

By: Representative Johnson (94th)

To: Ways and Means

HOUSE BILL NO. 587

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,  
 2 TO EXEMPT FROM SALES TAXATION RETAIL SALES OF FOOD FOR HUMAN  
 3 CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH WOULD BE  
 4 EXEMPT FROM SALES TAX IF PURCHASED WITH FOOD STAMPS; TO AMEND  
 5 SECTIONS 27-65-17, 27-65-19, 27-65-22, 27-65-23, 27-65-25 AND  
 6 27-65-26, MISSISSIPPI CODE OF 1972, TO INCREASE THE STATE SALES  
 7 TAX RATE OF SEVEN PERCENT TO NINE PERCENT; AND FOR RELATED  
 8 PURPOSES.

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

10 **SECTION 1.** Section 27-65-111, Mississippi Code of 1972, is  
 11 amended as follows:

12 27-65-111. The exemptions from the provisions of this  
 13 chapter which are not industrial, agricultural or governmental, or  
 14 which do not relate to utilities or taxes, or which are not  
 15 properly classified as one (1) of the exemption classifications of  
 16 this chapter, shall be confined to persons or property exempted by  
 17 this section or by the Constitution of the United States or the  
 18 State of Mississippi. No exemptions as now provided by any other  
 19 section, except the classified exemption sections of this chapter  
 20 set forth herein, shall be valid as against the tax herein levied.



21 Any subsequent exemption from the tax levied hereunder, except as  
22 indicated above, shall be provided by amendments to this section.

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

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

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

32 Only sales of tangible personal property or services which  
33 are ordinary and necessary to the operation of such hospitals and  
34 infirmaries are exempted from tax.

35 (b) Sales of daily or weekly newspapers, and  
36 periodicals or publications of scientific, literary or educational  
37 organizations exempt from federal income taxation under Section  
38 501(c) (3) of the Internal Revenue Code of 1954, as it exists as of  
39 March 31, 1975, and subscription sales of all magazines.

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

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

44 (e) Sales of tangible personal property to an  
45 orphanage, old men's or ladies' home, supported wholly or in part



46 by a religious denomination, fraternal nonprofit organization or  
47 other nonprofit organization.

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

54 (g) Sales to elementary and secondary grade schools,  
55 junior and senior colleges owned and operated by a corporation or  
56 association in which no part of the net earnings inures to the  
57 benefit of any private shareholder, group or individual, and which  
58 are exempt from state income taxation, provided that this  
59 exemption does not apply to sales of property or services which  
60 are not to be used in the ordinary operation of the school, or  
61 which are to be resold to the students or the public.

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

64 (i) Prescribed for the treatment of a human being  
65 by a person authorized to prescribe the medicines, and dispensed  
66 or prescription filled by a registered pharmacist in accordance  
67 with law; or

68 (ii) Furnished by a licensed physician, surgeon,  
69 dentist or podiatrist to his own patient for treatment of the  
70 patient; or



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

74 (iv) Sold to a licensed physician, surgeon,  
75 podiatrist, dentist or hospital for the treatment of a human  
76 being; or

77 (v) Sold to this state or any political  
78 subdivision or municipal corporation thereof, for use in the  
79 treatment of a human being or furnished for the treatment of a  
80 human being by a medical facility or clinic maintained by this  
81 state or any political subdivision or municipal corporation  
82 thereof.

83 "Medicines," as used in this paragraph (h), shall mean and  
84 include any substance or preparation intended for use by external  
85 or internal application to the human body in the diagnosis, cure,  
86 mitigation, treatment or prevention of disease and which is  
87 commonly recognized as a substance or preparation intended for  
88 such use; provided that "medicines" do not include any auditory,  
89 prosthetic, ophthalmic or ocular device or appliance, any dentures  
90 or parts thereof or any artificial limbs or their replacement  
91 parts, articles which are in the nature of splints, bandages,  
92 pads, compresses, supports, dressings, instruments, apparatus,  
93 contrivances, appliances, devices or other mechanical, electronic,  
94 optical or physical equipment or article or the component parts



95 and accessories thereof, or any alcoholic beverage or any other  
96 drug or medicine not commonly referred to as a prescription drug.

97 Notwithstanding the preceding sentence of this paragraph (h),  
98 "medicines" as used in this paragraph (h), shall mean and include  
99 sutures, whether or not permanently implanted, bone screws, bone  
100 pins, pacemakers and other articles permanently implanted in the  
101 human body to assist the functioning of any natural organ, artery,  
102 vein or limb and which remain or dissolve in the body.

103 "Hospital," as used in this paragraph (h), shall have the  
104 meaning ascribed to it in Section 41-9-3, Mississippi Code of  
105 1972.

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

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

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

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



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

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

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

127           (o) Retail sales of food for human consumption  
128 purchased with food stamps issued by the United States Department  
129 of Agriculture, or other federal agency, from and after October 1,  
130 1987, or from and after the expiration of any waiver granted  
131 pursuant to federal law, the effect of which waiver is to permit  
132 the collection by the state of tax on such retail sales of food  
133 for human consumption purchased with food stamps.

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

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

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

141           (s) Sales of tangible personal property or services to  
142 National Association of Junior Auxiliaries, Inc., and chapters of  
143 the National Association of Junior Auxiliaries, Inc.



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

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

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

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

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

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

163 (z) Sales of tangible personal property to nonprofit  
164 organizations that provide foster care, adoption services and  
165 temporary housing for unwed mothers and their children if the  
166 organization is exempt from federal income taxation under Section  
167 501(c) (3) of the Internal Revenue Code.



