

Exhibit T

Laws 1985, Chapter 351 (S.B. 2876)

person, as the case may be), _____ a member of his (or her) family above the age of sixteen (16) years, and willing to receive such copy. The said property owner is not found in my municipality.

"This, the ____ day of _____ A.D. ____.

_____(police officer)"

(c) Form of return when property owner not found within municipality and is a nonresident thereof:

"I have this day attempted to deliver the within notice to _____, the within named property owner, and after diligent search and inquiry, I failed to find the said property owner within my municipality, nor could I ascertain the location of any residence of the property owner within my municipality.

"This, the ____ day of _____ A.D. ____.

_____(police officer)"

(d) The first mode of notice should be made, if it can be; if not, then the second mode should be made, if it can be; and the return of the second mode of service must negate the officer's ability to make the first. If neither the first nor second mode of service can be made, then the third mode should be made, and the return thereof must negate the officer's ability to make both the first and second. In the event the third mode of service is made, then service shall also be made by publication as provided in subsection (1) of this section.

(4) The officer shall mark on all notices the day of the receipt thereof by him, and he shall return the same on or before the day of the hearing, with a written statement of his proceedings thereon. For failing to note the time of the receipt of notice or for failing to return the same, the officer shall forfeit to the party aggrieved the sum of Twenty-five Dollars (\$25.00).

SECTION 2. This act shall take effect and be in force from and after July 1, 1985.

Approved: March 19, 1985

CHAPTER 351 SENATE BILL NO. 2876

AN ACT TO INCREASE CERTAIN TAXES TO PROVIDE REVENUES TO FUND SALARY INCREASES FOR TEACHERS AND STATE EMPLOYEES AND TO FUND OTHER NEEDS OF STATE GOVERNMENT; TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO INCREASE TO 1-1/2% THE TAX ON SALES OF MANUFACTURING MACHINERY OR MANUFACTURING MACHINE PARTS AND TO IMPOSE A 3% WHOLESALE SALES TAX ON SOFT DRINKS AND SYRUP WITH NO CREDIT TO THE RETAILER; TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO INCREASE TO 1-1/2% THE INDUSTRIAL AND RAILROAD FUEL TAX RATE; TO AMEND SECTION 27-65-21, MISSISSIPPI CODE OF 1972, TO INCREASE THE CONTRACTOR'S TAX TO 3-1/2%; TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972, TO IMPOSE A 6% SALES TAX ON COMPUTER SOFTWARE SALES AND SERVICES; TO AMEND SECTION 27-69-3, MISSISSIPPI CODE OF 1972, TO DEFINE "MANUFACTURER'S LIST PRICE" FOR TOBACCO PRODUCTS AND TO REVISE THE DEFINITION OF CERTAIN OTHER TERMS; TO AMEND SECTIONS 27-69-5 AND 27-69-7, MISSISSIPPI CODE OF 1972, TO ELIMINATE THE TOBACCO LICENSE TAX AND PERMIT ON RETAILERS AND TO REVISE SUCH LICENSE TAX; TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE TAX ON CIGARETTES AND TO REVISE THE EXCISE TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES; TO AMEND SECTIONS 27-69-15 AND 27-69-17, MISSISSIPPI CODE OF 1972, TO ELIMINATE THE AFFIXING OF STAMPS TO ALL TOBACCO EXCEPT CIGARETTES;

TO AMEND SECTION 27-69-27, MISSISSIPPI CODE OF 1972, TO REQUIRE FILING OF RETURNS TO PAY TOBACCO EXCISE TAXES; TO AMEND SECTIONS 27-69-9, 27-69-33, 27-69-35, 27-69-37, 27-69-41, 27-69-47, 27-69-49, 27-69-51, 27-69-53, 27-69-55 AND 27-69-57, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE FOREGOING PROVISIONS; TO REPEAL SECTION 27-69-29, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CANCELLATION OF STAMPS AFFIXED TO TOBACCO CONTAINERS; TO REPEAL SECTION 27-69-45, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES FINES FOR VIOLATING CERTAIN PROVISIONS OF "THE TOBACCO TAX LAW"; TO AMEND SECTION 27-71-11, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE STATE TAX COMMISSION ADD A MARKUP TO THE COST OF ALL ALCOHOLIC BEVERAGES; TO AMEND SECTION 27-71-307, MISSISSIPPI CODE OF 1972, TO INCREASE THE EXCISE TAX ON BEER AND LIGHT WINE; TO IMPOSE A 3% SALES AND USE TAX ON SALES OF MOTOR VEHICLES BETWEEN PERSONS WHO ARE NOT LICENSED DEALERS; TO PROVIDE A CHECKOFF ON THE INDIVIDUAL INCOME TAX FORM TO ALLOW TAXPAYERS TO VOLUNTARILY CONTRIBUTE A PORTION OF THEIR TAX REFUND INTO AN EDUCATIONAL TRUST FUND; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO REVISE THE SCALE OF TEACHERS' SALARIES UNDER THE MINIMUM EDUCATION PROGRAM BY INCREASING ALL BASE SALARIES IN EACH OF THREE CONSECUTIVE SCHOOL YEARS AND TO PLACE CERTAIN CONDITIONS ON STATE-FUNDED SALARY INCREASES ABOVE THE 1986-1987 SCHOOL YEAR; TO AMEND SECTION 37-19-21, MISSISSIPPI CODE OF 1972, TO INCREASE THE ALLOTMENT OF FUNDS UNDER THE MINIMUM EDUCATION PROGRAM FOR USE IN SUPPORTIVE SERVICES AND TO PROVIDE THAT LOCAL SCHOOL DISTRICT CONTRIBUTIONS TO GROUP INSURANCE PREMIUMS SHALL NOT BE DIVERTED FROM TEACHER SALARY AMOUNTS AS A CONDITION TO QUALIFYING FOR AN ADDITIONAL ALLOTMENT OF SUPPORTIVE SERVICES FUNDS; TO PROHIBIT STRIKES BY TEACHERS, GROUPS OF TEACHERS AND TEACHER ORGANIZATIONS AGAINST ANY PUBLIC SCHOOL DISTRICT; TO PROVIDE CRIMINAL SANCTIONS AGAINST LOCAL SCHOOL GOVERNING BOARDS OR ADMINISTRATORS WHO VIOLATE CERTAIN ANTI-STRIKE MEASURES; TO PROVIDE FOR THE ISSUANCE OF AN INJUNCTION TO ENJOIN SUCH STRIKES BY THE CHANCERY COURT AND TO PROVIDE PENALTIES FOR CONTEMPT; TO PROVIDE FOR THE TERMINATION OF THE EMPLOYMENT OF A STRIKING TEACHER AND TO PROVIDE THAT NO TEACHER MAY BE REEMPLOYED UNLESS THE COURT FINDS A PUBLIC NECESSITY THEREFOR; TO EXTEND SAID ANTI-STRIKE PROVISIONS TO OTHER PUBLIC EMPLOYEES AND PUBLIC EMPLOYERS; 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. 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 six percent (6%) of the gross proceeds of the retail sales of the business, except as otherwise provided herein.

