

By: Representative Busby

To: Ways and Means

HOUSE BILL NO. 778

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE RETAIL SALES OF CERTAIN SCHOOL
3 SUPPLIES DURING A PERIOD BEGINNING AT 12:01 A.M. ON THE LAST
4 FRIDAY IN JULY AND ENDING AT 12:00 MIDNIGHT THE FOLLOWING
5 SATURDAY; AND FOR RELATED PURPOSES.

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

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

9 27-65-111. The exemptions from the provisions of this
10 chapter which are not industrial, agricultural or governmental, or
11 which do not relate to utilities or taxes, or which are not
12 properly classified as one (1) of the exemption classifications of
13 this chapter, shall be confined to persons or property exempted by
14 this section or by the Constitution of the United States or the
15 State of Mississippi. No exemptions as now provided by any other
16 section, except the classified exemption sections of this chapter
17 set forth herein, shall be valid as against the tax herein levied.
18 Any subsequent exemption from the tax levied hereunder, except as
19 indicated above, shall be provided by amendments to this section.



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

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

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

29 Only sales of tangible personal property or services which
30 are ordinary and necessary to the operation of such hospitals and
31 infirmaries are exempted from tax.

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

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

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

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



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

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

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

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

65 (ii) Furnished by a licensed physician, surgeon,
66 dentist or podiatrist to his own patient for treatment of the
67 patient; or



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

71 (iv) Sold to a licensed physician, surgeon,
72 podiatrist, dentist or hospital for the treatment of a human
73 being; or

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

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



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

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

100 "Hospital," as used in this paragraph (h), shall have the
101 meaning ascribed to it in Section 41-9-3, Mississippi Code of
102 1972.

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

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

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

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

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

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

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

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

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

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



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

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

(v) Retail sales of food for human consumption 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) (i) Retail sales of an article of clothing or footwear designed to be worn on or about the human body and school supplies if the sales price of the article of clothing or footwear or school supply 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:

* * *1. Accessories including jewelry, handbags, luggage, umbrellas, wallets, watches, * * * 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;

* * *2. The rental of clothing or footwear; and

* * *3. Skis, swim fins, roller blades, skates and similar items worn on the foot.

(ii) For purposes of this paragraph (bb), "school supplies" means items that are commonly used by a student in a course of study. The following is an all-inclusive list:

1. Backpacks;

2. Binder Pockets;



190 3. Binders;
191 4. Blackboard chalk;
192 5. Book bags;
193 6. Calculators;
194 7. Cellophane tape;
195 8. Clays and glazes;
196 9. Compasses;
197 10. Composition books;
198 11. Crayons;
199 12. Dictionaries and thesauruses;
200 13. Dividers;
201 14. Erasers;
202 15. Folders: expandable, pocket, plastic and
203 manila;
204 16. Glue, paste and paste sticks;
205 17. Highlighters;
206 18. Index card boxes;
207 19. Index cards;
208 20. Legal pads;
209 21. Lunch boxes;
210 22. Markers;
211 23. Notebooks;
212 24. Paintbrushes for artwork;
213 25. Paints: acrylic, tempera and oil;



214 26. Paper: loose-leaf ruled notebook paper,
215 copy paper, graph paper, tracing paper, manila paper, colored
216 paper, poster board and construction paper;
217 27. Pencil boxes and other school supply
218 boxes;
219 28. Pencil sharpeners;
220 29. Pencils;
221 30. Pens;
222 31. Protractors;
223 32. Reference books;
224 33. Reference maps and globes;
225 34. Rulers;
226 35. Scissors;
227 36. Sheet music;
228 37. Sketch and drawing pads;
229 38. Textbooks;
230 39. Watercolors;
231 40. Workbooks; and
232 41. Writing tablets.

233 (iii) From and after January 1, 2010, the
234 governing authorities of a municipality, for retail sales
235 occurring within the corporate limits of the municipality, may
236 suspend the application of the exemption provided for in this
237 paragraph (bb) by adoption of a resolution to that effect stating
238 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.



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

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

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

295 (kk) Sales of tangible personal property or services to
296 the Hattiesburg Zoo.

297 (ll) Gross proceeds from sales of food, merchandise or
298 other concessions at an event held solely for religious or
299 charitable purposes at livestock facilities, agriculture
300 facilities or other facilities constructed, renovated or expanded
301 with funds for the grant program authorized under Section 18,
302 Chapter 530, Laws of 1995.

303 (mm) Sales of tangible personal property and services
304 to the Diabetes Foundation of Mississippi and the Mississippi
305 Chapter of the Juvenile Diabetes Research Foundation.

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



311 (oo) Sales of tangible personal property or services to
312 the University of Mississippi Medical Center Research Development
313 Foundation.

314 (pp) Sales of tangible personal property or services to
315 Keep Mississippi Beautiful, Inc., and all affiliates of Keep
316 Mississippi Beautiful, Inc.

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

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

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

325 (tt) Sales exempt under the Facilitating Business Rapid
326 Response to State Declared Disasters Act of 2015 (Sections
327 27-113-1 through 27-113-9).

328 **SECTION 2.** Nothing in this act shall affect or defeat any
329 claim, assessment, appeal, suit, right or cause of action for
330 taxes due or accrued under the sales tax laws before the date on
331 which this act becomes effective, whether such claims,
332 assessments, appeals, suits or actions have been begun before the
333 date on which this act becomes effective or are begun thereafter;
334 and the provisions of the sales tax laws are expressly continued
335 in full force, effect and operation for the purpose of the



336 assessment, collection and enrollment of liens for any taxes due
337 or accrued and the execution of any warrant under such laws before
338 the date on which this act becomes effective, and for the
339 imposition of any penalties, forfeitures or claims for failure to
340 comply with such laws.

341 **SECTION 3.** This act shall take effect and be in force from
342 and after July 1, 2019.

