

By: Representative Mitchell

To: Ways and Means

HOUSE BILL NO. 267

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE IMPOSITION OF A TAX ON PAY-PER-CALL SERVICES
3 THROUGH 900 OR SIMILAR TELEPHONE NUMBERS UNDER THE STATE SALES TAX
4 LAWS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-65-19, Mississippi Code of 1972, is
7 amended as follows:

8 27-65-19. (1) (a) Except as otherwise provided in this
9 subsection, upon every person selling to consumers, electricity,
10 current, power, potable water, steam, coal, natural gas, liquefied
11 petroleum gas or other fuel, there is hereby levied, assessed and
12 shall be collected a tax equal to seven percent (7%) of the gross
13 income of the business. Provided, gross income from sales to
14 consumers of electricity, current, power, natural gas, liquefied
15 petroleum gas or other fuel for residential heating, lighting or
16 other residential noncommercial or nonagricultural use, and sales
17 of potable water for residential, noncommercial or nonagricultural
18 use shall be excluded from taxable gross income of the business.
19 Provided further, upon every such seller using electricity,
20 current, power, potable water, steam, coal, natural gas, liquefied
21 petroleum gas or other fuel for nonindustrial purposes, there is
22 hereby levied, assessed and shall be collected a tax equal to
23 seven percent (7%) of the cost or value of the product or service
24 used.

25 (b) There is hereby levied, assessed and shall be
26 collected a tax equal to one and one-half percent (1-1/2%) of the
27 gross income of the business when the electricity, current, power,
28 steam, coal, natural gas, liquefied petroleum gas or other fuel is



29 sold to or used by a manufacturer, custom processor or public
30 service company for industrial purposes, which shall include that
31 used to generate electricity, to operate an electrical
32 distribution or transmission system, to operate pipeline
33 compressor or pumping stations or to operate railroad locomotives;
34 provided, however, that:

35 (i) From and after July 1, 2000, through June 30,
36 2001, sales of fuel used to produce electric power by a company
37 primarily engaged in the business of producing, generating or
38 distributing electric power for sale shall be taxed at the rate of
39 one and one-eighth percent (1.125%);

40 (ii) From and after July 1, 2001, through June 30,
41 2002, sales of fuel used to produce electric power by a company
42 primarily engaged in the business of producing, generating or
43 distributing electric power for sale shall be taxed at the rate of
44 three-fourths of one percent (0.75%);

45 (iii) From and after July 1, 2002, through June
46 30, 2003, sales of fuel used to produce electric power by a
47 company primarily engaged in the business of producing, generating
48 or distributing electric power for sale shall be taxed at the rate
49 of three-eighths of one percent (0.375%);

50 (iv) From and after July 1, 2003, sales of fuel
51 used to produce electric power by a company primarily engaged in
52 the business of producing, generating or distributing electric
53 power for sale shall be exempt from sales tax as provided in
54 Section 27-65-107.

55 (c) The one and one-half percent (1-1/2%) industrial
56 rate provided for in this subsection shall also apply when the
57 electricity, current, power, steam, coal, natural gas, liquefied
58 petroleum gas or other fuel is sold to a producer or processor for
59 use directly in the production of poultry or poultry products, the
60 production of livestock and livestock products, the production of
61 plants or food by commercial horticulturists, the processing of



62 milk and milk products, the processing of poultry and livestock
63 feed, and the irrigation of farm crops.

64 (d) The one and one-half percent (1-1/2%) rate provided
65 for in this subsection shall not apply to sales of fuel for
66 automobiles, trucks, truck-tractors, buses, farm tractors or
67 airplanes.

68 (e) Upon every person operating a telegraph or
69 telephone business or pay-per-call service for the transmission of
70 messages or conversations between points within this state, there
71 is hereby levied, assessed and shall be collected, a tax equal to
72 seven percent (7%) of the gross income of such business, with no
73 deduction or allowance for any part of an intrastate rate charge
74 because of routing across a state line. Charges by one
75 telecommunications provider to another telecommunications provider
76 for services that are resold by such other telecommunications
77 provider, including, but not limited to, access charges, shall not
78 be subject to the tax levied pursuant to this paragraph (e).