Retail sales of farm tractors shall be taxed at the rate of one percent (1%) when made to farmers for agricultural purposes. Retail sales of other self-propelled farm implements, or farm implements used as attachments to or drawn by a tractor, or implements which are drawn by animals, when made to farmers for agricultural purposes shall be taxed at the rate of three percent (3%). The three percent (3%) rate shall also apply to retail sales of brooders, feeders and waterers to chicken farmers for use in chicken houses to produce poultry for the market, sales of mechanical and gravity feeders and waterers to livestock producers and sales of mechanical milking machines, milk tanks and coolers used in the production of milk for sale. All self-propelled equipment used in logging, pulpwood operations or tree farming shall be taxed at the rate of three percent (3%).

Retail sales of aircraft, automobiles, trucks, truck-tractors and mobile homes shall be taxed at the rate of three percent (3%).

Sales of manufacturing machinery or manufacturing machine parts when made to a manufacturer or custom processor for plant use only when said 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%).

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%).

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%).

Wholesale sales of beer and motor fuel shall be taxed at the rate of six percent (6%), 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.

Wholesale sales of soft drinks and syrup shall be taxed at the rate of three percent (3%) with no credit allowed the retailer on the retail tax return for the amount of the tax paid to the wholesaler.

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.

Any person exercising any privilege taxable under Section 27-65-15 and selling his natural resource products at wholesale or to exempt persons shall pay the tax levied by said section in lieu of the tax levied by this section.

SECTION 2. Section 27-65-19, Mississippi Code of 1972, is amended as follows:

27-65-19. (1) Upon every person selling to consumers, electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel, there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the gross income of the business. Provided, gross income from sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use, and sales of potable water for residential, noncommercial or nonagricultural use shall be excluded from taxable gross income of the business. Provided further, upon every such seller using electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel for nonindustrial purposes, there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the cost or value of the product or service used. Provided further, that there is hereby levied, assessed and shall be collected a tax equal to one and one-half percent (1-1/2%) of the gross income of the business when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to or used by a manufacturer, custom processor or public service company for industrial purposes, which shall include that used to generate electricity, to operate an electrical distribution or transmission system, to operate pipeline compressor or pumping stations or to operate railroad locomotives.

The one and one-half percent (1-1/2%) industrial rate provided herein shall also apply when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to a producer or processor for use directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of plants or food by commercial horticulturists, the processing of milk and milk products, the processing of poultry and livestock feed, and the irrigation of farm crops.

This one and one-half percent (1-1/2%) rate shall not apply to sales of fuel for automobiles, trucks, truck-tractors, buses, farm tractors or airplanes.

Upon every person operating a telegraph or telephone business for the transmission of messages or conversations between points within this state, there is hereby levied, assessed and shall be collected, a tax equal to six percent (6%) of the gross income of such business, with no deduction or allowance for any part of an intrastate rate charge because of routing across a state line.

(2) Persons making sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use or sales of potable water for residential, noncommercial or nonagricultural use shall indicate on each statement rendered to customers that such charges are exempt from sales taxes.

SECTION 3. Section 27-65-21, Mississippi Code of 1972, is amended as follows:

27-65-21. (1) Upon every person engaging or continuing in this state in the business of contracting or performing a contract or engaging in any of the activities, or similar activities, listed below for a price, commission, fee or wage, there is hereby levied, assessed and shall be collected a tax equal to three and one-half percent (3-1/2%) of the total contract price or compensation received from constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, drainage or dredging system, levee or levee system or any part thereof, railway, reservoir, dam, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, dock, storage tank, wharf, excavation, grading, water well, any other improvement or structure or any part thereof when the compensation received exceeds Ten Thousand Dollars (\$10,000.00). Such activities shall not include constructing, repairing or adding to property which retains its identity as personal property. The tax imposed in this section is levied upon the prime contractor and shall be paid by him.

Amounts included in the contract price or compensation received representing the sale of manufacturing or processing machinery for a manufacturer or custom processor shall be taxed at the rate of one and one-half percent (1-1/2%) in lieu of the three and one-half percent (3-1/2%).

Provided, however, there shall be excluded from the tax levied by this section the contract price or compensation received for constructing, building, erecting, repairing or adding to any building, electrical system, air conditioning system, heating system or any other improvement or structure which is used for or primarily in connection with a residence or dwelling place for human beings. Such residences shall include homes, apartment buildings, condominiums, mobile homes, summer cottages, fishing and hunting camp buildings and similar buildings, but shall not include hotels, motels, hospitals, nursing or retirement homes, tourist cottages or other commercial establishments.

Sales of materials and services for use in the activities hereby excluded from taxes imposed by this section shall be subject to taxes imposed by other sections in this chapter.

The exclusion provided in this subsection shall apply to construction contracts entered into on or after July 1, 1983.

(2) Upon every person engaging or continuing in this state in the business of contracting or performing a contract or redrilling, or working over, or of drilling an oil well or a gas well, regardless of whether such well is productive or nonproductive, for any valuable consideration, there is hereby levied, assessed and shall be collected a tax equal to three and one-half percent (3-1/2%) of the total contract price or compensation received when such compensation exceeds Ten Thousand Dollars (\$10,000.00).

The words, terms and phrases as used in this subsection shall have the meaning ascribed to them as follows:

"Operator" — One who holds all or a fraction of the working or operating rights in an oil or gas lease, and is obligated for the costs of production either as a fee owner or under a lease or any other form of contract creating working or operating rights.

"Bottom-hole contribution" — Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. The contribution is payable whether the well is productive or nonproductive.

"Dry-hole contribution" — Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. Such contribution is payable only in the event the well is found to be nonproductive.

"Turnkey drilling contract" — A contract for the drilling of a well which requires the driller to drill a well and, if commercial production is obtained, to equip the well to such stage that the lessee or operator may turn a valve and the oil will flow into a tank.

"Total contract price or compensation received" — As related to oil and gas well contractors, shall include amounts received as compensation for all costs of performing a turnkey drilling contract; amounts received or to be received under assignment as dry-hole money or bottom-hole money; and shall mean and include anything of value received by the contractor as remuneration for services taxable hereunder. When the kind and amount of compensation received by the contractor is contingent upon production, the taxable amount shall be the total compensation receivable in the event the well is a dry hole. The taxable amount in the event of production when the contractor receives a production interest of an undetermined value in lieu of a fixed compensation shall be an amount equal to the compensation to the contractor if the well had been a dry hole.

