

By: Representative Montgomery

To: Ways and Means

HOUSE BILL NO. 205

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,  
2 TO DECREASE FROM SEVEN PERCENT TO FOUR PERCENT THE TAX IMPOSED ON  
3 SALES OF ALL-TERRAIN VEHICLES WHICH ARE USED FOR AGRICULTURAL  
4 PURPOSES AND WHICH ARE REGISTERED WITH THE FARM SERVICE AGENCY OF  
5 THE UNITED STATES DEPARTMENT OF AGRICULTURE; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 27-65-17, Mississippi Code of 1972, is  
9 amended as follows:

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

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

18 Retail sales of farm implements sold to farmers and used  
19 directly in the production of poultry, ratite, domesticated fish  
20 as defined in Section 69-7-501, livestock, livestock products,  
21 agricultural crops or ornamental plant crops or used for other  
22 agricultural purposes shall be taxed at the rate of three percent  
23 (3%) when used on the farm. The three percent (3%) rate shall  
24 also apply to all equipment used in logging, pulpwood operations  
25 or tree farming which is either (a) self-propelled or which is (b)  
26 mounted so that it is (i) permanently attached to other equipment  
27 which is self-propelled or (ii) permanently attached to other  
28 equipment drawn by a vehicle which is self-propelled.

29       Retail sales of all-terrain vehicles sold to farmers, which  
30 are used directly in the production of poultry, ratite,  
31 domesticated fish as defined in Section 69-7-501, livestock,  
32 livestock products, agricultural crops or ornamental plant crops  
33 or used for other agricultural purposes, and which are registered  
34 with the Farm Service Agency of the United States Department of  
35 Agriculture, shall be taxed at the rate of four percent (4%) when  
36 used on the farm. For purposes of this provision, the term  
37 "all-terrain vehicle" means any motorized vehicle manufactured and  
38 designed exclusively for off-road use that is fifty (50) inches or  
39 less in width, has an unladen dry weight of six hundred (600)  
40 pounds or less, travels on three (3), four (4) or more low  
41 pressure tires, has a seat designed to be straddled by the  
42 operator and uses handlebars for steering control.

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

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

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

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

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

67 Wholesale sales of food and drink for human consumption to  
68 full service vending machine operators to be sold through vending  
69 machines located apart from and not connected with other taxable  
70 businesses shall be taxed at the rate of eight percent (8%).

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

74 Any person exercising any privilege taxable under Section  
75 27-65-15 and selling his natural resource products at wholesale or  
76 to exempt persons shall pay the tax levied by said section in lieu  
77 of the tax levied by this section.

78 (2) From and after January 1, 1995, retail sales of private  
79 carriers of passengers and light carriers of property, as defined  
80 in Section 27-51-101, shall be taxed an additional two percent  
81 (2%).

82 (3) In lieu of the tax levied in subsection (1) of this  
83 section, there is levied on retail sales of truck-tractors and  
84 semitrailers used in interstate commerce and registered under the  
85 International Registration Plan (IRP) or any similar reciprocity  
86 agreement or compact relating to the proportional registration of  
87 commercial vehicles entered into as provided for in Section  
88 27-19-143, a tax at the rate of three percent (3%) of the portion  
89 of the sale that is attributable to the usage of such  
90 truck-tractor or semitrailer in Mississippi. The portion of the  
91 retail sale that is attributable to the usage of such  
92 truck-tractor or semitrailer in Mississippi is the retail sales  
93 price of the truck-tractor or semitrailer multiplied by the

94 percentage of the total miles traveled by the vehicle that are  
95 traveled in Mississippi. The tax levied pursuant to this  
96 subsection (3) shall be collected by the State Tax Commission from  
97 the purchaser of such truck-tractor or semitrailer at the time of  
98 registration of such truck-tractor or semitrailer.

99       **SECTION 2.** Nothing in this act shall affect or defeat any  
100 claim, assessment, appeal, suit, right or cause of action for  
101 taxes due or accrued under the sales tax laws before the date on  
102 which this act becomes effective, whether such claims,  
103 assessments, appeals, suits or actions have been begun before the  
104 date on which this act becomes effective or are begun thereafter;  
105 and the provisions of the sales tax laws are expressly continued  
106 in full force, effect and operation for the purpose of the  
107 assessment, collection and enrollment of liens for any taxes due  
108 or accrued and the execution of any warrant under such laws before  
109 the date on which this act becomes effective, and for the  
110 imposition of any penalties, forfeitures or claims for failure to  
111 comply with such laws.

112       **SECTION 3.** This act shall take effect and be in force from  
113 and after July 1, 2004.