

By: Representatives Stribling, Reeves,
Rogers, Barnett (116th), Denny, Green (96th),
Martinson, Smith (27th)

To: Ways and Means

HOUSE BILL NO. 1678

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A SALES TAX EXEMPTION ON SALES OF ITEMS SUCH AS
3 CLOTHING AND SCHOOL SUPPLIES AND EQUIPMENT WHEN SOLD FOR CHILDREN
4 IN KINDERGARTEN THROUGH THE TWELFTH GRADE AND SOLD ON THE DAY OF
5 THE YEAR DESIGNATED BY THE STATE TAX COMMISSION AS THE DAY FOR
6 SUCH EXEMPTION; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL
7 DEVELOP A LIST OF ITEMS TO WHICH THE EXEMPTION MAY APPLY AND SHALL
8 DEVELOP GUIDELINES FOR ADMINISTERING THE EXEMPTION; TO PROVIDE
9 THAT A RETAILER SELLING SUCH ITEMS MAY CHOOSE TO EXEMPT SALES OF
10 SUCH ITEMS FROM THE SALES TAX; TO PROVIDE THAT IF A RETAILER DOES
11 NOT EXEMPT SUCH SALES AND COLLECTS THE SALES TAX, THE RETAILER
12 SHALL REMIT THE TAX TO THE STATE TAX COMMISSION AS REQUIRED UNDER
13 THE STATE SALES TAX LAW; AND FOR RELATED PURPOSES.

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

15 SECTION 1. Section 27-65-111, Mississippi Code of 1972, is
16 amended as follows:

17 27-65-111. The exemptions from the provisions of this
18 chapter which are not industrial, agricultural or governmental, or
19 which do not relate to utilities or taxes, or which are not
20 properly classified as one of the exemption classifications of
21 this chapter, shall be confined to persons or property exempted by
22 this section or by the Constitution of the United States or the
23 State of Mississippi. No exemptions as now provided by any other
24 section, except the classified exemption sections of this chapter
25 set forth herein, shall be valid as against the tax herein levied.
26 Any subsequent exemption from the tax levied hereunder, except as
27 indicated above, shall be provided by amendments to this section.

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

30 The tax levied by this chapter shall not apply to the
31 following:

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

37 Only sales of tangible personal property or services which
38 are ordinary and necessary to the operation of such hospitals and
39 infirmaries are exempted from tax.

40 (b) Sales of daily or weekly newspapers, and
41 periodicals or publications of scientific, literary or educational
42 organizations exempt from federal income taxation under Section
43 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
44 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

59 (g) Sales to elementary and secondary grade schools,
60 junior and senior colleges owned and operated by a corporation or
61 association in which no part of the net earnings inures to the
62 benefit of any private shareholder, group or individual, and which
63 are exempt from state income taxation, provided that this
64 exemption does not apply to sales of property or services which

are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.

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

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

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

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

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

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

"Medicines," as used in this paragraph, shall mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include any auditory, prosthetic, ophthalmic or ocular device or appliance, any dentures or parts thereof or any artificial limbs or their replacement parts, articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus,

contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, or any alcoholic beverage or any other drug or medicine not commonly referred to as a prescription drug.

Notwithstanding the preceding sentence of this subsection, "medicines" as used in this subsection, shall mean and include sutures, whether or not permanently implanted, bone screws, bone pins, pacemakers and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

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

Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this subsection.

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

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

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

164 (y) Sales of items such as clothing and school supplies
165 and equipment when sold for children in kindergarten through the
166 twelfth grade and sold on the day of the year designated by the
167 commission as the day for such exemption. The commission shall
168 designate the day for such exemption, which shall be a day between
169 July 1 and August 15 of each year, and the commission shall
170 designate such day at least ninety (90) days before the day set
171 for the exemption. The commission shall develop a list of items
172 to which the exemption may apply and shall develop guidelines for
173 administering the exemption and how it may be obtained. A
174 retailer selling such items may choose to exempt sales of such
175 items from the sales tax. If a retailer does not exempt such
176 sales on the day designated for the exemption and collects the
177 sales tax on such sales, the retailer shall remit the tax to the
178 commission as required under this chapter.

179 SECTION 2. This act shall take effect and be in force from
180 and after its passage.