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

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

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

184                   (ii) The rental of clothing or footwear; and

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

187           From and after January 1, 2010, the governing authorities of  
188 a municipality, for retail sales occurring within the corporate  
189 limits of the municipality, may suspend the application of the  
190 exemption provided for in this paragraph (bb) by adoption of a  
191 resolution to that effect stating the date upon which the  
192 suspension shall take effect. A certified copy of the resolution





193 shall be furnished to the Department of Revenue at least ninety  
194 (90) days prior to the date upon which the municipality desires  
195 such suspension to take effect.

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

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

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



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

219 (ff) (i) Subject to the provisions of this paragraph  
220 (ff), retail sales of firearms, ammunition and hunting supplies if  
221 sold during the annual Mississippi Second Amendment Weekend  
222 holiday beginning at 12:01 a.m. on the last Friday in August and  
223 ending at 12:00 midnight the following Sunday. For the purposes  
224 of this paragraph (ff), "hunting supplies" means tangible personal  
225 property used for hunting, including, and limited to, archery  
226 equipment, firearm and archery cases, firearm and archery  
227 accessories, hearing protection, holsters, belts and slings.  
228 Hunting supplies does not include animals used for hunting.

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

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

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

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



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

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

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

249 (kk) Sales of tangible personal property or services to  
250 the Hattiesburg Zoo.

251 (ll) Gross proceeds from sales of food, merchandise or  
252 other concessions at an event held solely for religious or  
253 charitable purposes at livestock facilities, agriculture  
254 facilities or other facilities constructed, renovated or expanded  
255 with funds for the grant program authorized under Section 18,  
256 Chapter 530, Laws of 1995.

257 (mm) Sales of tangible personal property and services  
258 to the Diabetes Foundation of Mississippi and the Mississippi  
259 Chapter of the Juvenile Diabetes Research Foundation.

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



265 (oo) Sales of tangible personal property or services to  
266 the University of Mississippi Medical Center Research Development  
267 Foundation.

268 (pp) Sales of tangible personal property or services to  
269 Keep Mississippi Beautiful, Inc., and all affiliates of Keep  
270 Mississippi Beautiful, Inc.

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

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

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

279 (tt) Sales exempt under the Facilitating Business Rapid  
280 Response to State Declared Disasters Act of 2015 (Sections  
281 27-113-1 through 27-113-9).

282 (uu) Retail sales of food for human consumption not  
283 purchased with food stamps issued by the United States Department  
284 of Agriculture, or other federal agency, but which would be exempt  
285 under paragraph (o) of this section from the taxes imposed by this  
286 chapter if the food items were purchased with food stamps.

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



289           27-65-17. (1) (a) Except as otherwise provided in this  
290 section, upon every person engaging or continuing within this  
291 state in the business of selling any tangible personal property  
292 whatsoever there is hereby levied, assessed and shall be collected  
293 a tax equal to \* \* \* nine percent (9%) of the gross proceeds of  
294 the retail sales of the business.

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

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

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

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



314 In order to be eligible for the rate of tax provided for in  
315 this subparagraph (ii), such sales must be made to a professional  
316 logger. For the purposes of this subparagraph (ii), a  
317 "professional logger" is a person, corporation, limited liability  
318 company or other entity, or an agent thereof, who possesses a  
319 professional logger's permit issued by the Department of Revenue  
320 and who presents the permit to the seller at the time of purchase.  
321 The department shall establish an application process for a  
322 professional logger's permit to be issued, which shall include a  
323 requirement that the applicant submit a copy of documentation  
324 verifying that the applicant is certified according to Sustainable  
325 Forestry Initiative guidelines. Upon a determination that an  
326 applicant is a professional logger, the department shall issue the  
327 applicant a numbered professional logger's permit.

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

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



338           (f) Sales of machinery and machine parts when made to a  
339 technology intensive enterprise for plant use only when the  
340 machinery and machine parts will be used exclusively and directly  
341 within this state for industrial purposes, including, but not  
342 limited to, manufacturing or research and development activities,  
343 shall be taxed at the rate of one and one-half percent (1-1/2%).  
344 In order to be considered a technology intensive enterprise for  
345 purposes of this paragraph:

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

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

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

353                   (iv) The enterprise shall manufacture plastics,  
354 chemicals, automobiles, aircraft, computers or electronics; or  
355 shall be a research and development facility, a computer design or  
356 related facility, or a software publishing facility or other  
357 technology intensive facility or enterprise as determined by the  
358 Mississippi Development Authority;

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



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

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

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

372 (i) Wholesale sales of beer shall be taxed at the rate  
373 of \* \* \* nine percent (9%), and the retailer shall file a return  
374 and compute the retail tax on retail sales but may take credit for  
375 the amount of the tax paid to the wholesaler on said return  
376 covering the subsequent sales of same property, provided adequate  
377 invoices and records are maintained to substantiate the credit.

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

383 (k) Sales of equipment used or designed for the purpose  
384 of assisting disabled persons, such as wheelchair equipment and  
385 lifts, that is mounted or attached to or installed on a private  
386 carrier of passengers or light carrier of property, as defined in





387 Section 27-51-101, at the time when the private carrier of  
388 passengers or light carrier of property is sold shall be taxed at  
389 the same rate as the sale of such vehicles under this section.

390 (1) Sales of the factory-built components of modular  
391 homes, panelized homes and precut homes, and panel constructed  
392 homes consisting of structural insulated panels, shall be taxed at  
393 the rate of three percent (3%).

394 (m) Sales of materials used in the repair, renovation,  
395 addition to, expansion and/or improvement of buildings and related  
396 facilities used by a dairy producer shall be taxed at the rate of  
397 three and one-half percent (3-1/2%). For the purposes of this  
398 paragraph (m), "dairy producer" means any person engaged in the  
399 production of milk for commercial use.

