

Chapter No. 502  
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## ***HOUSE BILL NO. 1677***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1677

AN ACT TO AMEND SECTION 27-51-41, MISSISSIPPI CODE OF 1972, TO PROVIDE AN AD VALOREM TAX EXEMPTION FOR BUSES AND OTHER MOTOR VEHICLES OWNED AND OPERATED BY AN ENTITY THAT HAS ENTERED INTO OR RENEWED A CONTRACT WITH A SCHOOL BOARD ON OR AFTER JULY 1, 2010, FOR THE TRANSPORTATION OF STUDENTS TO AND FROM SCHOOLS AND USED BY THE ENTITY FOR SUCH TRANSPORTATION PURPOSES; TO AMEND SECTIONS 27-55-12 AND 27-55-19, MISSISSIPPI CODE OF 1972, TO PROVIDE PARTIAL GASOLINE, SPECIAL FUEL AND COMPRESSED GAS TAX EXEMPTIONS FOR SALES OF GASOLINE, SPECIAL FUEL AND COMPRESSED GAS MADE TO AN ENTITY THAT HAS ENTERED INTO OR RENEWED A CONTRACT WITH A SCHOOL BOARD ON OR AFTER JULY 1, 2010, FOR THE TRANSPORTATION OF STUDENTS TO AND FROM SCHOOLS FOR USE IN BUSES AND OTHER MOTOR VEHICLES FOR SUCH TRANSPORTATION PURPOSES; TO AMEND SECTION 27-65-105, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAXATION RETAIL SALES OF BUSES AND OTHER MOTOR VEHICLES, AND PARTS AND LABOR USED TO MAINTAIN AND REPAIR THE BUSES AND MOTOR VEHICLES, TO AN ENTITY THAT HAS ENTERED INTO OR RENEWED A CONTRACT WITH A SCHOOL BOARD ON OR AFTER JULY 1, 2010, FOR THE TRANSPORTATION OF STUDENTS TO AND FROM SCHOOLS AND USES OR WILL USE THE BUSES AND OTHER MOTOR VEHICLES FOR SUCH TRANSPORTATION PURPOSES; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 27-51-41, Mississippi Code of 1972, is amended as follows:

27-51-41. (1) The exemptions from the provisions of this chapter shall be confined to those persons or property exempted by this chapter or by the provisions of the Constitution of the United States or the State of Mississippi. No exemption as now provided by any other statute shall be valid as against the tax levied by this chapter. Any subsequent exemption from the tax levied hereunder shall be provided by amendment to this section which shall be inserted in the bill at length.

(2) The following shall be exempt from ad valorem taxation:

(a) All motor vehicles, as defined in this chapter, and including motor-propelled farm implements and vehicles, while in

the hands of bona fide dealers as merchandise and which are not being operated upon the highways of this state.

(b) All motor vehicles belonging to the federal government or the State of Mississippi or any agencies or instrumentalities thereof.

(c) All motor vehicles owned by any school district in the state.

(d) All motor vehicles owned by any fire protection district incorporated in accordance with Sections 19-5-151 through 19-5-207 or by any fire protection grading district incorporated in accordance with Sections 19-5-215 through 19-5-241.

(e) All motor vehicles owned by units of the Mississippi National Guard.

(f) All motor vehicles which are exempted from highway privilege taxes under Section 27-19-1 et seq.

(g) All motor vehicles operated in this state as common and contract carriers of property, private commercial carriers of property, private carriers of property and buses, all of which have a gross weight in excess of ten thousand (10,000) pounds.

(h) Antique automobiles as defined in Section 27-19-47, and antique pickup trucks as provided for under Section 27-19-47.2, Mississippi Code of 1972.

(i) Street rods as defined in Section 27-19-56.6.

(j) Motor vehicles owned by disabled American veterans, or by spouses of deceased disabled American veterans, in accordance with Section 27-19-53.

(k) One (1) motor vehicle owned by the unremarried surviving spouse of a member of the Armed Forces of the United States who, while on active duty, is killed or dies and one (1) motor vehicle owned by the unremarried surviving spouse of a member of a reserve component of the Armed Forces of the United States or of the National Guard who, while on active duty for training, is killed or dies.

(l) Motor vehicles owned by recipients of the Congressional Medal of Honor or by former prisoners of war, or by spouses of such deceased persons, in accordance with Section 27-19-54.

