

By: Nunnelee

To: Finance

SENATE BILL NO. 2030

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-101, MISSISSIPPI
2 CODE OF 1972, TO PHASE OUT OVER A THREE-YEAR PERIOD, THE SALES TAX
3 ON CERTAIN SALES OF ENVIRONMENTAL POLLUTION CONTROL EQUIPMENT SOLD
4 TO MANUFACTURERS OR CUSTOM PROCESSORS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is
7 amended as follows:

8 27-65-17. (1) Upon every person engaging or continuing
9 within this state in the business of selling any tangible personal
10 property whatsoever there is hereby levied, assessed and shall be
11 collected a tax equal to seven percent (7%) of the gross proceeds
12 of the retail sales of the business, except as otherwise provided
13 herein.

14 Retail sales of farm tractors shall be taxed at the rate of
15 one percent (1%) when made to farmers for agricultural purposes.

16 Retail sales of farm implements sold to farmers and used
17 directly in the production of poultry, ratite, domesticated fish
18 as defined in Section 69-7-501, livestock, livestock products,
19 agricultural crops or ornamental plant crops or used for other
20 agricultural purposes shall be taxed at the rate of three percent
21 (3%) when used on the farm. The three percent (3%) rate shall
22 also apply to all equipment used in logging, pulpwood operations

23 or tree farming which is either (a) self-propelled or which is (b)
24 mounted so that it is (i) permanently attached to other equipment
25 which is self-propelled or (ii) permanently attached to other
26 equipment drawn by a vehicle which is self-propelled.

27 Except as otherwise provided in subsection (3) of this
28 section, retail sales of aircraft, automobiles, trucks,
29 truck-tractors, semitrailers and mobile homes shall be taxed at
30 the rate of three percent (3%).

31 Sales of manufacturing machinery or manufacturing machine
32 parts when made to a manufacturer or custom processor for plant
33 use only when said machinery and machine parts will be used
34 exclusively and directly within this state in manufacturing a
35 commodity for sale, rental or in processing for a fee shall be
36 taxed at the rate of one and one-half percent (1-1/2%).

37 Sales of materials for use in track and track structures to a
38 railroad whose rates are fixed by the Interstate Commerce
39 Commission or the Mississippi Public Service Commission shall be
40 taxed at the rate of three percent (3%).

41 Sales of tangible personal property to electric power
42 associations for use in the ordinary and necessary operation of
43 their generating or distribution systems shall be taxed at the
44 rate of one percent (1%).

45 Wholesale sales of beer shall be taxed at the rate of seven
46 percent (7%), and the retailer shall file a return and compute the
47 retail tax on retail sales but may take credit for the amount of
48 the tax paid to the wholesaler on said return covering the
49 subsequent sales of same property, provided adequate invoices and
50 records are maintained to substantiate the credit.

51 Wholesale sales of food and drink for human consumption to
52 full service vending machine operators to be sold through vending
53 machines located apart from and not connected with other taxable

54 businesses shall be taxed at the rate of eight percent (8%).

55 A manufacturer selling at retail in this state shall be
56 required to make returns of the gross proceeds of such sales and
57 pay the tax imposed in this section.

58 Any person exercising any privilege taxable under Section
59 27-65-15 and selling his natural resource products at wholesale or
60 to exempt persons shall pay the tax levied by said section in lieu
61 of the tax levied by this section.

62 From and after July 1, 2001, sales of pollution control
63 equipment to manufacturers or custom processors for use by a
64 manufacturer or custom processor at the plant site shall be taxed
65 at the rate of one percent (1%). From and after July 1, 2002,
66 such sales shall be taxed at the rate of one-half of one percent
67 (0.5%). From and after July 1, 2003, such sales shall be exempt
68 from sales tax as provided in Section 27-65-101. For the purposes
69 of this paragraph, "pollution control equipment" means equipment,
70 devices, machinery or systems required by federal or state law or
71 regulation to monitor or reduce air or water pollution or solid or
72 hazardous waste.

73 (2) From and after January 1, 1995, retail sales of private
74 carriers of passengers and light carriers of property, as defined
75 in Section 27-51-101, shall be taxed an additional two percent
76 (2%).

77 (3) In lieu of the tax levied in subsection (1) of this
78 section, there is levied on retail sales of truck-tractors and
79 semitrailers used in interstate commerce and registered under the
80 International Registration Plan (IRP) or any similar reciprocity
81 agreement or compact relating to the proportional registration of

82 commercial vehicles entered into as provided for in Section
83 27-19-143, a tax at the rate of three percent (3%) of the portion
84 of the sale that is attributable to the usage of such
85 truck-tractor or semitrailer in Mississippi. The portion of the
86 retail sale that is attributable to the usage of such
87 truck-tractor or semitrailer in Mississippi is the retail sales
88 price of the truck-tractor or semitrailer multiplied by the
89 percentage of the total miles traveled by the vehicle that are
90 traveled in Mississippi. The tax levied pursuant to this
91 subsection (3) shall be collected by the State Tax Commission from
92 the purchaser of such truck-tractor or semitrailer at the time of
93 registration of such truck-tractor or semitrailer.