(3) When the work to be performed under any contract is sublet by the prime contractor to different persons, or in separate contracts to the same persons, each such subcontractor performing any part of said work shall be liable for the amount of the tax which accrues on account of the work performed by such person when the tax heretofore imposed has not been paid upon the whole contract by the prime contractor.

When a person engaged in any business on which a tax is levied in Section 27-65-23, Mississippi Code of 1972, also qualifies as a contractor, and contracts with the owner of any project to perform any services in excess of Ten Thousand Dollars (\$10,000.00) herein taxed, such person shall pay the tax imposed by this section in lieu of the tax imposed by Section 27-65-23, Mississippi Code of 1972.

Any person entering into any contract over Seventy-five Thousand Dollars (\$75,000.00) as defined in this section shall, before beginning the performance of such contract or contracts, either pay the contractors' tax in advance, together with any use taxes due under Section 27-67-5, Mississippi Code of 1972, or execute and file with the Chairman of the State Tax Commission a good and valid bond in a surety company authorized to do business in this state, or with sufficient sureties to be approved by the commissioner conditioned that all taxes which may accrue to the State of Mississippi under this chapter, or under Section 27-67-5 and Section 27-7-5, Mississippi Code of 1972, will be paid when due. Such bonds shall be either (a) "job bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities taxable under this section begun during the period specified therein, regardless of date of completion. The payments of the taxes due or the execution and filing of a surety bond shall be a condition precedent to the commencing work on any contract taxed hereunder. Provided, that when any bond is filed in lieu of the prepayment of the tax under this section,

that the tax shall be payable monthly on the amount received during the previous month, and any use taxes due shall be payable on or before the twentieth day of the month following the month in which the property is brought into Mississippi.

Any person failing either to execute any bond herein provided, or to pay the taxes in advance, before beginning the performance of any contract shall be denied the right to perform such contract until he complies with such requirements, and the commissioner is hereby authorized to proceed either under Section 27-65-59, Mississippi Code of 1972, or by injunction to prevent any activity in the performance of such contract until either a satisfactory bond is executed and filed, or all taxes are paid in advance, and a temporary injunction enjoining the execution of such contract shall be granted without notice by any judge or chancellor now authorized by law to grant injunctions.

Any person liable for a tax under this section may apply for and obtain a material purchase certificate from the commissioner which may entitle the holder to purchase materials and services that are to become a component part of the structure to be erected or repaired with no tax due. Provided, that the contractor applying for the contractor's material purchase certificate shall furnish the State Tax Commission a list of all work sublet to others, indicating the amount of work to be performed, and the names and addresses of each subcontractor.

SECTION 4. Section 27-65-23, Mississippi Code of 1972, is amended as follows:

27-65-23. Upon every person engaging or continuing in any of the following businesses or activities there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the gross income of the business, except as otherwise provided:

Air conditioning installation or repairs;

Automobile, aircraft, motorcycle, boat or any other vehicle repairing or servicing;

Billiards, pool, or domino parlors;

Bowling or tenpin alleys;

Burglar and fire alarm systems or services;

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

Computer software sales and services;

Cotton compresses or cotton warehouses;

Custom creosoting or treating, custom planing, custom sawing;

Custom meat processing;

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

Elevator or escalator installing, repairing or servicing;

Film developing or photo finishing;

Foundries, machine or general repairing;

Furniture repairing or upholstering;

Grading, excavating, ditching, dredging or landscaping;

Hotels, motels, tourist courts or camps, trailer parks;

Insulating services or repairs;

Jewelry or watch repairing;

Laundrying, cleaning, pressing or dyeing;

Marina services;

Mattress renovating;

Office and business machine repairing;

Parking garages and lots;

Plumbing or pipe fitting;

Public storage warehouses;

Refrigerating equipment repairs;

Radio or television installing, repairing, or servicing;

Renting or leasing personal property used within this state;

Services performed in connection with geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of oil, gas, water and other mineral resources;

Shoe repairing;

Storage lockers;

Telephone answering or paging services;

Termite or pest control services;

Tin and sheet metal shops;

TV cable systems;

Vulcanizing, repairing or recapping of tires or tubes;

Welding; and

Woodworking or wood turning shops.

There is hereby levied, assessed and shall be collected a tax of Fifteen Cents (15¢) per bale of cotton ginned for the privilege of operating any cotton gin, regardless of gin ownership or ownership of cotton ginned or any charge made or not made for the service.

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

Income from services taxed herein performed on materials for use in track or 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%).

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

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

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

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

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

SECTION 5. Section 27-69-3, Mississippi Code of 1972, is amended as follows:

27-69-3. When used in this chapter:

(a) The word "state" shall mean the State of Mississippi as geographically defined, and any and all waters under the jurisdiction of the State of Mississippi.

(b) The words "State Auditor" shall mean the Auditor of Public Accounts of the State of Mississippi, or his legally appointed deputy, clerk, or agent.

(c) The word "commissioner" shall mean the Chairman of the State Tax Commission of the State of Mississippi, and his authorized agents and employees.

(d) The word "person" shall mean any individual, company, corporation, partnership, association, joint venture, estate, trust, or any other group, or combination acting as a unit, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

(e) The word "consumer" shall mean a person who comes into possession of tobacco for the purpose of consuming it, giving it away, or disposing of it in any way by sale, barter or exchange.

(f) The word "tobacco" shall mean any cigarettes, cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco, or substitutes therefor, prepared in such manner as to be suitable for smoking in a pipe or cigarette) and including plug and twist chewing tobacco and snuff, when such "tobacco" is manufactured and prepared for sale or personal consumption. All words used herein shall be given the meaning as defined in the regulations of the Treasury Department of the United States of America.

(g) The words "first sale" shall mean and include the first sale, or distribution of such tobacco in intrastate commerce, or the first use or consumption of such tobacco within this state.

(h) The words "drop shipment" shall mean and include any delivery of tobacco received by any person within this state, when payment for such tobacco is made to the shipper, or seller by or through a person other than a consignee.

(i) The word "distributor" shall include every person, except retailers as defined herein, in the state who manufactures or produces tobacco or who ships, transports, or imports into this state, or in any manner acquires or possesses tobacco, and makes a first sale of the same in the state.

(j) The word "wholesaler" shall include dealers, whose principal business is that of a wholesale dealer or jobber, who is known to the retail trade as such, and whose place of business is located in Mississippi or in a state which affords reciprocity to wholesalers domiciled in Mississippi, who shall sell any taxable tobacco to retail dealers only for the purpose of resale.

(k) The word "retailer" shall include every person, other than a wholesale dealer, as defined above, whose principal business is that of selling merchandise at retail, who shall sell, or offer for sale tobacco to the consumer. The sale of tobacco in quantity lots by retailers to other retailers, transient vendors, or other persons, shall not be construed as wholesale and shall not qualify such retailer for a permit as a wholesaler.