79 However, any sale of a prepaid telephone calling card or prepaid
80 authorization number, or both, shall be deemed to be the sale of
81 tangible personal property subject only to such taxes imposed by
82 law on the sale of tangible personal property. If the sale of a
83 prepaid telephone calling card or prepaid authorization number
84 does not take place at the vendor's place of business, it shall be
85 conclusively determined to take place at the customer's shipping
86 address. The reauthorization of a prepaid telephone calling card
87 or a prepaid authorization number shall be conclusively determined
88 to take place at the customer's billing address. For purposes of
89 this paragraph (e), the term "pay-per-call service" means any
90 service that is accessed through the use of a 900 telephone number
91 or other prefix or area code designated by the Federal
92 Communications Commission for which the caller pays a per-call or
93 per-time-interval charge that is greater than, or in addition to,



94 the charge for transmission of the call and which, during the
95 call, a person provides or purports to provide the following:

96 (i) Audio information or audio entertainment produced
97 or packaged by the person;

98 (ii) Access to simultaneous voice conversation
99 services; or

100 (iii) Any other service, including the provision of a
101 product, for which charges are assessed on the basis of the
102 completion of the call.

103 The term "pay-per-call services" does not include directory
104 assistance services provided by a telephone company.

105 (f) Upon every person operating a telegraph or
106 telecommunications business or pay-per-call service for the
107 transmission of messages or conversations originating in this
108 state or terminating in this state via interstate
109 telecommunications, which are charged to the customer's service
110 address in this state, regardless of where such amount is billed
111 or paid, there is hereby levied, assessed and shall be collected a
112 tax equal to five and one-half percent (5.5%) of the gross income
113 received by such business from such interstate telecommunications.
114 However, a person, upon proof that he has paid a tax in another
115 state on such event, shall be allowed a credit against the tax
116 imposed in this paragraph (f) on interstate telecommunications
117 charges to the extent that the amount of such tax is properly due
118 and actually paid in such other state and to the extent that the
119 rate of sales tax imposed by and paid to such other state does not
120 exceed the rate of sales tax imposed by this paragraph (f).

121 Charges by one telecommunications provider to another
122 telecommunications provider for services that are resold by such
123 other telecommunications provider, including, but not limited to,
124 access charges, shall not be subject to the tax levied pursuant to
125 this paragraph (f). For purposes of this paragraph (f), the term
126 "pay-per-call service" means any service that is accessed through



127 the use of a 900 telephone number or other prefix or area code
128 designated by the Federal Communications Commission for which the
129 caller pays a per-call or per-time-interval charge that is greater
130 than, or in addition to, the charge for transmission of the call
131 and which, during the call, a person provides or purports to
132 provide the following:

133 (i) Audio information or audio entertainment produced
134 or packaged by the person;

135 (ii) Access to simultaneous voice conversation
136 services; or

137 (iii) Any other service, including the provision of a
138 product, for which charges are assessed on the basis of the
139 completion of the call.

140 The term "pay-per-call services" does not include directory
141 assistance services provided by a telephone company.

142 (2) Persons making sales to consumers of electricity,
143 current, power, natural gas, liquefied petroleum gas or other fuel
144 for residential heating, lighting or other residential
145 noncommercial or nonagricultural use or sales of potable water for
146 residential, noncommercial or nonagricultural use shall indicate
147 on each statement rendered to customers that such charges are
148 exempt from sales taxes.

149 (3) There is hereby levied, assessed and shall be paid on
150 transportation charges on shipments moving between points within
151 this state when paid directly by the consumer, a tax equal to the
152 rate applicable to the sale of the property being transported.
153 Such tax shall be reported and paid directly to the State Tax
154 Commission by the consumer.

155 SECTION 2. Nothing in this act shall affect or defeat any
156 claim, assessment, appeal, suit, right or cause of action for
157 taxes due or accrued under the sales tax laws before the date on
158 which this act becomes effective, whether such claims,
159 assessments, appeals, suits or actions have been begun before the



160 date on which this act becomes effective or are begun thereafter;
161 and the provisions of the sales tax laws are expressly continued
162 in full force, effect and operation for the purpose of the
163 assessment, collection and enrollment of liens for any taxes due
164 or accrued and the execution of any warrant under such laws before
165 the date on which this act becomes effective, and for the
166 imposition of any penalties, forfeitures or claims for failure to
167 comply with such laws.

168 SECTION 3. This act shall take effect and be in force from
169 and after July 1, 2001.

