

By: Representative Rotenberry

To: Ways and Means

HOUSE BILL NO. 379

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,  
2 TO EXEMPT FROM SALES TAXATION CERTAIN SALES MADE BY AUCTION OR  
3 OTHER MANNER WHEN MADE PURSUANT TO COURT ORDER OR UNDER OTHER  
4 COURT DIRECTION OR SUPERVISION; 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) Sales made by auction or any other manner when made  
159 pursuant to court order or under other court direction or  
160 supervision; however, sales made by trustees, receivers,  
161 assignees, and the like, in connection with the liquidation or  
162 conduct of a regularly established place of business shall not be  
163 exempt under this paragraph (y) from taxation.

164           **SECTION 2.** Nothing in this act shall affect or defeat any  
165 claim, assessment, appeal, suit, right or cause of action for  
166 taxes due or accrued under the sales tax laws before the date on  
167 which this act becomes effective, whether such claims,  
168 assessments, appeals, suits or actions have been begun before the  
169 date on which this act becomes effective or are begun thereafter;  
170 and the provisions of the sales tax laws are expressly continued  
171 in full force, effect and operation for the purpose of the  
172 assessment, collection and enrollment of liens for any taxes due  
173 or accrued and the execution of any warrant under such laws before  
174 the date on which this act becomes effective, and for the  
175 imposition of any penalties, forfeitures or claims for failure to  
176 comply with such laws.

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