

By: Representative Miles

To: Ways and Means

HOUSE BILL NO. 1609

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE SALES OF PERISHABLE FOOD ITEMS
3 TO CERTAIN CHARITABLE ORGANIZATIONS THAT ARE EXEMPT FROM TAXATION
4 AND OPERATE A FOOD BANK; AND FOR RELATED PURPOSES.

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

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

8 27-65-111. The exemptions from the provisions of this
9 chapter which are not industrial, agricultural or governmental, or
10 which do not relate to utilities or taxes, or which are not
11 properly classified as one (1) of the exemption classifications of
12 this chapter, shall be confined to persons or property exempted by
13 this section or by the Constitution of the United States or the
14 State of Mississippi. No exemptions as now provided by any other
15 section, except the classified exemption sections of this chapter
16 set forth herein, shall be valid as against the tax herein levied.
17 Any subsequent exemption from the tax levied hereunder, except as
18 indicated above, shall be provided by amendments to this section.



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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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



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

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

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

123 (o) Retail sales of food for human consumption
124 purchased with food stamps issued by the United States Department
125 of Agriculture, or other federal agency, from and after October 1,
126 1987, or from and after the expiration of any waiver granted
127 pursuant to federal law, the effect of which waiver is to permit
128 the collection by the state of tax on such retail sales of food
129 for human consumption purchased with food stamps.

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

245 (kk) Sales of tangible personal property or services to
246 the Hattiesburg Zoo.

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

253 (mm) Sales of tangible personal property and services
254 to the Diabetes Foundation of Mississippi and the Mississippi
255 Chapter of the Juvenile Diabetes Research Foundation.

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



261 (oo) Sales of tangible personal property or services to
262 the University of Mississippi Medical Center Research Development
263 Foundation.

264 (pp) Sales of tangible personal property or services to
265 Keep Mississippi Beautiful, Inc., and all affiliates of Keep
266 Mississippi Beautiful, Inc.

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

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

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

275 (tt) Sales exempt under the Facilitating Business Rapid
276 Response to State Declared Disasters Act of 2015 (Sections
277 27-113-1 through 27-113-9).

278 **SECTION 2.** Nothing in this act shall affect or defeat any
279 claim, assessment, appeal, suit, right or cause of action for
280 taxes due or accrued under the sales tax laws before the date on
281 which this act becomes effective, whether such claims,
282 assessments, appeals, suits or actions have been begun before the
283 date on which this act becomes effective or are begun thereafter;
284 and the provisions of the sales tax laws are expressly continued
285 in full force, effect and operation for the purpose of the



286 assessment, collection and enrollment of liens for any taxes due
287 or accrued and the execution of any warrant under such laws before
288 the date on which this act becomes effective, and for the
289 imposition of any penalties, forfeitures or claims for failure to
290 comply with such laws.

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

