

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 520

1 AN ACT TO ESTABLISH THE WHOLESALE TO RETAIL ACCOUNTABILITY
 2 PROGRAM ("WRAP"); TO STANDARDIZE THE REPORTING OF WHOLESALE SALES
 3 FOR RESALE PURPOSES MADE WITHIN THIS STATE ON WHICH SALES OR USE
 4 TAX WAS NOT COLLECTED; TO PROVIDE FOR ELECTRONIC FILING OF
 5 REQUIRED INFORMATION REPORTS; TO PROVIDE PENALTIES FOR
 6 NONCOMPLIANCE; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) (a) The Commissioner of Revenue
 9 (Commissioner) is authorized to require persons selling tobacco
 10 products, as defined in Section 27-69-3, to retailers of such
 11 products to file an information report of such sales with the
 12 Department of Revenue. Nothing shall prevent a seller from
 13 including in its report sales of tangible personal property that
 14 are not otherwise required by this section.

15 (b) The commissioner is authorized to require persons
 16 selling food, candy or nonalcoholic beverages, including bottled
 17 soft drinks, to retailers of such products to file an information
 18 report of such net sales with the department. For purposes of
 19 this paragraph (b):



20 (i) "Candy" means a preparation of sugar, honey or
21 other natural or artificial sweetener in combination with
22 chocolate, fruits, nuts or other ingredients or flavorings in the
23 form of bars, drops or pieces. Candy shall not include any
24 preparation containing flour and shall require no refrigeration;

25 (ii) "Food" and "nonalcoholic beverages" mean
26 substances, whether in liquid, concentrated, solid, frozen, dried
27 or dehydrated form, that are sold for ingestion or chewing by
28 humans and are consumed for their taste or nutritional value.

29 "Food" and "nonalcoholic beverages" do not include alcoholic
30 beverages, tobacco, candy, dietary supplements or prepared food;

31 (iii) "Net sales" means the aggregate amount for
32 which the reported products were sold during the reporting period,
33 less any discounts, on-invoice adjustments, credit for returned
34 merchandise, or other similar reductions in the amount charged to
35 the retailer for the products covered by the report.

36 (2) (a) The information report shall contain such
37 information as deemed reasonably necessary by the commissioner to
38 ascertain the correctness of any tax return or to determine the
39 liability of any person taxable and may include, without
40 limitation, the following information:

41 (i) The seller's name and license number;

42 (ii) The retailer's name and sales tax account
43 number;



44 (iii) The retailer's situs code and address,
45 including street address, county, municipality, state and zip
46 code;

47 (iv) The general type of product sold; provided,
48 that all candy, food and nonalcoholic beverages, including bottled
49 soft drinks, may be treated as a single type of product;

50 (v) The dates each type of product was sold;
51 provided, that for all candy, food and nonalcoholic beverage
52 sales, including sales of bottled soft drinks, the date can
53 reflect the last day of the period covered by the report;

54 (vi) The quantity of each type of product sold;
55 and

56 (vii) The monthly sales total, in dollars, of each
57 type of product sold.

58 (b) The information report shall be filed
59 electronically in a format specified by the commissioner.
60 However, electronic submission shall not be required of any
61 wholesaler that does not keep records electronically in the
62 ordinary course of business.

63 (c) Notwithstanding any requirement in paragraph (a) or
64 (b) of this subsection (2), no seller shall be required to change
65 its record-keeping system for purposes of this section. If the
66 seller's records do not include all of the information requested
67 by the commissioner, or include the information in a different
68 format than requested by the commissioner, the requirements of



69 this section shall be satisfied if the seller includes in the
70 report all of the requested information that the seller does have,
71 in the format in which the seller ordinarily maintains such
72 information.

73 (d) The information report shall be filed for each
74 calendar month and shall be due no later than the twentieth day of
75 the month immediately following the end of such period. Any
76 seller who fails to provide the information report by the due date
77 or who negligently or knowingly includes inaccurate information on
78 the information report is subject to a penalty, not to exceed One
79 Thousand Dollars (\$1,000.00), for each inaccurate report, or, for
80 every month the report, or part thereof, is not provided, up to a
81 maximum amount of Ten Thousand Dollars (\$10,000.00). The
82 commissioner is authorized to waive the penalty, in whole or in
83 part, for good and reasonable cause.

84 (e) The commissioner shall not issue any assessment
85 under Section 27-65-37, including a notice of proposed assessment,
86 to any retailer based solely on the information report submitted
87 pursuant to this section, unless the department first issues to
88 the retailer an inquiry letter setting forth the information that
89 led the department to its conclusion and providing an opportunity
90 for the retailer to explain the inconsistencies between its
91 purchases and reported sales. Nothing in this section prohibits a
92 jeopardy assessment under Section 27-65-61.



93 (f) Any wholesaler making sales of candy, food or
94 nonalcoholic beverages, including bottled soft drinks, in an
95 amount less than Five Hundred Thousand Dollars (\$500,000.00)
96 during the prior calendar year shall not be required to include
97 such sales of candy, food or nonalcoholic beverages, including
98 bottled soft drinks, in the information report required under this
99 section.

100 (g) Any report provided to the department pursuant to
101 this section shall be tax information of the wholesaler and shall
102 be confidential pursuant to Section 27-65-81. However, the
103 department is authorized to disclose, to an individual customer of
104 the wholesaler, records of the customer's purchases contained
105 within the report.

106 **SECTION 2.** This act shall take effect and be in force from
107 and after July 1, 2022.