(m) (i) One (1) private carrier of passengers, as defined in Section 27-19-3, owned by any religious society, ecclesiastical body or any congregation thereof which is used exclusively for such society and not for profit.

(ii) All motor vehicles owned by any such religious society or any educational institution having a seating capacity greater than seven (7) passengers and used exclusively for transporting passengers for religious or educational purposes and not for profit.

(n) All motor vehicles primarily used as rentals under rental agreements with a term of not more than thirty (30) continuous days each and under the control of persons who are engaged in the business of renting such motor vehicles and who are subject to the tax under Section 27-65-231.

(o) Antique motorcycles as defined in Section 27-19-47.1.

(p) One (1) motor vehicle owned by a recipient of the Purple Heart, and one (1) motor vehicle owned by the unremarried surviving spouse of a recipient of the Purple Heart, as provided in Section 27-19-56.5.

(q) Motor vehicles that are eligible to display an authentic historical license plate as provided for in Section 27-19-56.11.

(r) Motor vehicles that are (i) designed or adapted to be used exclusively in the preparation and loading of chemicals or other material for aerial agricultural application to crops; and (ii) only incidentally used on public roadways in this state.

(s) One (1) motor vehicle owned by the mother of a service member who was killed in action or died in a combat zone

after September 11, 2001, while serving in the Armed Forces of the United States as provided for in Section 27-19-56.162.

(t) One (1) motor vehicle owned by the unremarried spouse of a service member who was killed in action or died in a combat zone after September 11, 2001, while serving in the Armed Forces of the United States as provided for in Section 27-19-56.162.

(u) Buses and other motor vehicles that are (a) owned and operated by an entity that has entered into a contract with a school board under Section 37-41-31 for the purpose of transporting students to and from schools and (b) used by the entity for such transportation purposes. This paragraph (u) shall apply to contracts entered into or renewed on or after July 1, 2010.

(3) Any claim for tax exemption by authority of the above-mentioned code sections or by any other legal authority shall be set out in the application for the road and bridge privilege license, and the specific legal authority for such tax exemption claim shall be cited in said application, and such authority cited shall be shown by the tax collector on the tax receipt as his authority for not collecting such ad valorem taxes, and the tax collector shall carry forward such information in his tax collection reports.

(4) Any motor vehicle driven over the highways of this state to the extent that the owner of such motor vehicle is required to purchase a road and bridge privilege license in this state, yet the legal situs of such motor vehicle is located in another state, shall be exempt from ad valorem taxes authorized by this chapter.

(5) If a taxpayer shall sell, trade or otherwise dispose of a vehicle on which the ad valorem and road and bridge privilege taxes have been paid in any county in the state, he shall remove the license plate from the vehicle. Such license plate must be surrendered to the issuing authority with the corresponding tax

receipt, if required, and credit shall be allowed for the taxes paid for the remaining tax year on like privilege or ad valorem taxes due on another vehicle owned by the seller or transferor or by the seller's or transferor's spouse or dependent child. If the seller or transferor does not elect to receive such credit at the time the license plate is surrendered, the issuing authority shall issue a certificate of credit to the seller or transferor, or to the seller's or transferor's spouse or dependent child, or to any other person, business or corporation, at the direction of the seller or transferor, for the remaining unexpired taxes prorated from the first day of the month following the month in which the license plate is surrendered. The total of such credit may be used by the person or entity to whom the certificate of credit is issued, regardless of the relative amounts attributed to privilege taxes or to county, school or municipal ad valorem taxes. Any credit allowed for taxes due or any certificate of credit issued may be applied to like taxes owed in any county by the person to whom the credit is allowed or by the person possessing the certificate of credit. No credit, however, shall be allowed on the charge made for the license plate. Such license plates surrendered to the tax collector shall be retained by him, and in no event shall such license plate be attached to any vehicle after being surrendered to the tax collector, nor shall any license plate be transferred from one (1) vehicle to any other vehicle.

(6) If the person owning a vehicle subject to taxation under the provisions of this chapter does not operate such vehicle on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of the tag and decals to the date on which he makes application for a current license tag or decals, he shall pay such ad valorem tax for a period of twelve (12) months beginning with the first day of the month in which he applies for a current license tag or decals under Chapter 19, Title 27, Mississippi Code of 1972. The owner

shall submit an affidavit with an application attesting to the fact that the vehicle was not operated on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of the tag and decals to the date on which he makes application for the current license tag or decals.