94 SECTION 2. Section 27-65-101, Mississippi Code of 1972, is
95 amended as follows:

96 27-65-101. (1) The exemptions from the provisions of this
97 chapter which are of an industrial nature or which are more
98 properly classified as industrial exemptions than any other
99 exemption classification of this chapter shall be confined to
100 those persons or property exempted by this section or by the
101 provisions of the Constitution of the United States or the State
102 of Mississippi. No industrial exemption as now provided by any
103 other section except Section 57-3-33 shall be valid as against the
104 tax herein levied. Any subsequent industrial exemption from the
105 tax levied hereunder shall be provided by amendment to this
106 section. No exemption provided in this section shall apply to
107 taxes levied by Section 27-65-15 or 27-65-21.

108 The tax levied by this chapter shall not apply to the
109 following:

110 (a) Sales of boxes, crates, cartons, cans, bottles and
111 other packaging materials to manufacturers and wholesalers for use
112 as containers or shipping materials to accompany goods sold by
113 said manufacturers or wholesalers where possession thereof will
114 pass to the customer at the time of sale of the goods contained
115 therein and sales to anyone of containers or shipping materials
116 for use in ships engaged in international commerce.

117 (b) Sales of raw materials, catalysts, processing
118 chemicals, welding gases or other industrial processing gases
119 (except natural gas) to a manufacturer for use directly in
120 manufacturing or processing a product for sale or rental or
121 repairing or reconditioning vessels or barges of fifty (50) tons
122 load displacement and over. This exemption shall not apply to any
123 property used as fuel except to the extent that such fuel
124 comprises by-products which have no market value.

125 (c) The gross proceeds of sales of dry docks, offshore
126 drilling equipment for use in oil exploitation or production,
127 vessels or barges of fifty (50) tons load displacement and over,
128 when sold by the manufacturer or builder thereof.

129 (d) Sales to commercial fishermen of commercial fishing
130 boats of over five (5) tons load displacement and not more than
131 fifty (50) tons load displacement as registered with the U.S.
132 Coast Guard and licensed by the Mississippi Marine Conservation
133 Commission.

134 (e) The gross income from repairs to vessels and barges
135 engaged in foreign trade or interstate transportation.

136 (f) Sales of petroleum products to vessels or barges
137 for consumption in marine international commerce or interstate

138 transportation businesses.

139 (g) Sales and rentals of rail rolling stock (and
140 component parts thereof) for ultimate use in interstate commerce
141 and gross income from services with respect to manufacturing,
142 repairing, cleaning, altering, reconditioning or improving such
143 rail rolling stock (and component parts thereof).

144 (h) Sales of raw materials, catalysts, processing
145 chemicals, welding gases or other industrial processing gases
146 (except natural gas) used or consumed directly in manufacturing,
147 repairing, cleaning, altering, reconditioning or improving such
148 rail rolling stock (and component parts thereof). This exemption
149 shall not apply to any property used as fuel.

150 (i) Machinery or tools or repair parts therefor or
151 replacements thereof, fuel or supplies used directly in
152 manufacturing, converting or repairing ships of three thousand
153 (3,000) tons load displacement and over, but not to include office
154 and plant supplies or other equipment not directly used on the
155 ship being built, converted or repaired.

156 (j) Sales of tangible personal property to persons
157 operating ships in international commerce for use or consumption
158 on board such ships. This exemption shall be limited to cases in
159 which procedures satisfactory to the commissioner, ensuring
160 against use in this state other than on such ships, are
161 established.

162 (k) Sales of materials used in the construction of a
163 building, or any addition or improvement thereon, and sales of any
164 machinery and equipment not later than three (3) months after the
165 completion of construction of the building, or any addition

166 thereon, to be used therein, to qualified businesses, as defined
167 in Section 57-51-5, which are located in a county or portion
168 thereof designated as an enterprise zone pursuant to Sections
169 57-51-1 through 57-51-15.

170 (l) Sales of materials used in the construction of a
171 building, or any addition or improvement thereon, and sales of any
172 machinery and equipment not later than three (3) months after the
173 completion of construction of the building, or any addition
174 thereon, to be used therein, to qualified businesses, as defined
175 in Section 57-54-5.

176 (m) Income from storage and handling of perishable
177 goods by a public storage warehouse.

178 (n) The value of natural gas lawfully injected into the
179 earth for cycling, repressuring or lifting of oil, or lawfully
180 vented or flared in connection with the production of oil;
181 however, if any gas so injected into the earth is sold for such
182 purposes, then the gas so sold shall not be exempt.