400 (2) From and after January 1, 1995, retail sales of private  
401 carriers of passengers and light carriers of property, as defined  
402 in Section 27-51-101, shall be taxed an additional two percent  
403 (2%).

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

407 **SECTION 3.** Section 27-65-19, Mississippi Code of 1972, is  
408 amended as follows:

409 27-65-19. (1) (a) (i) Except as otherwise provided in  
410 this subsection, upon every person selling to consumers,  
411 electricity, current, power, potable water, steam, coal, natural



412 gas, liquefied petroleum gas or other fuel, there is hereby  
413 levied, assessed and shall be collected a tax equal to \* \* \* nine  
414 percent (9%) of the gross income of the business. Provided, gross  
415 income from sales to consumers of electricity, current, power,  
416 natural gas, liquefied petroleum gas or other fuel for residential  
417 heating, lighting or other residential noncommercial or  
418 nonagricultural use, and sales of potable water for residential,  
419 noncommercial or nonagricultural use shall be excluded from  
420 taxable gross income of the business. Provided further, upon  
421 every such seller using electricity, current, power, potable  
422 water, steam, coal, natural gas, liquefied petroleum gas or other  
423 fuel for nonindustrial purposes, there is hereby levied, assessed  
424 and shall be collected a tax equal to \* \* \* nine percent (9%) of  
425 the cost or value of the product or service used.

426 (ii) Gross income from sales to a church that is  
427 exempt from federal income taxation under 26 USCS Section  
428 501(c)(3) of electricity, current, power, natural gas, liquefied  
429 petroleum gas or other fuel for heating, lighting or other use,  
430 and sales of potable water to such a church shall be excluded from  
431 taxable gross income of the business if the electricity, current,  
432 power, natural gas, liquefied petroleum gas or potable water is  
433 utilized on property that is primarily used for religious or  
434 educational purposes.

435 (b) (i) There is hereby levied, assessed and shall be  
436 collected a tax equal to one and one-half percent (1-1/2%) of the



437 gross income of the business from the sale of naturally occurring  
438 carbon dioxide and anthropogenic carbon dioxide lawfully injected  
439 into the earth for:

440                   1. Use in an enhanced oil recovery project,  
441 including, but not limited to, use for cycling, repressuring or  
442 lifting of oil; or

443                   2. Permanent sequestration in a geological  
444 formation.

445                   (ii) The one and one-half percent (1-1/2%) rate  
446 provided for in this subsection shall apply to electricity,  
447 current, power, steam, coal, natural gas, liquefied petroleum gas  
448 or other fuel that is sold to a producer of oil and gas for use  
449 directly in enhanced oil recovery using carbon dioxide and/or the  
450 permanent sequestration of carbon dioxide in a geological  
451 formation.

452                   (c) The one and one-half percent (1-1/2%) rate provided  
453 for in this subsection shall not apply to sales of fuel for  
454 automobiles, trucks, truck-tractors, buses, farm tractors or  
455 airplanes.

456                   (d) (i) Upon every person providing services in this  
457 state, there is hereby levied, assessed and shall be collected:

458                   1. A tax equal to \* \* \* nine percent (9%) of  
459 the gross income received from all charges for intrastate  
460 telecommunications services.



461                   2. A tax equal to \* \* \* nine percent (9%) of  
462 the gross income received from all charges for interstate  
463 telecommunications services.

464                   3. A tax equal to \* \* \* nine percent (9%) of  
465 the gross income received from all charges for international  
466 telecommunications services.

467                   4. A tax equal to \* \* \* nine percent (9%) of  
468 the gross income received from all charges for ancillary services.

469                   5. A tax equal to \* \* \* nine percent (9%) of  
470 the gross income received from all charges for products delivered  
471 electronically, including, but not limited to, software, music,  
472 games, reading materials or ring tones.

473                   (ii) A person, upon proof that he has paid a tax  
474 in another state on an event described in subparagraph (i) of this  
475 paragraph (d), shall be allowed a credit against the tax imposed  
476 in this paragraph (d) on interstate telecommunications service  
477 charges to the extent that the amount of such tax is properly due  
478 and actually paid in such other state and to the extent that the  
479 rate of sales tax imposed by and paid in such other state does not  
480 exceed the rate of sales tax imposed by this paragraph (d).

481                   (iii) Charges by one (1) telecommunications  
482 provider to another telecommunications provider holding a permit  
483 issued under Section 27-65-27 for services that are resold by such  
484 other telecommunications provider, including, but not limited to,



485 access charges, shall not be subject to the tax levied pursuant to  
486 this paragraph (d).

487 (iv) For purposes of this paragraph (d):

488 1. "Telecommunications service" means the  
489 electronic transmission, conveyance or routing of voice, data,  
490 audio, video or any other information or signals to a point, or  
491 between points. The term "telecommunications service" includes  
492 such transmission, conveyance or routing in which computer  
493 processing applications are used to act on the form, code or  
494 protocol of the content for purposes of transmission, conveyance  
495 or routing without regard to whether such service is referred to  
496 as voice over Internet protocol services or is classified by the  
497 Federal Communications Commission as enhanced or value added. The  
498 term "telecommunications service" shall not include:

499 a. Data processing and information  
500 services that allow data to be generated, acquired, stored,  
501 processed or retrieved and delivered by an electronic transmission  
502 to a purchaser where such purchaser's primary purpose for the  
503 underlying transaction is the processed data or information;

504 b. Installation or maintenance of wiring  
505 or equipment on a customer's premises;

506 c. Tangible personal property;

507 d. Advertising, including, but not  
508 limited to, directory advertising;



509 e. Billing and collection services  
510 provided to third parties;  
511 f. Internet access service;  
512 g. Radio and television audio and video  
513 programming services regardless of the medium, including the  
514 furnishing of transmission, conveyance and routing of such  
515 services by the programming service provider. Radio and  
516 television audio and video programming services shall include, but  
517 not be limited to, cable service as defined in 47 USCS 522(6) and  
518 audio and video programming services delivered by commercial  
519 mobile radio service providers, as defined in 47 CFR 20.3;  
520 h. Ancillary services; or  
521 i. Digital products delivered  
522 electronically, including, but not limited to, software, music,  
523 video, reading materials or ring tones.

