

By: Representative Anderson

To: Ways and Means

HOUSE BILL NO. 1273

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-111, MISSISSIPPI
2 CODE OF 1972, TO PHASE OUT THE SALES TAX ON RETAIL SALES OF FOOD
3 FOR HUMAN CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH
4 WOULD BE EXEMPT FROM SALES TAX IF SUCH FOOD WERE PURCHASED WITH
5 FOOD STAMPS; AND FOR RELATED PURPOSES.

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

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

9 27-65-17. (1) (a) Except as otherwise provided in this
10 section, upon every person engaging or continuing within this
11 state in the business of selling any tangible personal property
12 whatsoever there is hereby levied, assessed and shall be collected
13 a tax equal to seven percent (7%) of the gross proceeds of the
14 retail sales of the business.

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



(c) (i) Retail sales of farm implements sold to farmers and used directly in the production of poultry, ratite, domesticated fish as defined in Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes, and parts and labor used to maintain and/or repair such implements, shall be taxed at the rate of one and one-half percent (1-1/2%) when used on the farm.

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

1. Self-propelled, or
2. Mounted so that it is permanently attached to other equipment which is self-propelled or permanently attached to other equipment drawn by a vehicle which is self-propelled.

In order to be eligible for the rate of tax provided for in this subparagraph (ii), such sales must be made to a professional logger. For the purposes of this subparagraph (ii), a "professional logger" is a person, corporation, limited liability company or other entity, or an agent thereof, who possesses a professional logger's permit issued by the Department of Revenue and who presents the permit to the seller at the time of purchase. The department shall establish an application process for a professional logger's permit to be issued, which shall include a requirement that the applicant submit a copy of documentation



44 verifying that the applicant is certified according to Sustainable
45 Forestry Initiative guidelines. Upon a determination that an
46 applicant is a professional logger, the department shall issue the
47 applicant a numbered professional logger's permit.

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

52 (e) Sales of manufacturing machinery or manufacturing
53 machine parts when made to a manufacturer or custom processor for
54 plant use only when the machinery and machine parts will be used
55 exclusively and directly within this state in manufacturing a
56 commodity for sale, rental or in processing for a fee shall be
57 taxed at the rate of one and one-half percent (1-1/2%).

58 (f) Sales of machinery and machine parts when made to a
59 technology intensive enterprise for plant use only when the
60 machinery and machine parts will be used exclusively and directly
61 within this state for industrial purposes, including, but not
62 limited to, manufacturing or research and development activities,
63 shall be taxed at the rate of one and one-half percent (1-1/2%).
64 In order to be considered a technology intensive enterprise for
65 purposes of this paragraph:

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



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

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

73 (iv) The enterprise shall manufacture plastics,
74 chemicals, automobiles, aircraft, computers or electronics; or
75 shall be a research and development facility, a computer design or
76 related facility, or a software publishing facility or other
77 technology intensive facility or enterprise as determined by the
78 Mississippi Development Authority;

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

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

84 (g) Sales of materials for use in track and track
85 structures to a railroad whose rates are fixed by the Interstate
86 Commerce Commission or the Mississippi Public Service Commission
87 shall be taxed at the rate of three percent (3%).

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



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

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

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

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

114 (m) Sales of materials used in the repair, renovation,
115 addition to, expansion and/or improvement of buildings and related
116 facilities used by a dairy producer shall be taxed at the rate of



three and one-half percent (3-1/2%). For the purposes of this paragraph (m), "dairy producer" means any person engaged in the production of milk for commercial use.

(n) From and after July 1, 2018, retail sales of food for human consumption not purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, but which would be exempt under Section 27-65-111(o) from the taxes imposed by this chapter if the food items were purchased with food stamps, shall be taxed as follows:

(i) From and after July 1, 2018, through June 30, 2019, such sales shall be taxed at the rate of six percent (6%);

(ii) From and after July 1, 2019, through June 30, 2020, such sales shall be taxed at the rate of five percent (5%);

(iii) From and after July 1, 2020, through June 30, 2021, such sales shall be taxed at the rate of four percent (4%);

(iv) From and after July 1, 2021, through June 30, 2022, such sales shall be taxed at the rate of three percent (3%);

(v) From and after July 1, 2022, through June 30, 2023, such sales shall be taxed at the rate of two percent (2%);

(vi) From and after July 1, 2023, through June 30, 2024, such sales shall be taxed at the rate of one percent (1%);

and

(vii) From and after July 1, 2024, such sales shall be exempt from sales tax as provided in Section 27-65-111.



