

By: Representative DeLano

To: Technology; Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 235

1 AN ACT TO AMEND SECTIONS 27-17-455, 27-17-475 and 27-17-493,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE TAX COLLECTORS ISSUING
3 LICENSES UNDER THE LOCAL PRIVILEGE TAX LAW TO USE AN ELECTRONIC
4 SIGNATURE AND TO ISSUE DUPLICATES AND STORE UNUSED BLANK LICENSES
5 ELECTRONICALLY; TO BRING FORWARD SECTION 27-17-453, MISSISSIPPI
6 CODE OF 1972, WHICH REQUIRES TAXPAYERS TO SUBMIT AN APPLICATION TO
7 THE TAX COLLECTOR FOR THE LOCAL LICENSE, FOR PURPOSES OF POSSIBLE
8 AMENDMENT; TO BRING FORWARD SECTION 27-17-463, MISSISSIPPI CODE OF
9 1972, WHICH AUTHORIZES THE TAX FOR LICENSES ISSUED FOR LESS THAN
10 ONE YEAR TO BE PRORATED, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
11 FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-17-455, Mississippi Code of 1972, is
14 amended as follows:

15 27-17-455. Upon the receipt of the application herein
16 required, and payment of the amount shown thereby to be due for
17 the privilege to be exercised, the officer to whom said
18 application is made shall determine if the application is in
19 proper form, and if the correct amount be tendered, and may
20 require the applicant to furnish such other and further
21 information as in his opinion is necessary to ascertain the
22 correct amount of tax due. When the correct amount of the tax has



23 been so ascertained, the said officer shall issue to the applicant
24 taxpayer a privilege license according to such application, and
25 shall date the same as of the first day of the month of its
26 issuance. The officer issuing the license shall countersign the
27 same in writing or alternatively, by electronic or digital
28 signature or a handwritten signature saved on a computer, when the
29 license is issued by him, and he shall enter the same in the
30 register prescribed by law therefor. The license issued by
31 collectors as herein provided shall be executed in duplicate,
32 which duplicate may be in the form of a paper copy or electronic
33 document. The original shall be delivered to the licensee by the
34 officer, and the paper or electronic duplicate, as the case may
35 be, shall be attached or electronically linked to or otherwise
36 maintained with the application therefor, and preserved by the
37 officer as a public record.

38 If, however, such officer, shall, before issuing the said
39 license, or at any time thereafter, have reason to believe that
40 the statements of the business contained in the application are
41 incorrect or false in any material particular, the said officer
42 shall duly notify the applicant wherein the supposed discrepancy
43 lies, and he is hereby empowered to require the applicant to
44 render such other information as will enable him to determine the
45 proper tax due. After making such determination of the proper tax
46 due, if the license has not been issued, such officer shall
47 forthwith proceed to collect the amount of tax due; and if the



48 license shall have been issued under the original application, he
49 shall collect the difference between the sum shown to be properly
50 due, and the sum paid with the original application, and shall
51 issue an additional license therefor which shall expire at the
52 same time as the original. If the additional tax is paid within
53 thirty (30) days after the determination by the officer of the
54 proper amount due, no penalty shall be applied. If the taxpayer
55 shall willfully fail or refuse to furnish the information
56 requested by such officer, he shall be liable for damages as in
57 other cases of payment of an insufficient privilege tax, and may
58 be proceeded against civilly or criminally as otherwise provided
59 herein, and shall suffer the penalties provided herein therefor.

60 All licenses issued pursuant to this section shall be good,
61 usable and valid for one (1) year after the date thereof, or for
62 such other period as is fixed by law for the privilege, which
63 period shall be so designated in the license. However, no such
64 license shall be issued for a period longer than one (1) year.

65 **SECTION 2.** Section 27-17-475, Mississippi Code of 1972, is
66 amended as follows:

67 27-17-475. It shall be the duty of the county auditor or of
68 the governing body of a municipality to prepare and have printed
69 and distributed to the officer collecting the tax the proper
70 privilege tax license blanks necessary to carry into effect any
71 law relating to privilege taxes * * *. There shall be printed on
72 each license at the bottom thereof the words "this license shall



73 not make lawful any act or thing declared to be unlawful by the
74 State of Mississippi." All such privilege license blanks shall be
75 printed in the form prescribed by the county auditor or in the
76 case of a municipality, by the governing body of a
77 municipality * * *. The privilege license blanks shall be
78 imprinted with the fiscal year for which the blanks are to be
79 issued and shall be numbered consecutively * * * for each fiscal
80 year * * *. The privilege license blanks shall be made in
81 duplicate, which duplicate may be in the form of a paper copy or
82 electronic document. The original and paper or electronic
83 duplicate, as the case may be, * * * must bear the same serial
84 number and be alike in all respects except that they must be
85 marked "original" and "duplicate." * * * If a paper duplicate is
86 used, the original and duplicate shall be of different colors.