524 2. "Ancillary services" means services that  
525 are associated with or incidental to the provision of  
526 telecommunications services, including, but not limited to,  
527 detailed telecommunications billing, directory assistance,  
528 vertical service and voice mail service.

529 a. "Conference bridging" means an  
530 ancillary service that links two (2) or more participants of an  
531 audio or video conference call and may include the provision of a  
532 telephone number. Conference bridging does not include the  
533 telecommunications services used to reach the conference bridge.



534                   b. "Detailed telecommunications billing  
535 service" means an ancillary service of separately stating  
536 information pertaining to individual calls on a customer's billing  
537 statement.

538                   c. "Directory assistance" means an  
539 ancillary service of providing telephone number information and/or  
540 address information.

541                   d. "Vertical service" means an ancillary  
542 service that is offered in connection with one or more  
543 telecommunications services, which offers advanced calling  
544 features that allow customers to identify callers and to manage  
545 multiple calls and call connections, including conference bridging  
546 services.

547                   e. "Voice mail service" means an  
548 ancillary service that enables the customer to store, send or  
549 receive recorded messages. Voice mail service does not include  
550 any vertical services that the customer may be required to have in  
551 order to utilize the voice mail service.

552                   3. "Intrastate" means telecommunications  
553 service that originates in one (1) United States state or United  
554 States territory or possession, and terminates in the same United  
555 States state or United States territory or possession.

556                   4. "Interstate" means a telecommunications  
557 service that originates in one (1) United States state or United



558 States territory or possession, and terminates in a different  
559 United States state or United States territory or possession.

560                   5. "International" means a telecommunications  
561 service that originates or terminates in the United States and  
562 terminates or originates outside the United States, respectively.

563                   (v) For purposes of paragraph (d), the following  
564 sourcing rules shall apply:

565                   1. Except for the defined telecommunications  
566 services in item 3 of this subparagraph, the sales of  
567 telecommunications services sold on a call-by-call basis shall be  
568 sourced to:

569                   a. Each level of taxing jurisdiction  
570 where the call originates and terminates in that jurisdiction, or

571                   b. Each level of taxing jurisdiction  
572 where the call either originates or terminates and in which the  
573 service address is also located.

574                   2. Except for the defined telecommunications  
575 services in item 3 of this subparagraph, a sale of  
576 telecommunications services sold on a basis other than a  
577 call-by-call basis, is sourced to the customer's place of primary  
578 use.

579                   3. The sale of the following  
580 telecommunications services shall be sourced to each level of  
581 taxing jurisdiction as follows:





582                   a. A sale of mobile telecommunications  
583 services other than air-to-ground radiotelephone service and  
584 prepaid calling service is sourced to the customer's place of  
585 primary use as required by the Mobile Telecommunication Sourcing  
586 Act.

587                   A. A home service provider shall be  
588 responsible for obtaining and maintaining the customer's place of  
589 primary use. The home service provider shall be entitled to rely  
590 on the applicable residential or business street address supplied  
591 by such customer, if the home service provider's reliance is in  
592 good faith; and the home service provider shall be held harmless  
593 from liability for any additional taxes based on a different  
594 determination of the place of primary use for taxes that are  
595 customarily passed on to the customer as a separate itemized  
596 charge. A home service provider shall be allowed to treat the  
597 address used for purposes of the tax levied by this chapter for  
598 any customer under a service contract in effect on August 1, 2002,  
599 as that customer's place of primary use for the remaining term of  
600 such service contract or agreement, excluding any extension or  
601 renewal of such service contract or agreement. Month-to-month  
602 services provided after the expiration of a contract shall be  
603 treated as an extension or renewal of such contract or agreement.

604                   B. If the commissioner determines  
605 that the address used by a home service provider as a customer's  
606 place of primary use does not meet the definition of the term



607 "place of primary use" as defined in subitem a.A. of this item 3,  
608 the commissioner shall give binding notice to the home service  
609 provider to change the place of primary use on a prospective basis  
610 from the date of notice of determination; however, the customer  
611 shall have the opportunity, prior to such notice of determination,  
612 to demonstrate that such address satisfies the definition.

613 C. The department has the right to  
614 collect any taxes due directly from the home service provider's  
615 customer that has failed to provide an address that meets the  
616 definition of the term "place of primary use" which resulted in a  
617 failure of tax otherwise due being remitted.

618 b. A sale of postpaid calling service is  
619 sourced to the origination point of the telecommunications signal  
620 as first identified by either:

621 A. The seller's telecommunications  
622 system; or

623 B. Information received by the  
624 seller from its service provider, where the system used to  
625 transport such signals is not that of the seller.

626 c. A sale of a prepaid calling service  
627 or prepaid wireless calling service shall be subject to the tax  
628 imposed by this paragraph if the sale takes place in this state.  
629 If the customer physically purchases a prepaid calling service or  
630 prepaid wireless calling service at the vendor's place of  
631 business, the sale is deemed to take place at the vendor's place



632 of business. If the customer does not physically purchase the  
633 service at the vendor's place of business, the sale of a prepaid  
634 calling card or prepaid wireless calling card is deemed to take  
635 place at the first of the following locations that applies to the  
636 sale:

637                   A. The customer's shipping address,  
638 if the sale involves a shipment;

639                   B. The customer's billing address;

640                   C. Any other address of the  
641 customer that is known by the vendor; or

642                   D. The address of the vendor, or  
643 alternatively, in the case of a prepaid wireless calling service,  
644 the location associated with the mobile telephone number.

