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To: Ways and Means

HOUSE BILL NO. 1090

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION RETAIL SALES OF BABY AND TODDLER
3 CLOTHING, APPAREL AND SHOES, PRIMARILY INTENDED FOR CHILDREN THE
4 AGE OF FIVE YEARS OLD OR YOUNGER, CHILDREN'S DIAPERS, DIAPER BAGS,
5 DIAPER RASH CREAM AND BABY WIPES; 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.

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

104 "Hospital," as used in this paragraph (h), shall have the
105 meaning ascribed to it in Section 41-9-3, Mississippi Code of
106 1972.

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



164 (z) Sales of tangible personal property to nonprofit
165 organizations that provide foster care, adoption services and
166 temporary housing for unwed mothers and their children if the
167 organization is exempt from federal income taxation under Section
168 501(c)(3) of the Internal Revenue Code.

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

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

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

187 2. The rental of clothing or footwear; and



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

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

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



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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

330 (tt) Sales exempt under the Facilitating Business Rapid
331 Response to State Declared Disasters Act of 2015 (Sections
332 27-113-1 through 27-113-9).

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



335 (vv) Sales of tangible personal property or services to
336 the Mississippi's Toughest Kids Foundation for use in the
337 construction, furnishing and equipping of buildings and related
338 facilities and infrastructure at Camp Kamassa in Copiah County,
339 Mississippi. This paragraph (vv) shall stand repealed on July 1,
340 2025.

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

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

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

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

350 (aaa) Retail sales of:

351 (i) Baby and toddler clothing, apparel and shoes,
352 primarily intended for children the age of five (5) years old or
353 younger;

354 (ii) Children's diapers, including single-use
355 diapers, reusable diapers and reusable diaper inserts; and

356 (iii) Diaper bags, diaper rash cream and baby
357 wipes.

358 The exemptions provided in this paragraph (aaa) shall be in
359 addition to any other exemptions provided in this section.



360 **SECTION 2.** Nothing in this act shall affect or defeat any
361 claim, assessment, appeal, suit, right or cause of action for
362 taxes due or accrued under the sales tax laws before the date on
363 which this act becomes effective, whether such claims,
364 assessments, appeals, suits or actions have been begun before the
365 date on which this act becomes effective or are begun thereafter;
366 and the provisions of the sales tax laws are expressly continued
367 in full force, effect and operation for the purpose of the
368 assessment, collection and enrollment of liens for any taxes due
369 or accrued and the execution of any warrant under such laws before
370 the date on which this act becomes effective, and for the
371 imposition of any penalties, forfeitures or claims for failure to
372 comply with such laws.

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