(l) The word "dealer" shall include every person, firm, corporation or association of persons, except retailers as defined herein, who manufacture tobacco for distribution, for sale, for use or for consumption in the State of Mississippi.

The word "dealer" is further defined to mean any person, firm, corporation or association of persons, except retailers as defined herein, who imports tobacco from any state or foreign country for distribution, sale, use, or consumption in the State of Mississippi.

(m) The words "distributing agent" shall include every person in the state who acts as an agent of any person outside the State of Mississippi, by receiving tobacco in interstate commerce, and storing such tobacco in this state subject to distribution, or delivery upon order from said person outside the state to distributors, wholesalers, retailers and dealers.

(n) The words "transient vendor" shall mean and include every person commonly and generally termed "peddlers" and every person acting for himself, or as an agent, employee, salesman, or in any capacity for another, whether as owner, bailee, or other custodian of tobacco, and going from person to person, dealer to dealer, house to house, or place to place, and selling or offering for sale at retail or wholesale tobacco, and every person who does not keep a regular place of business open at all times in regular hours, and every person who goes from person to person, dealer to dealer, house to house, or place to place, and sells or offers for sale tobacco which he carries with him, and who delivers the same at the time of, or immediately after the sale, or without returning to the place of business operations (a permanent place of business within the state) between the taking of the order and the delivery of the tobacco, or

All persons who go from person to person, house to house, place to place, or dealer to dealer, soliciting orders by exhibiting samples, or taking orders, and thereafter making delivery of tobacco, or filling the order without carrying or sending the order to the permanent place of business, and thereafter making delivery of the tobacco pursuant to the terms of the order, or

All persons who go from person to person, place to place, house to house, or dealer to dealer, carrying samples and selling tobacco from samples, and afterwards making delivery

without taking and sending an order therefor to a permanent place of business for the filling of the order, and delivery of the tobacco, or the exchange of tobacco having become damaged or unsalable, or the purchase by tobacco of advertising space, or

All persons who have in their possession, or under their control, any tobacco offered, or to be offered for sale or to be delivered, unless the sale or delivery thereof is to be made in pursuance of a bona fide order for the tobacco, to be sold or delivered, said order to be evidenced by an invoice or memorandum.

(o) The words "contraband tobacco" shall mean all tobacco found in the possession of any person whose permit to engage in dealing in tobacco has been revoked by the commissioner; and any cigarettes found in the possession of any person to which the proper tax stamps have not been affixed; and any cigarettes improperly stamped when found in the possession of any person; and all other tobacco upon which the excise tax has not been paid.

(p) The word "sale" means an exchange for money or goods, giving away, or distributing any tobacco as defined in this chapter.

(q) The words "forty-eight (48) hours" and "seventy-two (72) hours" shall mean two (2) calendar days and three (3) calendar days, respectively, excluding Sundays and legal holidays.

(r) The word "stamp" or "stamping," or the import of such word, when used in this chapter, shall mean any manner of stamp or impression permitted by the commissioner that carries out the purposes of the chapter in clearly indicating upon the packages of cigarettes taxed the due payment of the tax.

(s) "Manufacturer's list price" shall mean the full sales price at which tobacco is sold or offered for sale by a manufacturer to the wholesaler or distributor in this state without any deduction for freight, trade discount, cash discounts, special discounts or deals, cash rebates, or any other reduction from the regular selling price. In the event freight charges on shipments to wholesalers or distributors are not paid by the manufacturer, then such freight charges required to be paid by the wholesalers and distributors shall be added to the amount paid to the manufacturer in order to determine "manufacturer's list price." In the case of a wholesaler or distributor whose place of business is located outside this state, the "manufacturer's list price" for tobacco sold in this state by such wholesaler or distributor shall in all cases be considered to be the same as that of a wholesaler or distributor located within this state.

SECTION 6. Section 27-69-5, Mississippi Code of 1972, is amended as follows:

27-69-5. Every distributor, wholesaler or dealer who desires to become engaged in the sale or use of tobacco upon which a tax is required to be paid shall file with the commissioner an application for a permit to engage in such business. The application for a permit shall be filed on blanks to be furnished by the commissioner for that purpose. The application must be subscribed and sworn to by the person owning the business, or having an ownership interest therein. If the applicant is a corporation, a duly authorized agent shall execute the application. The application shall show the name of such person, and in case of partnership, the name of each partner thereof, the person's post office address, the location of the place of business to which the permit shall apply, and the nature of the business in which engaged, and any other information the commissioner may require. No distributor, wholesaler or dealer shall sell any tobacco until such application has been filed, the prescribed permit fee paid, and the permit obtained. Said permit shall expire twelve (12) months from date of issuance, or from the expiration date of the permit previously issued, but may be renewed upon like application, and upon payment of the permit fee.

An application shall be filed, and a permit obtained for each place of business owned or operated by each distributor, wholesaler or dealer.

Upon receipt of the application and permit fee hereinafter provided for, the commissioner may issue to every distributor, wholesaler or dealer, for the place of business designated, a nonassignable permit, authorizing the sale or use of tobacco in the state. Said permit shall provide that the same is revocable, and shall be forfeited, or suspended upon violation of any provision of this chapter, or any rule or regulation adopted by the commissioner. If such permit is revoked or suspended, said distributor, wholesaler or dealer shall not sell any tobacco from such place of business until a new permit is granted, or the suspension of the old permit removed.

A permit cannot be transferred from one person to another, and the permit shall at all times be publicly displayed by the distributor, wholesaler or dealer in his place of business so as to be seen easily by the public. A permit may be refused to any person previously convicted of violations of this chapter.

SECTION 7. Section 27-69-7, Mississippi Code of 1972, is amended as follows:

27-69-7. In addition to the excise tax on each person selling, using, consuming, handling or distributing tobacco as hereinafter provided, it is hereby made the duty of the commissioner to collect a privilege tax of One Hundred Dollars (\$100.00) for each permit issued to every distributor, wholesaler or dealer doing business in this state.

Foreign manufacturers, wholesalers, or distributors may secure a permit from the commissioner, upon the payment of a fee of One Hundred Dollars (\$100.00), and shall agree in an application sworn to and certified, that the excise tax shall be paid on all shipments of taxable tobacco into the State of Mississippi, that the required tax stamps shall be affixed to cigarettes, and that the commissioner, or his authorized agent, shall be permitted to inspect and audit their records of tobacco shipments into the State of Mississippi at any and all reasonable times.

It is further provided that any person who engages in any business for which a permit is required by this chapter, before procuring a permit, or after the permit is cancelled, shall be guilty of a misdemeanor, and punishable by a fine of not exceeding Five Hundred Dollars (\$500.00), nor less than Fifty Dollars (\$50.00).