645                   4. A sale of a private communication service  
646 is sourced as follows:

647                   a. Service for a separate charge related  
648 to a customer channel termination point is sourced to each level  
649 of jurisdiction in which such customer channel termination point  
650 is located.

651                   b. Service where all customer  
652 termination points are located entirely within one (1)  
653 jurisdiction or levels of jurisdiction is sourced in such  
654 jurisdiction in which the customer channel termination points are  
655 located.



656 c. Service for segments of a channel  
657 between two (2) customer channel termination points located in  
658 different jurisdictions and which segments of a channel are  
659 separately charged is sourced fifty percent (50%) in each level of  
660 jurisdiction in which the customer channel termination points are  
661 located.

662 d. Service for segments of a channel  
663 located in more than one (1) jurisdiction or levels of  
664 jurisdiction and which segments are not separately billed is  
665 sourced in each jurisdiction based on the percentage determined by  
666 dividing the number of customer channel termination points in such  
667 jurisdiction by the total number of customer channel termination  
668 points.

669 5. A sale of ancillary services is sourced to  
670 the customer's place of primary use.

671 (vi) For purposes of subparagraph (v) of this  
672 paragraph (d):

673 1. "Air-to-ground radiotelephone service"  
674 means a radio service, as that term is defined in 47 CFR 22.99, in  
675 which common carriers are authorized to offer and provide radio  
676 telecommunications service for hire to subscribers in aircraft.

677 2. "Call-by-call basis" means any method of  
678 charging for telecommunications services where the price is  
679 measured by individual calls.



680                   3. "Communications channel" means a physical  
681 or virtual path of communications over which signals are  
682 transmitted between or among customer channel termination points.

683                   4. "Customer" means the person or entity that  
684 contracts with the seller of telecommunications services. If the  
685 end user of telecommunications services is not the contracting  
686 party, the end user of the telecommunications service is the  
687 customer of the telecommunications service. Customer does not  
688 include a reseller of telecommunications service or for mobile  
689 telecommunications service of a serving carrier under an agreement  
690 to serve the customer outside the home service provider's licensed  
691 service area.

692                   5. "Customer channel termination point" means  
693 the location where the customer either inputs or receives the  
694 communications.

695                   6. "End user" means the person who utilizes  
696 the telecommunications service. In the case of an entity, "end  
697 user" means the individual who utilizes the service on behalf of  
698 the entity.

699                   7. "Home service provider" has the meaning  
700 ascribed to such term in Section 124(5) of Public Law 106-252  
701 (Mobile Telecommunications Sourcing Act).

702                   8. "Mobile telecommunications service" has  
703 the meaning ascribed to such term in Section 124(7) of Public Law  
704 106-252 (Mobile Telecommunications Sourcing Act).



705                   9. "Place of primary use" means the street  
706 address representative of where the customer's use of the  
707 telecommunications service primarily occurs, which must be the  
708 residential street address or the primary business street address  
709 of the customer. In the case of mobile telecommunications  
710 services, the place of primary use must be within the licensed  
711 service area of the home service provider.

712                   10. "Post-paid calling service" means the  
713 telecommunications service obtained by making a payment on a  
714 call-by-call basis either through the use of a credit card or  
715 payment mechanism such as a bank card, travel card, credit card or  
716 debit card, or by charge made to a telephone number which is not  
717 associated with the origination or termination of the  
718 telecommunications service. A post-paid calling service includes  
719 a telecommunications service, except a prepaid wireless calling  
720 service that would be a prepaid calling service except it is not  
721 exclusively a telecommunications service.

722                   11. "Prepaid calling service" means the right  
723 to access exclusively telecommunications services, which must be  
724 paid for in advance and which enables the origination of calls  
725 using an access number or authorization code, whether manually or  
726 electronically dialed, and that is sold in predetermined units or  
727 dollars of which the number declines with use in a known amount.

728                   12. "Prepaid wireless calling service" means  
729 a telecommunications service that provides the right to utilize



730 mobile wireless service as well as other nontelecommunications  
731 services, including the download of digital products delivered  
732 electronically, content and ancillary service, which must be paid  
733 for in advance that is sold in predetermined units or dollars of  
734 which the number declines with use in a known amount.

735                   13. "Private communication service" means a  
736 telecommunications service that entitles the customer to exclusive  
737 or priority use of a communications channel or group of channels  
738 between or among termination points, regardless of the manner in  
739 which such channel or channels are connected, and includes  
740 switching capacity, extension lines, stations and any other  
741 associated services that are provided in connection with the use  
742 of such channel or channels.

743                   14. "Service address" means:

744                   a. The location of the  
745 telecommunications equipment to which a customer's call is charged  
746 and from which the call originates or terminates, regardless of  
747 where the call is billed or paid.

748                   b. If the location in subitem a of this  
749 item 14 is not known, the origination point of the signal of the  
750 telecommunications services first identified by either the  
751 seller's telecommunications system or in information received by  
752 the seller from its service provider, where the system used to  
753 transport such signals is not that of the seller.



754 c. If the location in subitems a and b  
755 of this item 14 are not known, the location of the customer's  
756 place of primary use.

757 (vii) 1. For purposes of this subparagraph (vii),  
758 "bundled transaction" means a transaction that consists of  
759 distinct and identifiable properties or services which are sold  
760 for a single nonitemized price but which are treated differently  
761 for tax purposes.

