

By: Representative Miles

To: Ways and Means

HOUSE BILL NO. 461

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 OPERATE A FOOD BANK OR
4 FOOD PANTRY OR FOOD LINES; 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.

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 The exemption provided in this paragraph (h) shall not apply
100 to medical cannabis sold in accordance with the provisions of the
101 Mississippi Medical Cannabis Act and in compliance with rules and
102 regulations adopted thereunder.

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 (l) 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) (i) Retail sales of an article of clothing or
174 footwear designed to be worn on or about the human body and retail
175 sales of school supplies if the sales price of the article of
176 clothing or footwear or school supply is less than One Hundred
177 Dollars (\$100.00) and the sale takes place during a period
178 beginning at 12:01 a.m. on the last Friday in July and ending at
179 12:00 midnight the following Saturday. This paragraph (bb) shall
180 not apply to:

181 1. Accessories including jewelry, handbags,
182 luggage, umbrellas, wallets, watches, briefcases, garment bags and
183 similar items carried on or about the human body, without regard
184 to whether worn on the body in a manner characteristic of
185 clothing;

186 2. The rental of clothing or footwear; and



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

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

- 192 1. Backpacks;
- 193 2. Binder pockets;
- 194 3. Binders;
- 195 4. Blackboard chalk;
- 196 5. Book bags;
- 197 6. Calculators;
- 198 7. Cellophane tape;
- 199 8. Clays and glazes;
- 200 9. Compasses;
- 201 10. Composition books;
- 202 11. Crayons;
- 203 12. Dictionaries and thesauruses;
- 204 13. Dividers;
- 205 14. Erasers;
- 206 15. Folders: expandable, pocket, plastic and
207 manila;
- 208 16. Glue, paste and paste sticks;
- 209 17. Highlighters;
- 210 18. Index card boxes;
- 211 19. Index cards;



- 212 20. Legal pads;
- 213 21. Lunch boxes;
- 214 22. Markers;
- 215 23. Notebooks;
- 216 24. Paintbrushes for artwork;
- 217 25. Paints: acrylic, tempera and oil;
- 218 26. Paper: loose-leaf ruled notebook paper,
- 219 copy paper, graph paper, tracing paper, manila paper, colored
- 220 paper, poster board and construction paper;
- 221 27. Pencil boxes and other school supply
- 222 boxes;
- 223 28. Pencil sharpeners;
- 224 29. Pencils;
- 225 30. Pens;
- 226 31. Protractors;
- 227 32. Reference books;
- 228 33. Reference maps and globes;
- 229 34. Rulers;
- 230 35. Scissors;
- 231 36. Sheet music;
- 232 37. Sketch and drawing pads;
- 233 38. Textbooks;
- 234 39. Watercolors;
- 235 40. Workbooks; and
- 236 41. Writing tablets.



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

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

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

252 (dd) Sales of durable medical equipment and home
253 medical supplies when ordered or prescribed by a licensed
254 physician for medical purposes of a patient. As used in this
255 paragraph (dd), "durable medical equipment" and "home medical
256 supplies" mean equipment, including repair and replacement parts
257 for the equipment or supplies listed under Title XVIII of the
258 Social Security Act or under the state plan for medical assistance
259 under Title XIX of the Social Security Act, prosthetics,
260 orthotics, hearing aids, hearing devices, prescription eyeglasses,
261 oxygen and oxygen equipment. Payment does not have to be made, in



262 whole or in part, by any particular person to be eligible for this
263 exemption. Purchases of home medical equipment and supplies by a
264 provider of home health services or a provider of hospice services
265 are eligible for this exemption if the purchases otherwise meet
266 the requirements of this paragraph.

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

269 (ff) (i) Subject to the provisions of this paragraph
270 (ff), retail sales of firearms, ammunition and hunting supplies if
271 sold during the annual Mississippi Second Amendment Weekend
272 holiday beginning at 12:01 a.m. on the last Friday in August and
273 ending at 12:00 midnight the following Sunday. For the purposes
274 of this paragraph (ff), "hunting supplies" means tangible personal
275 property used for hunting, including, and limited to, archery
276 equipment, firearm and archery cases, firearm and archery
277 accessories, hearing protection, holsters, belts and slings.
278 Hunting supplies does not include animals used for hunting.

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

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

283 2. A purchaser orders and pays for an
284 eligible item and the seller accepts the order for immediate
285 shipment, even if delivery is made after the time period provided



286 in subparagraph (i) of this paragraph (ff), provided that the
287 purchaser has not requested or caused the delay in shipment.

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

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

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

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

299 (kk) Sales of tangible personal property or services to
300 the Hattiesburg Zoo.

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

307 (mm) Sales of tangible personal property and services
308 to the Diabetes Foundation of Mississippi and the Mississippi
309 Chapter of the Juvenile Diabetes Research Foundation.



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

315 (oo) Sales of tangible personal property or services to
316 the University of Mississippi Medical Center Research Development
317 Foundation.

318 (pp) Sales of tangible personal property or services to
319 Keep Mississippi Beautiful, Inc., and all affiliates of Keep
320 Mississippi Beautiful, Inc.

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

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

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

329 (tt) Sales exempt under the Facilitating Business Rapid
330 Response to State Declared Disasters Act of 2015 (Sections
331 27-113-1 through 27-113-9).

332 (uu) Sales of tangible personal property or services to
333 the Junior League of Jackson.



334 (vv) Sales of tangible personal property or services to
335 the Mississippi's Toughest Kids Foundation for use in the
336 construction, furnishing and equipping of buildings and related
337 facilities and infrastructure at Camp Kamassa in Copiah County,
338 Mississippi. This paragraph (vv) shall stand repealed on July 1,
339 2025.

340 (ww) Sales of tangible personal property or services to
341 MS Gulf Coast Buddy Sports, Inc.

342 (xx) Sales of tangible personal property or services to
343 Biloxi Lions, Inc.

344 (yy) Sales of tangible personal property or services to
345 Lions Sight Foundation of Mississippi, Inc.

346 (zz) Sales of tangible personal property and services
347 to the Goldring/Woldenberg Institute of Southern Jewish Life
348 (ISJL).

349 **SECTION 2.** Nothing in this act shall affect or defeat any
350 claim, assessment, appeal, suit, right or cause of action for
351 taxes due or accrued under the sales tax laws before the date on
352 which this act becomes effective, whether such claims,
353 assessments, appeals, suits or actions have been begun before the
354 date on which this act becomes effective or are begun thereafter;
355 and the provisions of the sales tax laws are expressly continued
356 in full force, effect and operation for the purpose of the
357 assessment, collection and enrollment of liens for any taxes due
358 or accrued and the execution of any warrant under such laws before



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

362 **SECTION 3.** This act shall take effect and be in force from
363 and after July 1, 2023.

