

By: Representatives Peranich, Guice

To: Tourism; Ways and Means

HOUSE BILL NO. 1248
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-49-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF "HOTEL" IN ORDER TO REFLECT CHANGES IN
3 THE HOTEL INDUSTRY WITHIN THE STATE OF MISSISSIPPI; TO AMEND
4 SECTION 27-65-23, MISSISSIPPI CODE OF 1972, IN ORDER TO ENSURE
5 THAT ANY "HOTEL" AS DEFINED IN SECTION 41-49-3 COMPLIES WITH THE
6 STATE'S SALES TAX REQUIREMENTS; TO REVISE THE DEFINITION OF THE
7 TERM "HOTEL" OR "MOTEL" FOR THE PURPOSES OF ANY TAX LEVIED AND
8 COLLECTED UNDER THE AUTHORITY OF A LOCAL AND PRIVATE LAW OF THE
9 STATE OF MISSISSIPPI, THAT IS LEVIED OR IMPOSED ON THE GROSS
10 PROCEEDS OR GROSS INCOME FROM ROOM RENTALS OF HOTELS OR MOTELS AND
11 IS COLLECTED AND PAID TO THE STATE TAX COMMISSION IN THE SAME OR
12 SIMILAR MANNER THAT STATE SALES TAXES ARE COLLECTED AND PAID; TO
13 PROVIDE THAT IF THE DEFINITION OF HOTEL OR MOTEL PROVIDED IN THE
14 LOCAL AND PRIVATE LAW AUTHORIZING THE TAX DOES NOT INCLUDE THE
15 ENTITIES DESCRIBED IN THIS ACT, THEN THE PROVISIONS OF THIS ACT
16 SHALL NOT APPLY UNLESS THE COUNTY BOARD OF SUPERVISORS OR
17 MUNICIPAL GOVERNING AUTHORITIES AUTHORIZED TO LEVY THE TAX UNDER
18 THE LOCAL AND PRIVATE LAW ADOPTS A RESOLUTION DECLARING THEIR
19 INTENTION TO INCLUDE SUCH ENTITIES FOR THE PURPOSES OF THE TAX;
20 AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** Section 41-49-3, Mississippi Code of 1972, is
23 amended as follows:

24 41-49-3. The term "hotel" shall mean and include any entity
25 or individual engaged in the business of furnishing or providing
26 one or more rooms intended or designed for dwelling, lodging or
27 sleeping purposes that at any one time will accommodate transient
28 guests and that are known to the trade as such and includes every
29 building or other structure kept, used, maintained or advertised
30 as, or held out to the public to be, a place where sleeping
31 accommodations are supplied for pay or other consideration to
32 transient guests regardless of the number of rooms, units, suites
33 or cabins available, excluding nursing homes or institutions for
34 the aged or infirm as defined in Section 43-11-1 * * *.

35 **SECTION 2.** Section 27-65-23, Mississippi Code of 1972, is
36 amended as follows:

37 27-65-23. Upon every person engaging or continuing in any of
38 the following businesses or activities there is hereby levied,
39 assessed and shall be collected a tax equal to seven percent (7%)
40 of the gross income of the business, except as otherwise provided:

41 Air conditioning installation or repairs;

42 Automobile, motorcycle, boat or any other vehicle
43 repairing or servicing;

44 Billiards, pool or domino parlors;

45 Bowling or tenpin alleys;

46 Burglar and fire alarm systems or services;

47 Car washing--automatic, self-service, or manual;

48 Computer software sales and services;

49 Cotton compresses or cotton warehouses;

50 Custom creosoting or treating, custom planing, custom
51 sawing;

52 Custom meat processing;

53 Electricians, electrical work, wiring, all repairs or
54 installation of electrical equipment;

55 Elevator or escalator installing, repairing or
56 servicing;

57 Film developing or photo finishing;

58 Foundries, machine or general repairing;

59 Furniture repairing or upholstering;

60 Grading, excavating, ditching, dredging or landscaping;

61 Hotels (as defined in Section 41-49-3), motels, tourist
62 courts or camps, trailer parks;

63 Insulating services or repairs;

64 Jewelry or watch repairing;

65 Laundering, cleaning, pressing or dyeing;

66 Marina services;

67 Mattress renovating;

68 Office and business machine repairing;

69 Parking garages and lots;

70 Plumbing or pipe fitting;
71 Public storage warehouses (There shall be no tax levied
72 on gross income of a public storage warehouse derived from the
73 temporary storage of tangible personal property in this state
74 pending shipping or mailing of the property to another state);
75 Refrigerating equipment repairs;
76 Radio or television installing, repairing, or servicing;
77 Renting or leasing personal property used within this
78 state;
79 Services performed in connection with geophysical
80 surveying, exploring, developing, drilling, producing,
81 distributing, or testing of oil, gas, water and other mineral
82 resources;
83 Shoe repairing;
84 Storage lockers;
85 Telephone answering or paging services;
86 Termite or pest control services;
87 Tin and sheet metal shops;
88 TV cable systems, subscription TV services, and other
89 similar activities;
90 Vulcanizing, repairing or recapping of tires or tubes;
91 Welding; and
92 Woodworking or wood turning shops.

93 Income from services taxed herein performed for electric
94 power associations in the ordinary and necessary operation of
95 their generating or distribution systems shall be taxed at the
96 rate of one percent (1%).

97 Income from services taxed herein performed on materials for
98 use in track or track structures to a railroad whose rates are
99 fixed by the Interstate Commerce Commission or the Mississippi
100 Public Service Commission shall be taxed at the rate of three
101 percent (3%).

102 Income from renting or leasing tangible personal property
103 used within this state shall be taxed at the same rates as sales
104 of the same property.

105 Persons doing business in this state who rent transportation
106 equipment with a situs within or without the state to common,
107 contract or private commercial carriers are taxed on that part of
108 the income derived from use within this state. If specific
109 accounting is impracticable, a formula may be used with approval
110 of the commissioner.

111 A lessor may deduct from the tax computed on the rental
112 income from tangible personal property a credit for sales or use
113 tax paid to this state at the time of purchase of the specific
114 personal property being leased or rented until such credit has
115 been exhausted.

116 Charges for custom processing and repairing services may be
117 excluded from gross taxable income when the property on which the
118 service was performed is delivered to the customer in another
119 state either by common carrier or in the seller's equipment.

120 When a taxpayer performs unitary services covered by this
121 section, which are performed both in intrastate and interstate
122 commerce, the commissioner is hereby invested with authority to
123 formulate in each particular case and to fix for such taxpayer in
124 each instance formulae of apportionment which will apportion to
125 this state, for taxation, that portion of the services which are
126 performed within the State of Mississippi.

127 **SECTION 3.** (1) Subject to the provisions of this section,
128 for any tax levied and collected under the authority of a local
129 and private law of the State of Mississippi ("local and private
130 law"), that is levied or imposed on the gross proceeds or gross
131 income from room rentals of hotels or motels and is collected and
132 paid to the State Tax Commission in the same or similar manner
133 that state sales taxes are collected and paid, the term "hotel" or
134 "motel" also shall include (regardless of how such term is defined

135 in the local and private law) any entity or individual engaged in
136 the business of furnishing or providing one or more rooms intended
137 or designed for dwelling, lodging or sleeping purposes that at any
138 one time will accommodate transient guests and that are known to
139 the trade as such and includes every building or other structure
140 kept, used, maintained or advertised as, or held out to the public
141 to be, a place where sleeping accommodations are supplied for pay
142 or other consideration to transient guests regardless of the
143 number of rooms, units, suites or cabins available, excluding
144 nursing homes or institutions for the aged or infirm as defined in
145 Section 43-11-1 and personal care homes.

146 (2) If the definition of hotel or motel provided in the
147 local and private law authorizing the tax does not include the
148 entities described in subsection (1) of this section, then the
149 provisions of subsection (1) of this section shall not apply
150 unless the county board of supervisors or municipal governing
151 authorities, as appropriate, authorized to levy the tax under the
152 local and private law, adopts a resolution declaring their
153 intention to include such entities for the purposes of the tax.
154 If the county board of supervisors or municipal governing
155 authorities, as appropriate, adopts such a resolution, then at
156 least thirty (30) days before the effective date of the levy of
157 the tax upon the entities described in subsection (1) of this
158 section, the county board of supervisors or municipal governing
159 authorities, as appropriate, shall furnish to the State Tax
160 Commission a certified copy of such resolution.

161 **SECTION 4.** This act shall take effect and be in force from
162 and after its passage.