SECTION 8. Section 27-69-9, Mississippi Code of 1972, is amended as follows:

27-69-9. In addition to the penalties imposed in this chapter, after the second offense for any violation, the commissioner shall revoke any permit which may have been issued to any person, or persons, violating any provisions of this chapter, or any rules or regulations promulgated by the commissioner under authority of this chapter, after giving such person ten (10) days' notice in writing of his intention to revoke such permit. Any person whose permit shall have been revoked by the commissioner shall thereafter be prohibited from exercising any privileges taxable under the provisions of this chapter.

The commissioner, in the event a permit is revoked, is required to notify by letter, all manufacturers, wholesalers and distributors having a permit required by this chapter, that such permit has been revoked, and such manufacturer, wholesaler and distributor is henceforth prohibited from selling taxable tobacco to such dealer.

The commissioner may, however, for good cause shown, reinstate such permit upon the filing of a bond with the commissioner, in the amount not to exceed One Thousand Dollars (\$1,000.00), which bond must be signed by two (2) persons in addition to the party whose permit has been revoked, and such bond must be approved by the clerk of the circuit court of the county in which the persons signing the bond are domiciled, and upon such other conditions as the commissioner may prescribe.

SECTION 9. Section 27-69-13, Mississippi Code of 1972, is amended as follows:

27-69-13. There is hereby imposed, levied and assessed, to be collected and paid as hereinafter provided in this chapter, an excise tax on each person or dealer in cigarettes, cigars, stogies, snuff, chewing tobacco, and smoking tobacco, or substitutes therefor, upon the sale, use, consumption, handling or distribution in the State of Mississippi, as follows:

(a) On cigarettes, the rate of tax shall be Eighteen-twentieths of One Cent ($18/20$ of 1¢) on each cigarette sold with a maximum length of one hundred twenty (120) millimeters; any cigarette in excess of this length shall be taxed as if it were two (2) or more cigarettes. Provided, however, if the federal tax rate on cigarettes in effect upon the passage of Senate Bill No. 2876, 1985 Regular Session, is reduced, then the rate as provided herein shall be increased by the amount of the federal tax reduction. Such tax increase shall take effect on the first day of the month following the effective date of such reduction in the federal tax rate.

(b) On cigars, cheroots, stogies, snuff, chewing and smoking tobacco and all other tobacco products except cigarettes, the rate of tax shall be fifteen percent (15%) of the manufacturer's list price.

No stamp evidencing the tax herein levied on cigarettes shall be of a denomination of less than One Cent (1¢), and whenever the tax computed at the rates herein prescribed on cigarettes shall be a specified amount, plus a fractional part of One Cent (1¢), the package shall be stamped for the next full cent; however, the additional face value of stamps purchased to comply with taxes imposed by this section after June 1, 1985, shall be subject to a four percent (4%) discount or compensation to dealers for their services rather than the eight percent (8%) discount or compensation allowed by Section 27-69-31.

Every wholesaler shall purchase stamps as provided in this chapter, and affix the same to all packages of cigarettes handled by him as herein provided.

The above tax is levied upon the sale, use, gift, possession, or consumption of tobacco within the State of Mississippi, and the impact of the tax levied by this chapter is hereby declared to be on the vendee, user, consumer, or possessor of tobacco in this state; and when said tax is paid by any other person, such payment shall be considered as an advance payment and shall thereafter be added to the price of the tobacco and recovered from the ultimate consumer or user.

SECTION 10. Section 27-69-15, Mississippi Code of 1972, is amended as follows:

27-69-15. Any retailer, transient vendor, distributing agent, salesman, or other dealer who shall receive any cigarettes other than from a wholesaler having a permit as herein provided, and not having the necessary stamps already affixed, shall, after the receipt of such cigarettes, within the time limit herein provided, present the same to some wholesaler having such permit, for the affixing of the stamps required, and it shall be the duty of such wholesaler, thereupon and upon the payment to him by such retailer of the face value of the stamps required, to affix the stamps to said cigarettes in the same manner as if the cigarettes were handled and sold by such wholesaler, provided, that such wholesaler, before affixing the stamps, shall require of the retailer, transient vendor, distributing agent, salesman, or other dealer, the original invoice for the cigarettes to be stamped, and such wholesaler shall in each instance note upon the invoice, the denominations and number of stamps affixed to the cigarettes covered by said invoice, the notation to be made in ink, or other manner not easy to erase, at the time the stamps are affixed.

It is further provided that, in addition hereto, the wholesaler shall keep a separate record of all stamps affixed to taxable cigarettes presented by retailers, transient vendors, distributing agents, salesmen, or other dealers, showing the name of the retailer, transient vendor, distributing agent, salesman, or other dealer, name of the shipper, date of shipper's invoice, the date stamps were affixed, denomination of stamps affixed, and total value of stamps affixed.

When the request is made to any wholesaler in this state by a retailer, transient vendor, distributing agent, salesman, or other dealer in this state, said request being duly and seasonably made for the affixing of stamps, and the request is accompanied by proper remittance and invoice, and such wholesaler refuses to affix the stamps to cigarettes as requested, said wholesaler shall forfeit to the state a penalty of Twenty-five Dollars (\$25.00) for each offense, the same to be collected by the commissioner and, in addition thereto, in the discretion of the commissioner, forfeit his permit to handle stamps. In the event of such refusal on the part of any wholesaler to affix stamps said retailer, transient vendor, distributing agent, salesman, or other dealer may make application to the commissioner for stamps to be placed on the cigarettes upon which the wholesaler refused to affix the stamps, said application to be accompanied by an affidavit from the retailer, transient vendor, distributing agent, salesman, or other dealer, or some other credible person, setting forth the facts, whereupon the commissioner may issue and sell to such retailer, transient vendor, distributing agent, salesman, or other dealer, a sufficient number of stamps to be affixed to the cigarettes.

Stamps shall not be affixed to any cigarettes except by a wholesale dealer having a permit, except as otherwise provided in this chapter.

Stamps shall not be required to be affixed to any cigarettes while the same is in interstate commerce.

Any person who receives cigars, smoking tobacco, chewing tobacco, snuff or any other tobacco products except cigarettes from anyone other than a wholesaler having a tobacco permit issued by this state and the excise tax on the tobacco received has not been paid, shall compute the excise tax due the State of Mississippi at the rate prescribed herein on forms furnished by the commissioner for that purpose. Such report shall be accompanied by the remittance for the tax due and shall be filed with the commissioner within forty-eight (48) hours after receipt of the tobacco by such person.

In no case shall the provisions of this chapter be construed to require the payment of a tax upon any tobacco upon which the tax herein levied has once been paid to the state.