(7) Any person found violating any of the provisions of this section shall be arrested and tried, and if found guilty shall be fined in an amount double the total amount of taxes involved.

**SECTION 2.** Section 27-55-12, Mississippi Code of 1972, is amended as follows:

27-55-12. (1) The United States government, the State of Mississippi, counties, municipalities, school districts and all other political subdivisions of the state, and volunteer fire departments chartered under the laws of the State of Mississippi as nonprofit corporations shall be exempt from excise taxes on gasoline, special fuel and compressed gas as follows:

(a) From the excise tax rate in excess of Nine Cents (9¢) per gallon of gasoline and from the excise tax rate in excess of One Cent (1¢) per gallon of aviation gasoline levied under Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths Cents (5.4¢) thereof shall be exempt as provided in Section 27-55-19, Mississippi Code of 1972.

(b) From the excise tax rate in excess of Ten Cents (10¢) per gallon of special fuel levied at Eighteen Cents (18¢) per gallon under Sections 27-55-519 and 27-55-521, Four and Three-fourths Cents (4.75¢) thereof shall be exempt.

(c) From the excise tax rate in excess of One Cent (1¢) per gallon of special fuel taxed at Five and Three-fourths Cents (5.75¢) per gallon and from the excise tax rate in excess of One-half Cent (1/2¢) per gallon of special fuel used in aircraft levied under Section 27-55-519, Four and Three-fourths Cents (4.75¢) thereof shall be exempt.

(d) From the portion of the excise tax rate on compressed gas used as a motor fuel that exceeds the rate of tax in effect on June 30, 1987, Three Cents (3¢) thereof shall be exempt.

(2) The exemption provided in subsection (1) of this section for sales of gasoline, special fuel and compressed gas to volunteer fire departments shall apply only to sales of gasoline, special fuel and compressed gas for use in a vehicle owned by a volunteer fire department and used for department purposes.

(3) The exemption provided in subsection (1) of this section for sales of gasoline, special fuel and compressed gas also shall apply to sales of gasoline, special fuel and compressed gas to an entity described in Section 27-51-41(2)(u) for use in buses and other motor vehicles that are exempt from ad valorem taxation under Section 27-51-41(2)(u).

(4) Any person other than a bonded distributor of gasoline, bonded distributor of special fuel or bonded distributor of compressed gas who sells or delivers any gasoline, special fuel or compressed gas, subject to the exemption set forth in this section, is required to obtain credit for such exemption from a bonded distributor of gasoline, special fuel or compressed gas.

**SECTION 3.** Section 27-55-19, Mississippi Code of 1972, is amended as follows:

27-55-19. There shall not be included in the measure of the tax levied hereunder any gasoline:

(a) Sold or delivered by a bonded distributor of gasoline to a second bonded distributor of gasoline within this state, but nothing in this exclusion shall exempt the second bonded distributor of gasoline from paying the tax, unless the second bonded distributor of gasoline sells or delivers said gasoline to a third bonded distributor of gasoline in which event the third bonded distributor of gasoline shall be liable for the tax.

(b) Sold to the United States government for use of the Armed Forces only, and delivered in quantities of not less than four thousand (4,000) gallons. Any exemption provided in this paragraph (b) may be deducted without the prior approval of the department, provided that satisfactory proof of such exemption shall be furnished to the department. However, such exemption may be disallowed by the department if the distributor fails to furnish satisfactory proof of such exemption to the department.

(c) Exported to a destination beyond the borders of this state by a bonded distributor of gasoline when the tax on such gasoline has been paid or on which the tax liability imposed by this article has accrued against such bonded distributor. Any exemption provided in this paragraph (c) may be deducted without the prior approval of the department, provided that satisfactory proof of such exemption shall be furnished to the department; however, such exemption may be disallowed by the department if the distributor fails to furnish satisfactory proof of such exemption to the department within ninety (90) days from the sale or delivery of the gasoline.

(d) Exported by any person to a destination beyond the borders of this state in quantities of not less than three thousand (3,000) gallons by ship, vessel, barge, railroad tank car, or pipeline, or by tank truck if such tank truck is operated by a common or contract carrier.