87 **SECTION 3.** Section 27-17-493, Mississippi Code of 1972, is
88 amended as follows:

89 27-17-493. Each officer authorized to issue privilege
90 licenses shall keep a privilege tax register in such form as he
91 shall determine, in which the names of all privilege taxpayers
92 shall be recorded, showing the amount paid, the serial number of
93 the license issued and the period covered by such license, the
94 business licensed and the location thereof. This register shall
95 be submitted to the county auditor, or in the case of a
96 municipality to the governing body of the municipality by such
97 officer at the end of each fiscal year or within twenty (20) days



98 thereafter, when his final settlement shall be made. If the same
99 be found correct and the amounts shown thereon to have been paid
100 into the proper treasury, the county auditor or the proper officer
101 of the municipality shall endorse the register "examined and found
102 correct." This register shall constitute a permanent record of
103 the officer authorized to collect privilege taxes and shall always
104 be open for inspection by the public and the same shall be
105 submitted to the grand jury by the keeper thereof whenever called
106 for. At the same time when final settlement is made, as provided
107 in this section, every officer shall return to the county auditor
108 or to the governing body of the municipality in the case of
109 municipalities all unused privilege tax license blanks and shall
110 make a final settlement of his privilege tax accounts. The unused
111 privilege tax license blanks shall be kept or electronically
112 stored by the proper officer for three (3) years, at the
113 expiration of which they may be destroyed or disposed of. On or
114 before the twentieth day of January of the year in which the
115 officer's term expires, each officer shall in like manner submit
116 to the county auditor or in the case of municipalities to the
117 governing body of the municipality his privilege tax register,
118 together with itemized receipt signed by his successor in office
119 properly certified by the county auditor or by the proper officer
120 of the governing body of the municipality, setting forth by serial
121 number all unused privilege tax license blanks on hand at the
122 expiration of his term of office, and if the county auditor or the



123 proper officer of the municipality shall find the same correct, he
124 shall endorse the same, as hereinbefore provided, and shall charge
125 such officer's successor in office with all unused privilege tax
126 license blanks, which shall be accounted for by said successor in
127 office in like manner. Any other officer shall make a like
128 settlement upon the expiration of his term of office. All monies
129 received by the officer authorized by law to issue privilege tax
130 licenses shall be deposited in the proper depository and shall be
131 accounted for as provided by law.

132 **SECTION 4.** Section 27-17-453, Mississippi Code of 1972, is
133 brought forward as follows:

134 27-17-453. Every person required to obtain a license for the
135 privilege of engaging in any business for which a privilege tax is
136 required shall make application therefor in writing to the officer
137 who is required to collect the tax. The application for license
138 shall be filed on blanks to be furnished by the tax collector for
139 that purpose, and shall be subscribed and sworn to by the person
140 owning the business, or having an ownership interest therein; or
141 the officer who is required to collect the tax, or his duly
142 authorized agent, may certify to the application. If the
143 applicant is a corporation, a duly authorized agent shall execute
144 the application.

145 The application shall show the name of such person or
146 corporation and, in case of a partnership, the name of each
147 partner thereof; the person's, firm's or corporation's business



148 office address; the location of the place of business to which the
149 license shall apply; the nature of the business in which engaged;
150 the total number of employees of the business for the previous
151 twelve (12) months as shown by affidavit signed by the applicant;
152 and any other information the officer who is required to collect
153 the tax may require. The applications shall contain all the
154 information necessary for the officer collecting the tax to
155 properly classify the applicant and ascertain the amount of tax
156 due. Applications for renewal of such license shall not require a
157 certificate of notary public seal or signature, and the applicant
158 shall not be required to obtain such signature or seal upon making
159 the application for renewal.

160 The application shall be accompanied by the amount of the
161 privilege tax as required by law.

162 Any person who shall willfully make any false statement in an
163 application for a privilege license shall be guilty of a
164 misdemeanor and, upon conviction thereof, shall be required to pay
165 as damages double the amount of the difference between the tax
166 paid and that which should have been paid, in addition to the fine
167 and imprisonment imposed.

168 It is specifically provided that the officer taking the
169 application for a privilege license shall carefully preserve the
170 same for a period of three (3) years for the use of the grand
171 jury, the courts of the state, or any duly authorized officer of
172 the State of Mississippi; and any officer who shall refuse or fail



173 to take or require the application or affidavit, as herein
174 required, shall be guilty of a misdemeanor and subject to the
175 penalties therefor.

176 **SECTION 5.** Section 27-17-463, Mississippi Code of 1972, is
177 brought forward as follows:

178 27-17-463. Except as otherwise provided in this section, all
179 privilege licenses issued pursuant to this chapter from and after
180 July 1, 1988, shall expire on September 30 of each year; the
181 privilege tax for a license which is issued for a period of less
182 than one (1) year shall be prorated according to the length of
183 time intervening between the date of its issuance and the
184 following September 30.

185 A municipality or county may, by ordinance, determine to
186 issue privilege licenses which shall expire one (1) year from the
187 date of issuance.

188 **SECTION 6.** This act shall take effect and be in force from
189 and after July 1, 2018.