SECTION 11. Section 27-69-17, Mississippi Code of 1972, is amended as follows:

27-69-17. Any distributor engaged in manufacturing tobacco products in this state shall not be required to affix stamps to manufactured cigarette products before delivery to wholesalers qualified to affix stamps under the provisions of this chapter, but shall affix the required stamps to any taxable cigarettes delivered to retailers or consumers.

SECTION 12. Section 27-69-27, Mississippi Code of 1972, is amended as follows:

27-69-27. The payment of the tax imposed by this chapter shall be evidenced by affixing stamps to each individual package of cigarettes usually sold to consumers, as distinguished from cartons or larger units which are composed of a number of individual packages.

The stamp shall be affixed within seventy-two (72) hours after the receipt of the cigarettes by the wholesaler, and within forty-eight (48) hours after receipt of the cigarettes by the retailer; provided, that in the case a dealer conducts a wholesale and retail business at one (1) place of business, stamps shall be affixed within forty-eight (48) hours after receipt of the cigarettes. The stamp must be so securely affixed as to require the continued application of water or of steam to remove it, or so that it cannot be otherwise removed without destruction or mutilation.

The excise tax imposed on cigars, smoking tobacco, chewing tobacco, snuff and all other tobacco products except cigarettes shall be computed by the application of the excise tax rate to the manufacturer's list price on all purchases of such tobacco. The excise tax shall be due and payable on or before the fifteenth day of the month next succeeding the month in which

the tax accrues. The tax shall be filed with the commissioner on forms prescribed by the commissioner.

Provided, however, manufacturers or other wholesale distributors of tobacco, which are subject to the excise taxes imposed by Section 27-69-13 of this chapter for the privilege of selling or using such tobaccos within this state, who maintain "terminals" or warehouses in which such tobaccos are stored, and who sell only to licensed wholesale dealers within the state who are qualified to purchase and affix the stamps required, may maintain such "spot stocks," intended only for such sales, without affixing the stamps or filing returns and paying the tax.

Any person desiring to maintain such "terminal" or warehouse, shall make application to the commissioner and obtain a permit to maintain such stocks without affixing stamps thereto, for sale exclusively to out-of-state purchasers, or licensed wholesale dealers within this state, and the commissioner is hereby authorized to grant such permit upon the execution and filing with the commissioner, by the applicant, a bond with surety companies, authorized to do business in Mississippi, as surety thereon, and conditioned for the strict compliance by the applicant, with the following conditions under which said privilege may be granted.

The person maintaining such stock of untaxed tobacco shall supply to the commissioner monthly, or at such times as the commissioner may require, complete invoices of all tobaccos received, and shall also supply correct invoices of all tobaccos removed from such "terminal" or warehouse, said invoices to contain the correct name and address of all persons to whom such tobacco shall be delivered or consigned, whether within or without the State of Mississippi.

The penalty of such bond shall be determined by the commissioner, in an amount sufficient to protect the State of Mississippi from any loss of revenue which might occur by reason of the failure of principal to strictly adhere to the requirement that no tobacco would be sold from such stock within the State of Mississippi, except to licensed wholesale dealers.

SECTION 13. Section 27-69-33, Mississippi Code of 1972, is amended as follows:

27-69-33. Manufacturers, distributors and wholesalers of cigars, cigarettes or smoking tobacco subject to the tax under this chapter, doing both intrastate and interstate business in such tobacco, must qualify as interstate dealers in such tobacco by applying to the commissioner for permission to engage in such business, and, upon receipt of such permission, he shall be permitted to set aside such part of his stock as may be absolutely necessary for the conduct of such interstate business, without affixing the stamps to cigarettes required by this chapter. Said interstate stock shall be kept in an entirely separate part of the building, separate and apart from intrastate stock, and the said interstate business shall be conducted by the said wholesale dealer in accordance with rules and regulations to be promulgated by the commissioner.

It is further provided that shipment of such merchandise be made only by a railroad, express company, boat line, or motor freight line certified by the Mississippi Public Service Commission as a common carrier, or by registered or insured parcel post.

It is further provided that any manufacturer, distributor, or wholesaler of cigars, cigarettes or smoking tobacco, engaged in interstate commerce in such tobaccos, shall report to the commissioner on or before the fifteenth day of each month, on forms prescribed by the commissioner, all sales of cigarettes made in interstate commerce during the preceding month to which Mississippi stamps were not affixed. These reports must be made supplementary to the reports required to be filed by Section 27-69-35 of this chapter.

Each shipment must be covered by a complete copy of invoice of the consignor, and supported by properly receipted bill of lading of the transportation company, or post office department as specified in the foregoing, and the receipted bills of lading and invoices shall be subject to inspection by the commissioner for a period of three (3) years.

The commissioner is further authorized to verify the actual delivery to the consignee of such unstamped taxable cigarettes before allowing credit, and for the purpose of such verification, the commissioner may exchange information with the proper authorities of other states as to movement of taxable tobacco to and from other states into and from the State of Mississippi.

SECTION 14. Section 27-69-35, Mississippi Code of 1972, is amended as follows:

27-69-35. It shall be the duty of every person subject to the provisions of this chapter, to keep an accurate set of records, showing all transactions had with reference to the purchase, sale or gift of cigars, cigarettes, or smoking tobacco, and such person shall keep separately all invoices of cigars, cigarettes or smoking tobacco, and shall keep a record of all stamps purchased, and such records, and all stocks of cigars, cigarettes or smoking tobacco on hand, shall be open to inspection at all reasonable times to the commissioner; provided, however, that all retail dealers, transient vendors, distributing agents, or other dealers purchasing, or receiving cigars, cigarettes, or smoking tobacco from without the state, whether the same shall have been ordered through a wholesaler, or jobber in this state, or by drop shipment, or otherwise, shall within five (5) days after receipt of the same, mail a duplicate invoice of all such purchases, or receipts, to the commissioner, and failure to furnish such duplicate invoices shall be deemed a misdemeanor.

It is further provided that all manufacturers, distributors and wholesalers of cigars, cigarettes or smoking tobacco, who have a permit required by this chapter shall furnish the commissioner with a statement monthly, showing the amount of taxable tobacco received, and must also furnish the commissioner with duplicate invoices covering stamps affixed to drop shipments purchased by retailers.

In the examination of such books, records, etc., the commissioner shall have the power to administer oaths to any person, and any person answering falsely, under oath, any of such questions, shall be guilty of perjury.