(e) Imported by, or sold to, any refiner or processor in this state for the purpose of being refined or further processed.

(f) Sold to any manufacturer for blending or compounding to the end that it becomes a component part of any manufactured product, or where used as a processing agent in the treatment of raw material in manufacturing a product which does not fall within the meaning of the term "gasoline" as defined in this article.

(g) Sold or delivered to be used for test purposes at any regularly established testing laboratory in this state.

Except as provided in paragraphs (b) and (c) above, evidence of exempt transactions provided in this section and subsections thereof, satisfactory to the department, shall be submitted by the distributor desiring an allowance of said exemptions to the department with the payment of the excise tax on the gasoline on which the exemption is claimed. If the department decides that the distributor is entitled to the exemption and allowance claimed, it shall notify said distributor in writing of such allowance. The distributor shall then be allowed to deduct from the payments made in his next monthly report, after said allowance, the amount of tax which he paid on this exempted gasoline which amount shall be arrived at by taking the amount of exempted gasoline minus two percent (2%) allowed for evaporation, shrinkage and other losses on gasoline, and multiplying the remainder by the amount of excise tax per gallon. In cases where the amount of such tax cannot be absorbed on the estimated tax liability of the person making such payments during the next six (6) months, the amount shall be refunded to the taxpayer. Such amount shall be certified to the State Auditor of Public Accounts by the department. The said Auditor is hereby authorized to make such investigation and audit of the claim as he finds necessary. If he finds that the department is correct in its determination, the Auditor may issue his warrant to the State Treasurer in favor of the taxpayer for the amount of tax erroneously paid, such refunds to be made from current gasoline, or special fuel tax collections.

Except as otherwise provided in this section, in order to claim exemptions provided for under this article, the distributor of gasoline must file claims therefor within three (3) years from the date of sale or delivery; otherwise, claims for such exemptions shall be disallowed.

In case gasoline and special fuel on which the tax has been previously paid are accidentally mixed, the distributor of gasoline or other person owning such mixture may ship the mixture out of the State of Mississippi, or to a Mississippi refinery, and may claim credit for the gasoline and/or special fuel tax on the gasoline and special fuel so mixed. The distributor of gasoline or other person may also ship the mixture to a barge or pipeline storage terminal within the State of Mississippi to be brought up to gasoline specifications, or lowered to special fuel specifications, as the case might be, under the supervision of a representative of the department. It shall be the duty of the distributor of gasoline or other person to whom the mixed product belongs to notify the department immediately after knowledge that the mixture has occurred.

In case the distributor of gasoline or other person elects to ship the mixture to a barge or pipeline terminal for storage within this state, the department shall supervise the unloading of the mixture.

In order to perfect a claim for credit for the tax on the gasoline and special fuel constituting any such mixture, the distributor of gasoline or other person making the claim shall do so in writing and shall furnish proof satisfactory to the department that the mixture was either shipped out of this state or to a refinery or other approved place of storage within this state. The department shall notify the claimant, in writing, whether or not his claim is approved, and, if approved, the claimant may deduct the amount of the claim from his next tax report. No such claim shall be allowed unless filed within three (3) years after the date of such accidental mixture. Bonded distributors of gasoline having no gasoline tax liability with the department may assign such tax credit to a bonded distributor of gasoline having such tax liability.

No tax liability shall accrue against the operator of a refinery when shipments of gasoline are made from such refinery, either by common carrier or by tank trucks owned and operated by the operator of said refinery, to a tax-exempt account within this state or to another refinery within this state.

Provided, however, that when gasoline is withdrawn from the storage tank of a refiner or processor on which the tax is paid on such gasoline and it or any part thereof cannot be delivered to a purchaser, said refiner or processor may deduct the tax on all or that portion of such gasoline not delivered to a purchaser from its next gasoline distributor's tax report; provided that such refiner or processor submits with such tax report: (1) a written report setting forth the reasons why such delivery could not be made, and (2) proof or evidence satisfactory to the department that the tax in question had theretofore been paid to the department, and (3) proof or evidence satisfactory to the department that the nondelivered gasoline was actually returned to the refinery or processor from which it was taken for the purpose of delivering it to a purchaser; and provided further, that immediately upon ascertainment by the refiner or processor that said gasoline cannot be delivered, he or it shall immediately notify the department of this fact and before moving his or its truck or other means of transporting said gasoline from the intended point of delivery; and should the department desire to inspect said truck, or other means of conveyance, such refiner or processor shall arrange for such inspection at the point or at such other point that may be designated by the department.