762 2. In the case of a bundled transaction that  
763 includes telecommunications services, ancillary services, Internet  
764 access, or audio or video programming services taxed under this  
765 chapter in which the price of the bundled transaction is  
766 attributable to properties or services that are taxable and  
767 nontaxable, the portion of the price that is attributable to any  
768 nontaxable property or service shall be subject to the tax unless  
769 the provider can reasonably identify that portion from its books  
770 and records kept in the regular course of business.

771 3. In the case of a bundled transaction that  
772 includes telecommunications services, ancillary services, Internet  
773 access, audio or video programming services subject to tax under  
774 this chapter in which the price is attributable to properties or  
775 services that are subject to the tax but the tax revenue from the  
776 different properties or services are dedicated to different funds  
777 or purposes, the provider shall allocate the price among the  
778 properties or services:





779                   a. By reasonably identifying the portion  
780 of the price attributable to each of the properties and services  
781 from its books and records kept in the regular course of business;  
782 or

783                   b. Based on a reasonable allocation  
784 methodology approved by the department.

785                   4. This subparagraph (vii) shall not create a  
786 right of action for a customer to require that the provider or the  
787 department, for purposes of determining the amount of tax  
788 applicable to a bundled transaction, allocate the price to the  
789 different portions of the transaction in order to minimize the  
790 amount of tax charged to the customer. A customer shall not be  
791 entitled to rely on the fact that a portion of the price is  
792 attributable to properties or services not subject to tax unless  
793 the provider elects, after receiving a written request from the  
794 customer in the form required by the provider, to provide  
795 verifiable data based upon the provider's books and records that  
796 are kept in the regular course of business that reasonably  
797 identifies the portion of the price attributable to the properties  
798 or services not subject to the tax.

799                   (2) Persons making sales to consumers of electricity,  
800 current, power, natural gas, liquefied petroleum gas or other fuel  
801 for residential heating, lighting or other residential  
802 noncommercial or nonagricultural use or sales of potable water for  
803 residential, noncommercial or nonagricultural use shall indicate



804 on each statement rendered to customers that such charges are  
805 exempt from sales taxes.

806 (3) There is hereby levied, assessed and shall be paid on  
807 transportation charges on shipments moving between points within  
808 this state when paid directly by the consumer, a tax equal to the  
809 rate applicable to the sale of the property being transported.  
810 Such tax shall be reported and paid directly to the Department of  
811 Revenue by the consumer.

812 **SECTION 4.** Section 27-65-22, Mississippi Code of 1972, is  
813 amended as follows:

814 27-65-22. (1) Upon every person engaging or continuing in  
815 any amusement business or activity, which shall include all manner  
816 and forms of entertainment and amusement, all forms of diversion,  
817 sport, recreation or pastime, shows, exhibitions, contests,  
818 displays, games or any other and all methods of obtaining  
819 admission charges, donations, contributions or monetary charges of  
820 any character, from the general public or a limited or selected  
821 number thereof, directly or indirectly in return for other than  
822 tangible property or specific personal or professional services,  
823 whether such amusement is held or conducted in a public or private  
824 building, hotel, tent, pavilion, lot or resort, enclosed or in the  
825 open, there is hereby levied, assessed and shall be collected a  
826 tax equal to \* \* \* nine percent (9%) of the gross income received  
827 as admission, except as otherwise provided herein. In lieu of the  
828 rate set forth above, there is hereby imposed, levied and



829 assessed, to be collected as hereinafter provided, a tax of three  
830 percent (3%) of gross revenue derived from sales of admission to  
831 publicly owned enclosed coliseums and auditoriums (except  
832 admissions to athletic contests between colleges and  
833 universities). There is hereby imposed, levied and assessed a tax  
834 of \* \* \* nine percent (9%) of gross revenue derived from sales of  
835 admission to events conducted on property managed by the  
836 Mississippi Veterans Memorial Stadium, which tax shall be  
837 administered in the manner prescribed in this chapter, subject,  
838 however, to the provisions of Sections 55-23-3 through 55-23-11.

839 (2) The operator of any place of amusement in this state  
840 shall collect the tax imposed by this section, in addition to the  
841 price charged for admission to any place of amusement, and under  
842 all circumstances the person conducting the amusement shall be  
843 liable for, and pay the tax imposed based upon the actual charge  
844 for such admission. Where permits are obtained for conducting  
845 temporary amusements by persons who are not the owners, lessees or  
846 custodians of the buildings, lots or places where the amusements  
847 are to be conducted, or where such temporary amusement is  
848 permitted by the owner, lessee or custodian of any place to be  
849 conducted without the procurement of a permit as required by this  
850 chapter, the tax imposed by this chapter shall be paid by the  
851 owner, lessee or custodian of such place where such temporary  
852 amusement is held or conducted, unless paid by the person  
853 conducting the amusement, and the applicant for such temporary



854 permit shall furnish with the application therefor, the name and  
855 address of the owner, lessee or custodian of the premises upon  
856 which such amusement is to be conducted, and such owner, lessee or  
857 custodian shall be notified by the commission of the issuance of  
858 such permit, and of the joint liability for such tax.

