MISSISSIPPI LEGISLATURE REGULAR SESSION 2008

By: Representatives Mayo, Banks, Buck, Burnett, Evans (91st), Fredericks, Hines, Holland, Holloway, Johnson, Lane, Robinson, Straughter, Thomas, Watson

To: Ways and Means

HOUSE BILL NO. 21

AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO REDUCE THE RATE OF TAX ON RETAIL SALES OF FOOD FOR HUMAN CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH WOULD BE EXEMPT FROM SALES TAX IF SUCH FOOD WERE PURCHASED WITH FOOD STAMPS; AND FOR RELATED PURPOSES.

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

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

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

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

(c) Retail sales of farm implements sold to farmers and used directly in the production of poultry, ratite, domesticated fish as defined in Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes shall be taxed at the rate of three percent (3%) when used on the farm. The three percent (3%) rate shall also apply to all equipment used in logging, pulpwood operations or tree farming which is either:

(i) Self-propelled, or

(ii) Mounted so that it is permanently attached to other equipment which is self-propelled or permanently attached to other equipment drawn by a vehicle which is self-propelled.

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

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

(f) Sales of machinery and machine parts when made to a technology intensive enterprise for plant use only when the machinery and machine parts will be used exclusively and directly within this state for industrial purposes, including, but not limited to, manufacturing or research and development activities, shall be taxed at the rate of one and one-half percent (1-1/2%). In order to be considered a technology intensive enterprise for purposes of this paragraph:

(i) The enterprise shall meet minimum criteria established by the Mississippi Development Authority;

(ii) The enterprise shall employ at least ten (10) persons in full-time jobs;

(iii) At least ten percent (10%) of the workforce in the facility operated by the enterprise shall be scientists, engineers or computer specialists;

(iv) The enterprise shall manufacture plastics, chemicals, automobiles, aircraft, computers or electronics; or shall be a research and development facility, a computer design or related facility, or a software publishing facility or other

technology intensive facility or enterprise as determined by the Mississippi Development Authority;

(v) The average wage of all workers employed by the enterprise at the facility shall be at least one hundred fifty percent (150%) of the state average annual wage; and

(vi) The enterprise must provide a basic health care plan to all employees at the facility.

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

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

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

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

(k) Sales of equipment used or designed for the purpose of assisting disabled persons, such as wheelchair equipment and lifts, that is mounted or attached to or installed on a private carrier of passengers or light carrier of property, as defined in Section 27-51-101, at the time when the private carrier of passengers or light carrier of property is sold shall be taxed at the same rate as the sale of such vehicles under this section.

(l) Sales of the factory-built components of modular homes, panelized homes and precut homes, and panel constructed homes consisting of structural insulated panels, shall be taxed at the rate of three percent (3%).

(m) From and after July 1, 2008, retail sales of food for human consumption not purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, but which would be exempt under Section 27-65-111(o) from the taxes imposed by this chapter if the food were purchased with food stamps, shall be taxed as follows:

(i) From and after July 1, 2008, through June 30, 2010, such sales shall be taxed at the rate of five percent (5%); and

(ii) From and after July 1, 2010, such sales shall be taxed at the rate of three percent (3%).

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

(3) In lieu of the tax levied in subsection (1) of this section, there is levied on retail sales of truck-tractors and semitrailers used in interstate commerce and registered under the International Registration Plan (IRP) or any similar reciprocity agreement or compact relating to the proportional registration of commercial vehicles entered into as provided for in Section 27-19-143, a tax at the rate of three percent (3%) of the portion of the sale that is attributable to the usage of such truck-tractor or semitrailer in Mississippi. The portion of the retail sale that is attributable to the usage of such truck-tractor or semitrailer in Mississippi is the retail sales price of the truck-tractor or semitrailer multiplied by the percentage of the total miles traveled by the vehicle that are traveled in Mississippi. The tax levied pursuant to this

subsection (3) shall be collected by the State Tax Commission from the purchaser of such truck-tractor or semitrailer at the time of registration of such truck-tractor or semitrailer.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2008.