183 (o) The gross collections from self-service commercial
184 laundering, drying, cleaning and pressing equipment.

185 (p) Sales of materials used in the construction of a
186 building, or any addition or improvement thereon, and sales of any
187 machinery and equipment not later than three (3) months after the
188 completion of construction of the building, or any addition
189 thereon, to be used therein, to qualified companies, certified as
190 such by the Mississippi Department of Economic and Community
191 Development under Section 57-53-1.

192 (q) Sales of component materials used in the
193 construction of a building, or any addition or improvement

194 thereon, sales of machinery and equipment to be used therein, and
195 sales of manufacturing or processing machinery and equipment which
196 is permanently attached to the ground or to a permanent foundation
197 and which is not by its nature intended to be housed within a
198 building structure, not later than three (3) months after the
199 initial start-up date, to permanent business enterprises engaging
200 in manufacturing or processing in less developed areas (as such
201 term is defined in Section 57-73-5), which businesses are
202 certified by the State Tax Commission as being eligible for the
203 exemption granted in this paragraph (q).

204 (r) Sales of component materials used in the
205 construction of a building, or any addition or improvement
206 thereon, and sales of any machinery and equipment not later than
207 three (3) months after the completion of the building, addition or
208 improvement thereon, to be used therein, for any company
209 establishing or transferring its national or regional headquarters
210 from within or outside the State of Mississippi and creating a
211 minimum of thirty-five (35) jobs at the new headquarters in this
212 state. The Tax Commission shall establish criteria and prescribe
213 procedures to determine if a company qualifies as a national or
214 regional headquarters for the purpose of receiving the exemption
215 provided in this paragraph.

216 (s) The gross proceeds from the sale of semitrailers,
217 trailers, boats, travel trailers, motorcycles and all-terrain
218 cycles if exported from this state within forty-eight (48) hours
219 and registered and first used in another state.

220 (t) Gross income from the storage and handling of
221 natural gas in underground salt domes and in other underground

222 reservoirs, caverns, structures and formations suitable for such
223 storage.

224 (u) Sales of machinery and equipment to nonprofit
225 organizations if the organization: (i) is tax-exempt pursuant to
226 Section 501(c)(4) of the Internal Revenue Code of 1986, as
227 amended; (ii) assists in the implementation of the national
228 contingency plan or area contingency plan, and which is created in
229 response to the requirements of Title IV, Subtitle B of the Oil
230 Pollution Act of 1990, P.L. 101-380; and (iii) engages primarily
231 in programs to contain, clean up and otherwise mitigate spills of
232 oil or other substances occurring in the United States coastal and
233 tidal waters. For purposes of this exemption, "machinery and
234 equipment" means any ocean-going vessels, barges, booms, skimmers
235 and other capital equipment used primarily in the operations of
236 nonprofit organizations referred to herein.

237 (v) From and after July 1, 2003, sales to manufacturers
238 or custom processors of pollution control equipment for use by a
239 manufacturer or custom processor at the plant site. For the
240 purposes of this exemption, "pollution control equipment" means
241 equipment, devices, machinery or systems required by federal or
242 state law or regulation to monitor or reduce air or water
243 pollution or solid or hazardous waste.

244 (2) Sales of component materials used in the construction of
245 a building, or any addition or improvement thereon, sales of
246 machinery and equipment to be used therein, and sales of
247 manufacturing or processing machinery and equipment which is
248 permanently attached to the ground or to a permanent foundation
249 and which is not by its nature intended to be housed within a

250 building structure, not later than three (3) months after the
251 initial start-up date, to permanent business enterprises engaging
252 in manufacturing or processing in moderately developed areas and
253 developed areas (as such areas are designated in accordance with
254 Section 57-73-21), which businesses are certified by the State Tax
255 Commission as being eligible for the exemption granted in this
256 paragraph, shall be exempt from one-half (1/2) of the taxes
257 imposed on such transactions under this chapter.

258 SECTION 3. Nothing in this act shall affect or defeat any
259 claim, assessment, appeal, suit, right or cause of action for
260 taxes due or accrued under the sales tax laws before the date on
261 which this act becomes effective, whether such claims,
262 assessments, appeals, suits or actions have been begun before the
263 date on which this act becomes effective or are begun thereafter;
264 and the provisions of the sales tax laws are expressly continued
265 in full force, effect and operation for the purpose of the
266 assessment, collection and enrollment of liens for any taxes due
267 or accrued and the execution of any warrant under such laws before
268 the date on which this act becomes effective, and for the
269 imposition of any penalties, forfeitures or claims for failure to
270 comply with such laws.

271 SECTION 4. This act shall take effect and be in force from
272 and after July 1, 2000.