

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1307

1 AN ACT TO AMEND SECTION 27-65-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF "DOING BUSINESS" FOR PURPOSES OF
3 REMITTING SALES TAX ON GOODS AND SERVICES DELIVERED TO LOCATIONS
4 WITHIN THE STATE OF MISSISSIPPI; TO PROHIBIT A STATE AGENCY FROM
5 CONTRACTING FOR GOODS AND SERVICES WITH A COMPANY THAT FAILS TO
6 REMIT SALES TAX OR FILE A SALES TAX RETURN; AND FOR RELATED
7 PURPOSES.

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

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

11 27-65-9. (1) "Business" means:

12 (a) All activities or acts engaged in (personal or
13 corporate), for benefit or advantage, either direct or indirect,
14 and not exempting subactivities in connection therewith. Each of
15 such subactivities shall be considered business engaged in,
16 taxable in the class in which it falls.

17 (b) Activities engaged in by exempt organizations or
18 political entities in competition with privately owned business
19 subject to the provisions of this chapter.

20 (c) Activities of a person in this state performing a
21 service under contract or agreement with another person when the
22 service performed is taxable under the provisions of this chapter.

23 (2) "Doing business" means:

24 (a) Activities of any person owning personal property
25 located in this state under lease or rental agreement or of any
26 person installing personal property within this state.

27 (b) Activities of any person represented in this state
28 by salesmen taking or soliciting orders to be filled from points
29 outside this state for subsequent delivery of the merchandise in

30 equipment owned or leased by the seller to customers located in
31 this state.

32 (c) Activities of a company, including its subsidiaries
33 and related companies, performing a service or providing goods to
34 a state agency.

35 (3) "State agency" means the State of Mississippi, its
36 departments, institutions, counties, municipalities, school
37 districts or any other local political subdivision.

38 **SECTION 2.** No state agency shall contract for goods and
39 services with a company if it, including its subsidiaries and
40 related companies, is subject to collecting and remitting sales
41 tax on sales or services delivered by any means to locations
42 within the state. Any company that contracts with a state agency
43 for goods and services, and that fails to remit the proper tax or
44 file the proper tax return under Sections 27-65-17, 27-65-19,
45 27-65-21, 27-65-23 and 27-76-4, shall be considered to be in
46 breach of the relevant contract with the state agency. For
47 purposes of this section, "state agency" shall have the meaning
48 ascribed to it in Section 27-65-9.

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