If any person being so examined, fails to answer questions propounded to him by the commissioner, or if any person, being summoned to appear and answer such questions, shall fail or refuse to do so, or if any person shall fail or refuse to permit the inspection of his stock of merchandise, or invoices, or books, or papers pertaining to any dealers in cigars, cigarettes or smoking tobacco, the commissioner may make such fact known to the circuit court of the county in which such failure or refusal occurs, or judge thereof in termtime or in vacation, by petition, and such circuit court, or judge thereof, shall issue a summons for such person so refusing, returnable on a date to be fixed by said court, or said judge, and on said date, the said circuit court, or the circuit judge, shall proceed to examine into the truth of the matter set out in said petition, and if the same be found to be true, the said circuit court, or circuit judge, shall issue a writ of subpoena duces tecum ordering and directing the person so summoned to bring into court, and exhibit for the inspection of the commissioner, all such books, records, invoices, etc., as the court may deem proper from all the facts and circumstances in the case. Any person failing or refusing to present such books, records, invoices, etc., or failing or refusing to testify, shall be punished for contempt as provided by Section 9-1-17 of the Mississippi Code of 1972.

SECTION 15. Section 27-69-37, Mississippi Code of 1972, is amended as follows:

27-69-37. Each person engaged as a wholesaler or retailer in the sale, use or consumption of tobacco, shall keep and preserve separately from all other invoices, for a period of three (3) years, all invoices of tobacco and of stamps bought by him, and shall permit the commissioner to inspect and examine all merchandise, invoices, books, papers and memoranda as may be necessary in ascertaining whether or not the tax levied herein has been paid, or to determine the amount of such tax that may be due, or due and unpaid. The failure of any person required to pay the tax herein levied, to preserve said invoices as above provided, or to permit the

inspection and examination of merchandise, invoices, books, papers and memoranda, at the request of the commissioner, or his authorized agent, shall be deemed a violation of this chapter, and the commissioner may revoke the permit issued to such person as provided under Section 27-69-5 of this chapter, and also punishable as hereinafter set out. And the record of said invoices shall be open for inspection by the commissioner for the purpose of enforcing the provisions of this chapter.

SECTION 16. Section 27-69-41, Mississippi Code of 1972, is amended as follows:

27-69-41. If any person subject to the provisions of this chapter, or any rules or regulations promulgated by the commissioner under authority hereof, shall be found to have failed to affix the stamps required, or to have the same affixed as herein provided, or to pay any tax due hereunder, or to have violated any of the provisions of this chapter, or rules and regulations promulgated by the commissioner in the administration of this chapter, there shall be collected from such person, in addition to the tax that may be due, a penalty of fifty percent (50%) of the tax due; and the commissioner, or his duly authorized representative, may make immediate demand upon such person for the payment of all such taxes and penalties. Provided, that the commissioner, for good reason shown, may remit all or any part of the penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate of twelve percent (12%) per annum. The keeping of any unstamped cigarettes or untaxed tobacco at a place of business where such articles are sold, shall be prima facie evidence of intent to violate the provisions of this chapter.

All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provisions of said chapter, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this chapter, and the commissioner shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the Sales Tax Law, except where there is conflict, then the provisions of this chapter shall control.

SECTION 17. Section 27-69-47, Mississippi Code of 1972, is amended as follows:

27-69-47. Whoever wilfully washes, removes, or otherwise prepares for use stamps, provided for in this chapter, with intent to use, or cause the same to be used, after it has already been used, or who knowingly or wilfully buys or offers for sale, or gives away, any such stamps to any person for use, or knowingly uses the same, or has in his possession any such washed, restored or altered stamp which has been removed from the cigarette package to which it has been previously affixed, or whoever, for the purpose of evading any tax hereunder, uses any stamp which has heretofore been used for the purpose of paying any tax provided in this chapter, or whoever buys, sells, uses or offers to buy, sell or give away, or has in his possession any stamp or stamps not lawfully purchased, shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the State Penitentiary for not less than one (1) year, nor more than ten (10) years, or by both said fine and imprisonment.

SECTION 18. Section 27-69-49, Mississippi Code of 1972, is amended as follows:

27-69-49. The commissioner may promulgate rules and regulations providing for refunds to dealers of the face value of stamps affixed to any cigarettes which have become unfit for use and consumption, unsalable, or for any other legitimate loss which may occur, upon proof of such loss. Refund is to be made by issuing new stamps of an aggregate value of the tax paid on the goods adjudged to be unfit for use, consumption, unsalable, or any other loss suffered.

Provided, that the proof of loss required to obtain a refund of the amount so authorized, shall be in written form, supported by affidavit of the applicant, his agent or representative, or

other person familiar with the facts relied upon, setting out in detail the facts and circumstances under which the loss occurred, which affidavit shall be in the following form:

"State of _____

County of _____

Personally appeared before the undersigned authority, authorized by the laws of the State of _____ to administer oaths, _____, who states upon oath that he is the applicant (or officer, agent or representative of the applicant), for a refund of the value of tobacco stamps heretofore affixed to taxable cigarettes intended for sale in the State of Mississippi, which cigarettes had become unsalable because of the fact that _____ (Here recite the facts with reference to nature of damage, or other facts relied upon for refund) which facts are personally known to the affiant to be true and correct, and which facts are here represented under oath to be true, for the purpose of obtaining the refund applied for.

Witness my signature this _____ day of _____ A.D. 19 __.

_____ (Signature of officer)

_____ (Official title of officer)"

(SEAL)

The commissioner shall keep a permanent record of all such refunds made by him, in his office, and shall receive credit for such refunds.

No cigarettes which have been adjudged unfit for use and consumption, or unsalable, shall again be offered for sale in this state, and any person selling or offering to sell, or to give away, any such cigarettes shall be guilty of a misdemeanor.

SECTION 19. Section 27-69-51, Mississippi Code of 1972, is amended as follows:

27-69-51. If any wholesaler subject to the provisions of this chapter shall sell or ship or transport any cigarettes into another state to a regular dealer, he shall be allowed a refund of the tax paid on such cigarettes. Said refund shall be made by way of new stamps issued to him by the commissioner upon application accompanied by sworn acknowledgment from the purchaser, showing the units, items and date of delivery, said acknowledgment to state that he has received such cigarettes, and that stamps of an aggregate value, of which refund is requested, were on the cigarettes so acknowledged; provided further, that said acknowledgment shall show that the stamps affixed to the cigarettes, for which refund is requested, have had the cancellation marked "void" by ink, or by imprinting.

