

By: Representative Grist

To: Ways and Means

HOUSE BILL NO. 1239

1 AN ACT TO AMEND SECTIONS 27-51-9 AND 27-65-31, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE STATE SALES TAX ON RETAIL SALES
3 OF EQUIPMENT TRAILERS AND UTILITY TRAILERS SHALL NOT BE COLLECTED
4 BY THE SELLER FROM THE PURCHASER AT THE TIME OF SALE BUT SHALL BE
5 PAID AT THE TIME THE AD VALOREM TAXES ARE PAID ON THE TRAILER; AND
6 FOR RELATED PURPOSES.

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

8 SECTION 1. Section 27-51-9, Mississippi Code of 1972, is
9 amended as follows:

10 27-51-9. For the purposes of this chapter, the fiscal year
11 shall commence on August 1 and shall end on July 31 of each year.
12 The taxable year shall run concurrently with the taxable year in
13 effect in the law pertaining to the payment of the road and bridge
14 privilege license tax on motor vehicles. Except as otherwise
15 provided in Section 27-41-2, ad valorem taxes on motor vehicles
16 shall be collected by the county tax collector for the county and
17 state and by the municipal tax collector for the municipalities.
18 Ad valorem taxes for any ensuing year may be paid during the month
19 as provided in Section 27-19-31, however, and said ad valorem
20 taxes on any motor vehicle must be paid at the same time or prior
21 to the time that the road and bridge privilege license is issued
22 for the subject motor vehicle, unless herein otherwise
23 specifically exempt from such ad valorem taxes. The ad valorem
24 tax on motor vehicles shall be computed on the millage rates in
25 effect at the time such privilege license tax is to be paid.
26 For retail sales of equipment trailers and utility trailers on or
27 after July 1, 2001, the sales tax due on the sale of a trailer
28 shall be paid when the ad valorem taxes are paid on the trailer.

29 SECTION 2. Section 27-65-31, Mississippi Code of 1972, is
30 amended as follows:

31 27-65-31. Any person liable for a privilege tax levied and
32 assessed by this chapter except the taxes levied by Sections
33 27-65-15, 27-65-17(3) and 27-65-21, Mississippi Code of 1972,
34 shall add the amount of such tax due by him to the sales price or
35 gross income and, in addition thereto, shall collect, insofar as
36 practicable, the amount of the tax due by him from the purchaser
37 at the time the sales price or gross income is collected.
38 However, for retail sales of equipment trailers and utility
39 trailers on or after July 1, 2001, the seller shall not be
40 required to add the amount of the tax to the sales price or gross
41 income, and the purchaser shall pay the amount of the tax due on
42 the sales price or gross income when the ad valorem taxes are paid
43 on the trailer.

44 The commissioner is authorized, in his discretion, to
45 prescribe by rule or regulation, brackets or schedules by which
46 the applicable tax shall be collected from the purchaser.

47 The commissioner shall have the authority to make changes as
48 necessary by rule or regulation to implement an agreement for the
49 collection of sales tax by direct marketers with limited contact
50 in Mississippi if, in his discretion, it is beneficial to the
51 state for him to do so.

52 It shall be unlawful for any person, who is liable for a
53 privilege tax levied by this chapter except the taxes levied by
54 Sections 27-65-15, 27-65-17(3) and 27-65-21, Mississippi Code of
55 1972, to fail or refuse to add to the sales price and collect,
56 insofar as practicable, the amount of tax due by him on each sale,
57 except where the tax was included in the cost of furnishing
58 service when said cost was a factor in the fixing of rates and
59 charges.

60 The tax due under the provisions of this chapter shall be
61 computed and paid on gross income or gross proceeds of sales of

62 the business, regardless of the fact that small unit sales may be
63 within the bracket of one (1) of the schedules which does not
64 provide for the collection of the tax from the customer.

65 Nothing in this section with reference to the collection of
66 the tax from the customer shall be construed to impair, abridge,
67 alter or affect the obligation of any contract in existence at the
68 time it becomes effective.

69 When the tax collected for any filing period is in excess of
70 the amount due, the total tax collected, including that in excess
71 of the computed liability, shall be paid to the commissioner.
72 This provision shall be construed with other provisions of the law
73 and given effect so as to result in the payment to the
74 commissioner of the total tax collected if in excess of the amount
75 due when computed at the applicable rates.

76 The funds collected by the taxpayer (seller) from the
77 purchaser pursuant to the provisions of this chapter shall be
78 considered "trust fund monies" and the taxpayer shall hold these
79 funds in trust for the State of Mississippi; said funds to be
80 separately accounted for as provided by regulation of the
81 commissioner. If the taxpayer fails to remit these trust fund
82 monies as required by law, then the taxpayer may be assessed with
83 a penalty in three (3) times the amount of taxes due. This
84 penalty is to be assessed and collected in the same manner as
85 taxes imposed by this chapter and shall be in addition to all
86 other penalties and/or interest otherwise imposed. For purposes
87 of this section there shall be a presumption that the taxpayer
88 collected the tax from the customer or purchaser.

89 Any person violating the provisions of this section shall be
90 guilty of a misdemeanor and, upon conviction, shall be fined in a
91 sum not less than Fifty Dollars (\$50.00) nor more than One Hundred
92 Dollars (\$100.00).

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