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

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

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

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

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

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



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

171 Only sales of tangible personal property or services which
172 are ordinary and necessary to the operation of such hospitals and
173 infirmaries are exempted from tax.

174 (b) Sales of daily or weekly newspapers, and
175 periodicals or publications of scientific, literary or educational
176 organizations exempt from federal income taxation under Section
177 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
178 March 31, 1975, and subscription sales of all magazines.

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

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

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

187 (f) Sales of tangible personal property, labor or
188 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,
189 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
190 corporation or association in which no part of the net earnings



191 inures to the benefit of any private shareholder, group or
192 individual.

193 (g) Sales to elementary and secondary grade schools,
194 junior and senior colleges owned and operated by a corporation or
195 association in which no part of the net earnings inures to the
196 benefit of any private shareholder, group or individual, and which
197 are exempt from state income taxation, provided that this
198 exemption does not apply to sales of property or services which
199 are not to be used in the ordinary operation of the school, or
200 which are to be resold to the students or the public.

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

203 (i) Prescribed for the treatment of a human being
204 by a person authorized to prescribe the medicines, and dispensed
205 or prescription filled by a registered pharmacist in accordance
206 with law; or

207 (ii) Furnished by a licensed physician, surgeon,
208 dentist or podiatrist to his own patient for treatment of the
209 patient; or

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

213 (iv) Sold to a licensed physician, surgeon,
214 podiatrist, dentist or hospital for the treatment of a human
215 being; or



216 (v) Sold to this state or any political
217 subdivision or municipal corporation thereof, for use in the
218 treatment of a human being or furnished for the treatment of a
219 human being by a medical facility or clinic maintained by this
220 state or any political subdivision or municipal corporation
221 thereof.

222 "Medicines," as used in this paragraph (h), shall mean and
223 include any substance or preparation intended for use by external
224 or internal application to the human body in the diagnosis, cure,
225 mitigation, treatment or prevention of disease and which is
226 commonly recognized as a substance or preparation intended for
227 such use; provided that "medicines" do not include any auditory,
228 prosthetic, ophthalmic or ocular device or appliance, any dentures
229 or parts thereof or any artificial limbs or their replacement
230 parts, articles which are in the nature of splints, bandages,
231 pads, compresses, supports, dressings, instruments, apparatus,
232 contrivances, appliances, devices or other mechanical, electronic,
233 optical or physical equipment or article or the component parts
234 and accessories thereof, or any alcoholic beverage or any other
235 drug or medicine not commonly referred to as a prescription drug.

236 Notwithstanding the preceding sentence of this paragraph (h),
237 "medicines" as used in this paragraph (h), shall mean and include
238 sutures, whether or not permanently implanted, bone screws, bone
239 pins, pacemakers and other articles permanently implanted in the



human body to assist the functioning of any natural organ, artery,
vein or limb and which remain or dissolve in the body.

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

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

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

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

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

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

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



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

266 (o) Retail sales of food for human consumption

267 purchased with food stamps issued by the United States Department

268 of Agriculture, or other federal agency, from and after October 1,

269 1987, or from and after the expiration of any waiver granted

270 pursuant to federal law, the effect of which waiver is to permit

271 the collection by the state of tax on such retail sales of food

272 for human consumption purchased with food stamps.

273 (p) Sales of cookies for human consumption by the Girl

274 Scouts of America no part of the net earnings from which sales

275 inures to the benefit of any private group or individual.

276 (q) Gifts or sales of tangible personal property or

277 services to public or private nonprofit museums of art.

278 (r) Sales of tangible personal property or services to

279 alumni associations of state-supported colleges or universities.

280 (s) Sales of tangible personal property or services to

281 National Association of Junior Auxiliaries, Inc., and chapters of

282 the National Association of Junior Auxiliaries, Inc.

283 (t) Sales of tangible personal property or services to

284 domestic violence shelters which qualify for state funding under

285 Sections 93-21-101 through 93-21-113.

286 (u) Sales of tangible personal property or services to

287 the National Multiple Sclerosis Society, Mississippi Chapter.

288 (v) Retail sales of food for human consumption

289 purchased with food instruments issued the Mississippi Band of



Choctaw Indians under the Women, Infants and Children Program
(WIC) funded by the United States Department of Agriculture.

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

(x) The gross collections from the operation of
self-service, coin-operated car washing equipment and sales of the
service of washing motor vehicles with portable high-pressure
washing equipment on the premises of the customer.