The United States government, the State of Mississippi, counties, municipalities, school districts and all other political subdivisions of the state, and entities described in Section 27-55-12(3) shall be exempt from Five and Four-tenths Cents (5.4¢) of the portion of the gasoline excise tax rate which exceeds Nine

Cents (9¢) per gallon. Any exemption provided in this paragraph may be deducted without the prior approval of the department.

**SECTION 4.** Section 27-65-105, Mississippi Code of 1972, is amended as follows:

27-65-105. The exemption from the provisions of this chapter which are of a governmental nature or which are more properly classified as governmental exemptions than any other exemption classification of this chapter shall be confined to those persons or property exempted by this section or by provisions of the Constitutions of the United States or the State of Mississippi. No governmental exemption as now provided by any other section shall be valid as against the tax herein levied. Any subsequent governmental exemption from the tax levied hereunder shall be provided by amendment to this section.

No exemption provided in this section shall apply to taxes levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972, except as provided by paragraph (f) of this section.

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

(a) Sales of property, labor, services or products taxable under Sections 27-65-17, 27-65-19, 27-65-23 and 27-19-26, when sold to and billed directly to and payment therefor is made directly by the United States government, the State of Mississippi and its departments, institutions, counties and municipalities or departments or school districts of said counties and municipalities.

The exemption from the tax imposed under this chapter shall not apply to sales of tangible personal property or specified digital products, labor or services to contractors purchasing in the performance of contracts with the United States, the State of Mississippi, counties and municipalities.

(b) Sales to schools, when such schools are supported wholly or in part by funds provided by the State of Mississippi,

provided that this exemption does not apply to sales of property which is not to be used in the ordinary operation of the school, or which is to be resold to the students or the public.

(c) Amounts received from the sale of school textbooks to students.

(d) Sales to the Mississippi Band of Choctaw Indians, but not to Indians individually.

(e) Sales of fire fighting equipment to governmental fire departments or volunteer fire departments for their use.

(f) Sales of any gas from any project, as defined in the Municipal Gas Authority of Mississippi Law, to any municipality shall not be subject to sales, use or other tax.

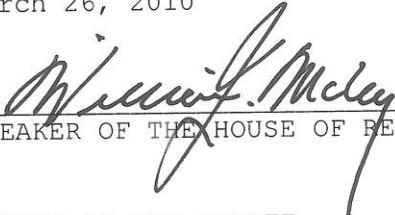
(g) Sales of home medical equipment and home medical supplies listed as eligible for payment under Title XVIII of the Social Security Act or under the state plan for medical assistance under Title XIX of the Social Security Act, prosthetics, orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment, when ordered or prescribed by a licensed physician for medical purposes of a patient, and when payment for such equipment or supplies, or both, is made in part or in whole under the provisions of the Medicare or Medicaid program, then the entire sale shall be exempt from the taxes imposed by this chapter.

(h) Sales to regional educational service agencies established under Section 37-7-345.

(i) Sales of buses and other motor vehicles, and parts and labor used to maintain and/or repair such buses and motor vehicles, to an entity that (a) has entered into a contract with a school board under Section 37-41-31 for the purpose of transporting students to and from schools and (b) uses or will use the buses and other motor vehicles for such transportation purposes. This paragraph (i) shall apply to contracts entered into or renewed on or after July 1, 2010.

**SECTION 5.** This act shall take effect and be in force from and after July 1, 2010.

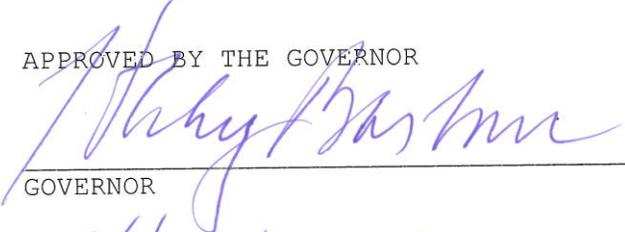
PASSED BY THE HOUSE OF REPRESENTATIVES  
March 26, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 25, 2010

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

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