment for  
268 the equipment or supplies is made, in part or in whole, on behalf  
269 of or for the benefit of an insured as a covered benefit under an  
270 insurance policy, contract or plan. As used in this paragraph



271 (dd), "durable medical equipment" means equipment, including  
272 repair and replacement parts for the equipment, which:

273 (i) Can withstand repeated use;

274 (ii) Is primarily and customarily used to serve a  
275 medical purpose;

276 (iii) Generally is not useful to a person in the  
277 absence of illness or injury; and

278 (iv) Is not worn in or on the body.

279 (ee) Sales of tangible personal property or services to  
280 Mississippi Blood Services.

281 **SECTION 3.** This act shall take effect and be in force from  
282 and after July 1, 2013.

