

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 373

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE RETAIL SALES OF CERTAIN CLOTHING
3 AND SCHOOL SUPPLIES ON THE THIRD SATURDAY IN JULY AND FIRST
4 SATURDAY IN DECEMBER; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-65-111, Mississippi Code of 1972, is
7 amended as follows:

8 27-65-111. The exemptions from the provisions of this
9 chapter which are not industrial, agricultural or governmental, or
10 which do not relate to utilities or taxes, or which are not
11 properly classified as one of the exemption classifications of
12 this chapter, shall be confined to persons or property exempted by
13 this section or by the Constitution of the United States or the
14 State of Mississippi. No exemptions as now provided by any other
15 section, except the classified exemption sections of this chapter
16 set forth herein, shall be valid as against the tax herein levied.
17 Any subsequent exemption from the tax levied hereunder, except as
18 indicated above, shall be provided by amendments to this section.

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

21 The tax levied by this chapter shall not apply to the
22 following:

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

28 Only sales of tangible personal property or services which
29 are ordinary and necessary to the operation of such hospitals and
30 infirmaries are exempted from tax.

31 (b) Sales of daily or weekly newspapers, and
32 periodicals or publications of scientific, literary or educational
33 organizations exempt from federal income taxation under Section
34 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
35 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

50 (g) Sales to elementary and secondary grade schools,
51 junior and senior colleges owned and operated by a corporation or
52 association in which no part of the net earnings inures to the
53 benefit of any private shareholder, group or individual, and which
54 are exempt from state income taxation, provided that this
55 exemption does not apply to sales of property or services which
56 are not to be used in the ordinary operation of the school, or
57 which are to be resold to the students or the public.

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

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

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

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

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

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

79 "Medicines," as used in this paragraph (h), shall mean and
80 include any substance or preparation intended for use by external
81 or internal application to the human body in the diagnosis, cure,
82 mitigation, treatment or prevention of disease and which is
83 commonly recognized as a substance or preparation intended for
84 such use; provided that "medicines" do not include any auditory,
85 prosthetic, ophthalmic or ocular device or appliance, any dentures
86 or parts thereof or any artificial limbs or their replacement
87 parts, articles which are in the nature of splints, bandages,
88 pads, compresses, supports, dressings, instruments, apparatus,
89 contrivances, appliances, devices or other mechanical, electronic,
90 optical or physical equipment or article or the component parts
91 and accessories thereof, or any alcoholic beverage or any other
92 drug or medicine not commonly referred to as a prescription drug.

93 Notwithstanding the preceding sentence of this paragraph (h),
94 "medicines" as used in this paragraph (h), shall mean and include
95 sutures, whether or not permanently implanted, bone screws, bone
96 pins, pacemakers and other articles permanently implanted in the
97 human body to assist the functioning of any natural organ, artery,
98 vein or limb and which remain or dissolve in the body.

99 "Hospital," as used in this paragraph (h), shall have the
100 meaning ascribed to it in Section 41-9-3, Mississippi Code of
101 1972.

102 Insulin furnished by a registered pharmacist to a person for
103 treatment of diabetes as directed by a physician shall be deemed
104 to be dispensed on prescription within the meaning of this
105 paragraph (h).

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

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

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

116 (l) Sales of tangible personal property or services to
117 the Institute for Technology Development.

118 (m) The gross proceeds of retail sales of food and
119 drink for human consumption made through vending machines serviced
120 by full line vendors from and not connected with other taxable
121 businesses.

122 (n) The gross proceeds of sales of motor fuel.

123 (o) Retail sales of food for human consumption
124 purchased with food stamps issued by the United States Department
125 of Agriculture, or other federal agency, from and after October 1,

126 1987, or from and after the expiration of any waiver granted
127 pursuant to federal law, the effect of which waiver is to permit
128 the collection by the state of tax on such retail sales of food
129 for human consumption purchased with food stamps.

130 (p) Sales of cookies for human consumption by the Girl
131 Scouts of America no part of the net earnings from which sales
132 inures to the benefit of any private group or individual.

133 (q) Gifts or sales of tangible personal property or
134 services to public or private nonprofit museums of art.

135 (r) Sales of tangible personal property or services to
136 alumni associations of state-supported colleges or universities.

137 (s) Sales of tangible personal property or services to
138 chapters of the National Association of Junior Auxiliaries, Inc.

139 (t) Sales of tangible personal property or services to
140 domestic violence shelters which qualify for state funding under
141 Sections 93-21-101 through 93-21-113.

142 (u) Sales of tangible personal property or services to
143 the National Multiple Sclerosis Society, Mississippi Chapter.

144 (v) Retail sales of food for human consumption
145 purchased with food instruments issued the Mississippi Band of
146 Choctaw Indians under the Women, Infants and Children Program
147 (WIC) funded by the United States Department of Agriculture.

148 (w) Sales of tangible personal property or services to
149 a private company, as defined in Section 57-61-5, which is making
150 such purchases with proceeds of bonds issued under Section 57-61-1
151 et seq., the Mississippi Business Investment Act.

152 (x) The gross collections from the operation of
153 self-service, coin-operated car washing equipment and sales of the
154 service of washing motor vehicles with portable high-pressure
155 washing equipment on the premises of the customer.

156 (y) Sales of tangible personal property or services to
157 the Mississippi Technology Alliance.

158 (z) (i) Subject to the provisions of this paragraph
159 (z), retail sales of the following items if sold during the period
160 beginning at 12:01 a.m. on the third Saturday in July and ending
161 at 12:00 midnight the same day, and retail sales of such items if
162 sold during the period beginning at 12:01 a.m. on the first
163 Saturday in December and ending at 12:00 midnight the same day:

164 1. Clothing with a sales price of One Hundred
165 Dollars (\$100.00) or less per item;

166 2. School supplies such as pens, pencils,
167 paper, binders, notebooks, textbooks, reference books, book bags,
168 lunch boxes and calculators, with a sales price of One Hundred
169 Dollars (\$100.00) or less per item; and

170 3. Computers, printers and printer supplies,
171 and educational software, with a sales price of Three Thousand
172 Five Hundred Dollars (\$3,500.00) or less per item. For the
173 purposes of this paragraph (z), "computer" means a central
174 processing unit for personal use and any peripherals sold with it
175 and any computer software installed at the time of purchase.

176 (ii) The exemption provided in this paragraph (z)
177 shall not apply to sales of:

178 1. Jewelry, cosmetics, eyewear, wallets,
179 watches and similar items carried on or about the human body or
180 other clothing accessories or equipment;

181 2. Skis, swim fins, rollerblades, skates and
182 similar items worn on the foot;

183 3. Furniture; and

184 4. Items for use in a trade or business.

185 **SECTION 2.** Nothing in this act shall affect or defeat any
186 claim, assessment, appeal, suit, right or cause of action for
187 taxes due or accrued under the sales tax laws before the date on
188 which this act becomes effective, whether such claims,
189 assessments, appeals, suits or actions have been begun before the
190 date on which this act becomes effective or are begun thereafter;

191 and the provisions of the sales tax laws are expressly continued
192 in full force, effect and operation for the purpose of the
193 assessment, collection and enrollment of liens for any taxes due
194 or accrued and the execution of any warrant under such laws before
195 the date on which this act becomes effective, and for the
196 imposition of any penalties, forfeitures or claims for failure to
197 comply with such laws.

198 **SECTION 3.** This act shall take effect and be in force from
199 and after July 1, 2005.