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Chapter No. 4169
13/HR12/R1916.1
JAB / CST

HOUSE BILL NO. 1680

Originated in House _____ Clerk

HOUSE BILL NO. 1680

AN ACT TO AMEND SECTION 27-65-11, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERMS "TO MANUFACTURE" AND "MANUFACTURING" UNDER THE SALES TAX LAW TO CLARIFY THAT CERTAIN ACTIVITIES BY SCRAP METAL RECYCLERS ARE INCLUDED IN SUCH DEFINITIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-65-11, Mississippi Code of 1972, is amended as follows:

27-65-11. (a) "Manufacturer" means one who is exclusively or predominately engaged in the business of manufacturing as defined under the terms "to manufacture" or "manufacturing." A person who is engaged in manufacturing and nonmanufacturing activities may be classified as a manufacturer as to his manufacturing activities which are operated as a separate business or division.

(b) "To manufacture" or "manufacturing" embraces activities of an industrial or commercial nature wherein labor or skill is applied, by hand or machinery, to materials belonging to the manufacturer so that a new, different, or more useful article of

tangible personal property or substance of trade or commerce or electric power is produced for sale or rental and includes the production or fabrication of special-made or custom-made articles for sale or rental. Activities of scrap metal recyclers that primarily convert material into a more useful product such as a specification-grade commodity, by processing the metal into separate types, removing waste material, and/or cutting, chipping, sorting, sizing or shaping the material into a usable product for sale such as a specification-grade commodity, shall be included in the terms "to manufacture" and "manufacturing."

"To manufacture" or "manufacturing" does not include activities such as cooking or preparing food or food products by a retailer in the regular course of retail trade; repairing and reconditioning property; the filling of prescriptions by a pharmacist; the washing or screening of mineral products; the cutting, hauling and decking of logs; or similar preparatory functions even when performed by a manufacturer. Activities of scrap metal recyclers that involve the gathering of recycled material and flattening, sorting, bundling or performing some other similar function solely to allow ease of transportation or storage and not to produce specification-grade commodities and/or the removal of parts for resale, shall not be included in the terms "to manufacture" and "manufacturing."

(c) "Remanufacturing" embraces activities of an industrial or commercial nature wherein labor or skill is applied by hand or

machinery to materials, a portion of which may belong to the customer, so that rebuilt articles of tangible personal property, comparable in quality to new articles of the same property, are created, a majority of the value of which is produced by the remanufacturing activity.

(d) "Custom processor" means one who is exclusively or predominately engaged in the business of custom processing or remanufacturing as defined under the terms "custom processing" and "remanufacturing."

(e) "Custom processing" means the performance of a manufacturing service done or made to order upon the property of the customer and shall include laundering, cleaning and pressing, but shall not include "repairs" or "maintenance" as these terms are defined herein; nor self-service commercial laundering, drying, cleaning and pressing equipment.

(f) "Manufacturing machinery" shall mean and include that machinery owned or leased by a manufacturer or custom processor for use by said manufacturer or custom processor in his plant directly and exclusively in manufacturing tangible personal property for subsequent sale, rental or in custom processing for a fee. Motorized units, conveyors, track and track structures, conduits, and similar items for use in transporting the unfinished product from storage or from one phase of the manufacturing process to another may be classed as "manufacturing machinery."

"Manufacturing machinery" shall also include laboratory machinery which shall include X-ray machines and film, scales, chemical equipment, pressure and tensile analysis machines and similar equipment to determine the quality of the product in process of manufacture, and equipment used in the processing of waste materials to avoid air and water pollution, but only when located at the manufacturer's plant site.

Machinery used by a manufacturer to move, repair, clean, alter, improve, or otherwise recondition, rail rolling stock for sale or rental shall likewise constitute "manufacturing machinery."

"Manufacturing machinery" shall also include machinery and equipment used in the production of motion pictures such as editing equipment, audio equipment, lighting equipment, projection equipment, camera equipment, sound equipment, cables, computer equipment used in the editing process, computer equipment used in the creation of special effects, and computer equipment used in the graphic and animation process. For the purposes of this paragraph the term "motion picture" means a nationally distributed feature-length film, video, television series or commercial made in Mississippi, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section

97-29-103. Manufacturing machinery used in the production of motion pictures shall not be limited to a plant site.

"Manufacturing machinery" shall not include machinery for use in the hatching of baby chicks, the severance of timber, sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, maintenance or repair machinery, research laboratory machinery, storage warehouse machinery, equipment for protection of the plant or comfort of the personnel, or other equipment and supplies of like character. "Manufacturing machinery" does not include machine foundations or materials for their construction.

(g) "Machine parts" are component parts of manufacturing machinery and do not include parts for service equipment, nonmanufacturing machinery, fuels, lubricants, paints, or tools for maintenance.

(h) "Manufacturing plant" means the real and personal property owned or leased by a manufacturer which is assembled and used at a fixed location to perform activities defined as "manufacturing."

(i) "Repair," "repairs," or "maintenance" means the restoring of property in some measure to its original condition, which may involve the use of either personal property or labor or both, but, for the purposes of this chapter, the total charge for the service shall constitute gross income taxable in the class in which it falls.

(j) "Producer" means any person producing natural resource products or agricultural or horticultural products from the soil or water for sale.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 26, 2013

Philip Gunn
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 19, 2013

Tate Reeves
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant
GOVERNOR

3/27/13

2:15 pm