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

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

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

(bb) Retail sales of an article of clothing or footwear
designed to be worn on or about the human body if the sales price
of the article is less than One Hundred Dollars (\$100.00) and the



sale takes place during a period beginning at 12:01 a.m. on the last Friday in July and ending at 12:00 midnight the following Saturday. This paragraph (bb) shall not apply to:

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

(ii) The rental of clothing or footwear; and

(iii) Skis, swim fins, roller blades, skates and similar items worn on the foot.

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

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



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

(dd) Sales of durable medical equipment and home medical supplies when ordered or prescribed by a licensed physician for medical purposes of a patient. As used in this paragraph (dd), "durable medical equipment" and "home medical supplies" mean equipment, including repair and replacement parts for the equipment or supplies listed under Title XVIII of the Social Security Act or under the state plan for medical assistance under Title XIX of the Social Security Act, prosthetics, orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment. Payment does not have to be made, in whole or in part, by any particular person to be eligible for this exemption. Purchases of home medical equipment and supplies by a provider of home health services or a provider of hospice services are eligible for this exemption if the purchases otherwise meet the requirements of this paragraph.

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

(ff) (i) Subject to the provisions of this paragraph (ff), retail sales of firearms, ammunition and hunting supplies if sold during the annual Mississippi Second Amendment Weekend holiday beginning at 12:01 a.m. on the last Friday in August and ending at 12:00 midnight the following Sunday. For the purposes



of this paragraph (ff), "hunting supplies" means tangible personal property used for hunting, including, and limited to, archery equipment, firearm and archery cases, firearm and archery accessories, hearing protection, holsters, belts and slings. Hunting supplies does not include animals used for hunting.

(ii) This paragraph (ff) shall apply only if one or more of the following occur:

1. Title to and/or possession of an eligible item is transferred from a seller to a purchaser; and/or

2. A purchaser orders and pays for an eligible item and the seller accepts the order for immediate shipment, even if delivery is made after the time period provided in subparagraph (i) of this paragraph (ff), provided that the purchaser has not requested or caused the delay in shipment.

(gg) Sales of nonperishable food items to charitable organizations that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and operate a food bank or food pantry or food lines.

(hh) Sales of tangible personal property or services to the United Way of the Pine Belt Region, Inc.

(ii) Sales of tangible personal property or services to the Mississippi Children's Museum or any subsidiary or affiliate thereof operating a satellite or branch museum within this state.

(jj) Sales of tangible personal property or services to the Jackson Zoological Park.



388 (kk) Sales of tangible personal property or services to
389 the Hattiesburg Zoo.

390 (ll) Gross proceeds from sales of food, merchandise or
391 other concessions at an event held solely for religious or
392 charitable purposes at livestock facilities, agriculture
393 facilities or other facilities constructed, renovated or expanded
394 with funds for the grant program authorized under Section 18,
395 Chapter 530, Laws of 1995.

396 (mm) Sales of tangible personal property and services
397 to the Diabetes Foundation of Mississippi and the Mississippi
398 Chapter of the Juvenile Diabetes Research Foundation.

399 (nn) Sales of potting soil, mulch, or other soil
400 amendments used in growing ornamental plants which bear no fruit
401 of commercial value when sold to commercial plant nurseries that
402 operate exclusively at wholesale and where no retail sales can be
403 made.

404 (oo) Sales of tangible personal property or services to
405 the University of Mississippi Medical Center Research Development
406 Foundation.

407 (pp) Sales of tangible personal property or services to
408 Keep Mississippi Beautiful, Inc., and all affiliates of Keep
409 Mississippi Beautiful, Inc.

410 (qq) Sales of tangible personal property or services to
411 the Friends of Children's Hospital.



(rr) Sales of tangible personal property or services to the Pinecrest Weekend Backpacks for Kids located in Corinth, Mississippi.

(ss) Sales of hearing aids when ordered or prescribed by a licensed physician, audiologist or hearing aid specialist for the medical purposes of a patient.

(tt) Sales exempt under the Facilitating Business Rapid Response to State Declared Disasters Act of 2015 (Sections 27-113-1 through 27-113-9).

(uu) From and after July 1, 2024, retail sales of food for human consumption not purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, but which would be exempt under paragraph (o) of this section from the taxes imposed by this chapter if the food items were purchased with food stamps.

SECTION 3. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before



437 the date on which this act becomes effective, and for the
438 imposition of any penalties, forfeitures or claims for failure to
439 comply with such laws.

440 **SECTION 4.** This act shall take effect and be in force from
441 and after July 1, 2018.