859 (3) The tax imposed by this section shall not be levied or  
860 collected upon:

861 (a) Any admissions charged at any place of amusement  
862 operated by a religious, charitable or educational organization,  
863 or by a nonprofit civic club or fraternal organization (i) when  
864 the net proceeds of such admissions do not inure to any one or  
865 more individuals within such organization and are to be used  
866 solely for religious, charitable, educational or civic purposes;  
867 or (ii) when the entire net proceeds are used to defray the normal  
868 operating expenses of such organization, such as loan payments,  
869 maintenance costs, repairs and other operating expenses;

870 (b) Any admissions charged to hear gospel singing when  
871 promoted by a duly constituted local, bona fide nonprofit  
872 charitable or religious organization, irrespective of the fact  
873 that the performers and promoters are paid out of the proceeds of  
874 admissions collected, provided the program is composed entirely of  
875 gospel singing and not generally mixed with hillbilly or popular  
876 singing;

877 (c) Any admissions charged at any athletic games or  
878 contests between high schools or between grammar schools;



879 (d) Any admissions or tickets to or for baseball games  
880 between teams operated under a professional league franchise;

881 (e) Any admissions to county, state or community fairs,  
882 or any admissions to entertainments presented in community homes  
883 or houses which are publicly owned and controlled, and the  
884 proceeds of which do not inure to any individual or individuals;

885 (f) Any admissions or tickets to organized garden  
886 pilgrimages and to antebellum and historic houses when sponsored  
887 by an organized civic or garden club;

888 (g) Any admissions to any golf tournament held under  
889 the auspices of the Professional Golf Association or United States  
890 Golf Association wherein touring professionals compete, if such  
891 tournament is sponsored by a nonprofit association incorporated  
892 under the laws of the State of Mississippi where no dividends are  
893 declared and the proceeds do not inure to any individual or group;

894 (h) Any admissions to university or community college  
895 conference, state, regional or national playoffs or championships;

896 (i) Any admissions or fees charged by any county or  
897 municipally owned and operated swimming pools, golf courses and  
898 tennis courts other than sales or rental of tangible personal  
899 property;

900 (j) Any admissions charged for the performance of  
901 symphony orchestras, operas, vocal or instrumental artists in  
902 which professional or amateur performers are compensated out of  
903 the proceeds of such admissions, when sponsored by local music or



904 charity associations, or amateur dramatic performances or  
905 professional dramatic productions when sponsored by a children's  
906 dramatic association, where no dividends are declared, profits  
907 received, nor any salary or compensation paid to any of the  
908 members of such associations, or to any person for procuring or  
909 producing such performance;

910 (k) Any admissions or tickets to or for hockey games  
911 between teams operated under a professional league franchise;

912 (l) Any admissions or tickets to or for events  
913 sanctioned by the Mississippi Athletic Commission that are held  
914 within publicly owned enclosed coliseums and auditoriums;

915 (m) Guided tours on any navigable waters of this state,  
916 which include providing accommodations, guide services and/or  
917 related equipment operated by or under the direction of the person  
918 providing the tour, for the purposes of outdoor tourism;

919 (n) Any admissions to events held solely for religious  
920 or charitable purposes at livestock facilities, agriculture  
921 facilities or other facilities constructed, renovated or expanded  
922 with funds from the grant program authorized under Section 18 of  
923 Chapter 530, Laws of 1995; and

924 (o) (i) Any admissions charged at events, activities  
925 or entertainments:

926 1. Which are open to the public and held in  
927 or on parks, lands or buildings which are publicly owned, leased,  
928 used and/or controlled by a municipality, or any agency thereof;



929                   2. Which are created and sponsored by the  
930 municipality, or an agency thereof; and

931                   3. The proceeds of which do not inure to the  
932 benefit of any individual or individuals; however,

933                   (ii) The governing authorities of a municipality  
934 may require the tax imposed by this section to be levied and  
935 collected at events, activities or entertainments described in  
936 subparagraph (i) of this paragraph by:

937                   1. Adopting an ordinance requiring the levy  
938 and collection of the tax;

939                   2. Providing the Department of Revenue with a  
940 certified copy of the ordinance requiring the tax to be levied and  
941 assessed at least thirty (30) days prior to the effective date of  
942 the ordinance;

943                   (iii) If the ordinance described in subparagraph  
944 (ii) of this paragraph is repealed, the municipality shall provide  
945 the Department of Revenue with a certified copy of the repeal of  
946 the ordinance at least thirty (30) days prior to the effective  
947 date of the repeal.

948           **SECTION 5.** Section 27-65-23, Mississippi Code of 1972, is  
949 amended as follows:

950           27-65-23. Upon every person engaging or continuing in any of  
951 the following businesses or activities there is hereby levied,  
952 assessed and shall be collected a tax equal to \* \* \* nine percent



953 (9%) of the gross income of the business, except as otherwise  
954 provided:

- 955 Air-conditioning installation or repairs;
- 956 Automobile, motorcycle, boat or any other vehicle  
957 repairing or servicing;
- 958 Billiards, pool or domino parlors;
- 959 Bowling or tenpin alleys;
- 960 Burglar and fire alarm systems or services;
- 961 Car washing – automatic, self-service, or manual;
- 962 Computer software sales and services;
- 963 Cotton compresses or cotton warehouses;
- 964 Custom creosoting or treating, custom planing, custom  
965 sawing;
- 966 Custom meat processing;
- 967 Electricians, electrical work, wiring, all repairs or  
968 installation of electrical equipment;
- 969 Elevator or escalator installing, repairing or  
970 servicing;
- 971 Film developing or photo finishing;
- 972 Foundries, machine or general repairing;
- 973 Furniture repairing or upholstering;
- 974 Grading, excavating, ditching, dredging or landscaping;
- 975 Hotels (as defined in Section 41-49-3), motels, tourist  
976 courts or camps, trailer parks;
- 977 Insulating services or repairs;





978 Jewelry or watch repairing;  
979 Laundering, cleaning, pressing or dyeing;  
980 Marina services;  
981 Mattress renovating;  
982 Office and business machine repairing;  
983 Parking garages and lots;  
984 Plumbing or pipe fitting;  
985 Public storage warehouses (There shall be no tax levied  
986 on gross income of a public storage warehouse derived from the  
987 temporary storage of tangible personal property in this state  
988 pending shipping or mailing of the property to another state.);  
989 Refrigerating equipment repairs;  
990 Radio or television installing, repairing, or servicing;  
991 Renting or leasing personal property used within this  
992 state;  
993 Services performed in connection with geophysical  
994 surveying, exploring, developing, drilling, producing,  
995 distributing, or testing of oil, gas, water and other mineral  
996 resources;  
997 Shoe repairing;  
998 Storage lockers;  
999 Telephone answering or paging services;  
1000 Termite or pest control services;  
1001 Tin and sheet metal shops;



1002 TV cable systems, subscription TV services, and other  
1003 similar activities;

1004 Vulcanizing, repairing or recapping of tires or tubes;  
1005 Welding; and

1006 Woodworking or woodu-turning shops.

1007 Income from services taxed herein performed for electric  
1008 power associations in the ordinary and necessary operation of  
1009 their generating or distribution systems shall be taxed at the  
1010 rate of one percent (1%).

1011 Income from services taxed herein performed on materials for  
1012 use in track or track structures to a railroad whose rates are  
1013 fixed by the Interstate Commerce Commission or the Mississippi  
1014 Public Service Commission shall be taxed at the rate of three  
1015 percent (3%).

1016 Income from renting or leasing tangible personal property  
1017 used within this state shall be taxed at the same rates as sales  
1018 of the same property.

1019 Persons doing business in this state who rent transportation  
1020 equipment with a situs within or without the state to common,  
1021 contract or private commercial carriers are taxed on that part of  
1022 the income derived from use within this state. If specific  
1023 accounting is impracticable, a formula may be used with approval  
1024 of the commissioner.

1025 A lessor may deduct from the tax computed on the rental  
1026 income from tangible personal property a credit for sales or use



1027 tax paid to this state at the time of purchase of the specific  
1028 personal property being leased or rented until such credit has  
1029 been exhausted.

1030 Charges for custom processing and repairing services may be  
1031 excluded from gross taxable income when the property on which the  
1032 service was performed is delivered to the customer in another  
1033 state either by common carrier or in the seller's equipment.

1034 When a taxpayer performs unitary services covered by this  
1035 section, which are performed both in intrastate and interstate  
1036 commerce, the commissioner is hereby invested with authority to  
1037 formulate in each particular case and to fix for such taxpayer in  
1038 each instance formulae of apportionment which will apportion to  
1039 this state, for taxation, that portion of the services which are  
1040 performed within the State of Mississippi.

1041 **SECTION 6.** Section 27-65-25, Mississippi Code of 1972, is  
1042 amended as follows:

1043 27-65-25. Upon every person engaging or continuing within  
1044 this state in the business of selling alcoholic beverages, the  
1045 sales of which are legal under the provisions of Chapter 1 of  
1046 Title 67, Mississippi Code of 1972, there is hereby levied,  
1047 assessed and shall be collected a tax equal to \* \* \* nine percent  
1048 (9%) of the gross proceeds of the retail sales of the business.  
1049 All sales at wholesale to retailers shall be taxed at the same  
1050 rate as provided in this section for retail sales. A retailer in  
1051 computing the tax on sales may take credit for the amount of the



1052 tax paid to the wholesaler at the rates provided herein and remit  
1053 the difference to the commissioner, provided adequate records and  
1054 all invoices are maintained to substantiate the credit claimed.

1055         **SECTION 7.** Section 27-65-26, Mississippi Code of 1972, is  
1056 amended as follows:

1057             27-65-26. (1) Upon every person engaging or continuing  
1058 within this state in the business of selling, renting or leasing  
1059 specified digital products, there shall be levied, assessed and  
1060 shall be collected a tax equal to \* \* \* nine percent (9%) of the  
1061 gross income of the business. The sale of a digital code that  
1062 allows the purchaser to obtain a specified digital product shall  
1063 be taxed in the same manner as the sale of a specified digital  
1064 product. The tax is imposed when:

1065                     (a) The sale is to an end user;

1066                     (b) The seller grants the right of permanent or less  
1067 than permanent use of the products transferred electronically; or

1068                     (c) The sale is conditioned or not conditioned upon  
1069 continued payment.

1070             (2) Charges by one (1) specified digital products provider  
1071 to another specified digital products provider holding a permit  
1072 issued under Section 27-65-27 for services that are resold by such  
1073 other specified digital products provider shall not be subject to  
1074 the tax levied pursuant to this section.

1075             (3) For purposes of this section:



1076 (a) "Specified digital products" means electronically  
1077 transferred digital audio-visual works, digital audio works and  
1078 digital books.

1079 (b) "Digital audio-visual works" means a series of  
1080 related images which, when shown in succession, impart an  
1081 impression of motion, together with accompanying sounds, if any.

1082 (c) "Digital audio works" means works that result from  
1083 the fixation of a series of musical, spoken or other sounds,  
1084 including ringtones. "Ringtones" means digitized sound files that  
1085 are downloaded onto a device and that may be used to alert the  
1086 customer with respect to a communication.

1087 (d) "Digital books" means works that are generally  
1088 recognized in the ordinary and usual sense as "books."

1089 (e) "Electronically transferred" means obtained by the  
1090 purchaser by means other than tangible storage media.

1091 (f) "End user" means any person other than a person who  
1092 receives by contract a product transferred electronically for  
1093 further commercial broadcast, rebroadcast, transmission,  
1094 retransmission, licensing, relicensing, distribution,  
1095 redistribution or exhibition of the product, in whole or in part,  
1096 to another person or persons.

1097 (g) "Permanent use" means for purposes of this section  
1098 for perpetual or for an indefinite or unspecified length of time.

1099 (h) "Digital code" means a code that permits a  
1100 purchaser to obtain a specified digital product at a later date.



1101           **SECTION 8.** This act shall take effect and be in force from  
1102 and after July 1, 2019.