SECTION 20. Section 27-69-53, Mississippi Code of 1972, is amended as follows:

27-69-53. Any cigarettes found at any point within this state, in the possession of a dealer or any person for a period of time longer than specified by Section 27-69-27 and not having affixed to the package, the stamps as required, and any tobacco subject to the tax found in the possession of any wholesaler, distributor or dealer required by this chapter to obtain a permit, who has not procured a permit, or whose permit has been revoked and not reinstated, are hereby declared to be contraband goods, and the same may be seized by the commissioner, or his agents, or employees, or by any peace officer of this state, when directed by the commissioner so to do, without a warrant, and the said goods shall be offered by the commissioner for sale at public auction to the highest bidder after due advertisement, but the commissioner before delivering any of said goods so seized shall require the purchaser to affix the proper amount of stamps to the cigarettes or pay the excise tax on other tobacco as required by this chapter. The proceeds of sale for any goods sold shall be paid to the State

Treasurer by the commissioner as are other funds collected. Provided, that the cost of confiscation and sale shall be paid out of the proceeds derived from such sale before making remittance to the State Treasurer. The time limit herein specified for affixing said stamps shall not apply to any person who, within said time limits, shall offer for sale, either at wholesale or retail, any cigarettes, and all cigarettes when offered for sale either at wholesale or retail without the stamps having been first affixed, shall be subject to confiscation. Provided further, that any vehicle, not a common carrier, which may be used in transporting for the purpose of sale any unstamped cigarettes, shall likewise be subject to confiscation and sale in the same manner as above provided.

SECTION 21. Section 27-69-55, Mississippi Code of 1972, is amended as follows:

27-69-55. In all cases of seizures of any tobacco, or other property hereafter made as being subject to forfeiture under the provisions of this chapter, which in the opinion of the officer or person making the seizure, is of the appraised value of Twenty-five Dollars (\$25.00) or more, the said officer or person shall proceed as follows:

First: He shall cause a list containing a particular description of the tobacco or other property seized to be prepared in duplicate, and an appraisalment thereof to be made by three (3) sworn appraisers to be selected by him, who shall be respectable and disinterested citizens of this state, residing within the county wherein the seizure was made. Said list and appraisalment shall be properly attested by said officer, or person, and the said appraisers, for which service each of said appraisers shall be allowed the sum of One Dollar (\$1.00) per day for not exceeding two (2) days, to be paid as other costs.

Second: If the said tobacco, or other property seized, is believed by the officer making the seizure to be of less value than Twenty-five Dollars (\$25.00), no appraisalment shall be made.

* Third: The officer or person making the seizure shall proceed to give notice thereof for five (5) days, in writing, at three (3) places in the county where the seizure is made. One (1) of the notices shall be posted at the county courthouse; another at the place where the goods were seized; and the other at some public place. The notice shall describe the property seized, and state the time and place and cause of seizure, and give the name and place of residence, if known, of the person from whom the property was seized, and shall require any person claiming it to appear and make such claims in writing, within five (5) days from the date of the first posting of such notice. Such officer or person making the seizure shall also deliver to the person from whom the property was seized, and also to the owner, if known, a copy of said notice.

Fourth: Any person claiming the said property so seized as contraband within the time specified in the notice, may file with the commissioner a claim, in writing, stating his interest in the property seized, and may execute a bond to the State of Mississippi in a penal sum equal to double the value of said property so seized, but in no case shall said bond be less than the sum of One Hundred Dollars (\$100.00), with securities to be approved by the clerk of the circuit court in the county in which the property is seized, conditioned that in the case of condemnation of the property so seized, the obligor shall pay to the State of Mississippi the full value of the property so seized, and all costs and expenses of the proceedings to obtain such condemnation, including a reasonable attorney's fee. And upon the delivery of such bond to the commissioner, he shall transmit the same with the duplicate list or description of the property seized to the county attorney of the county, or the district attorney of the district in which such seizure was made, and the said county attorney, or district attorney, as the case may be, shall prosecute the case to secure the forfeiture of said property in the court having jurisdiction. Upon the filing of the bond aforesaid, the said property shall be delivered to the claimant pending the outcome of the case, provided he shall at once affix the required stamps on cigarettes or pay the tax due on other tobacco products.

Fifth: If no claim is interposed, and no bond given within the time above specified, such property shall be forfeited without further proceedings, and the same shall be sold as herein provided, and the proceeds of the sale, when received by the commissioner, shall be paid into the State Treasury as are other funds collected, provided, that in seizures of property of less value than Twenty-five Dollars (\$25.00), the same may be advertised with other quantities at Jackson by the commissioner and disposed of as hereinabove provided.

Sixth: In proceedings to secure a confiscation of the property hereinbefore mentioned, where the value of the goods seized at one (1) time does not exceed the amount provided in Section 9-11-9, the justice court judge of the county where the property is seized shall have jurisdiction to try the cause. Where the value of the property seized at one (1) time is in excess of the amount provided in Section 9-11-9, then the circuit court of the county where the property is seized shall have jurisdiction to try the cause; provided, that in counties having a county court, the county court shall have jurisdiction concurrent with the circuit court, and with the justice court where the value of the property seized does not exceed One Thousand Dollars (\$1,000.00).

The proceedings against property seized according to the provisions of this chapter shall be considered a proceeding in rem unless otherwise herein provided.

Within ten (10) days after filing the bond provided for in paragraph fourth hereof, the claimant shall file a petition in the court having jurisdiction of said cause, which shall stand for a declaration, and the commissioner, or other party authorized to prosecute the confiscation of said property, shall plead to it as if it were an ordinary action at law, and the same rules of pleading and proceeding applicable to actions in the circuit court shall be observed in this action, and all issues made by the pleadings shall be tried and disposed of as other actions in the circuit court, and the judgment of the circuit court shall be framed to meet the circumstances of the case and the cost shall be adjudged as in other actions; provided, however, neither the state, nor the commissioner, nor any other person representing the state, shall be liable for the cost in the event the court shall not confiscate the property in controversy.

SECTION 22. Section 27-69-57, Mississippi Code of 1972, is amended as follows:

27-69-57. The commissioner may, in his discretion, return any tobacco confiscated under this chapter, or any part thereof, when it is shown that there was no intention to violate the provisions of this chapter; provided, when any tobacco is confiscated under the provisions of this chapter, the commissioner may, in his discretion, return such goods to the parties from whom they were confiscated, if, and when, such parties shall pay to the commissioner as a penalty an amount equal to the face value of the stamps that should have been affixed to the cigarettes confiscated or pay the excise tax on other tobacco, and, in such cases, no advertisement shall be made or notices posted in connection with said confiscation.

SECTION 23. Section 27-69-29, Mississippi Code of 1972, which provides for the cancellation of stamps affixed to tobacco containers, is hereby repealed.

SECTION 24. Section 27-69-45, Mississippi Code of 1972, which prescribes fines for violating certain provisions of "The Tobacco Tax Law," is hereby repealed.

SECTION 25. Section 27-71-11, Mississippi Code of 1972, is amended as follows:

27-71-11. The commission shall from time to time by resolution request the State Bond Commission to provide sufficient funds required to maintain an adequate alcoholic beverage inventory. Said funds shall be provided under the provisions of Chapter 557, Laws of 1966.

The commission shall add to the cost of all alcoholic beverages a markup of twenty-seven and one-half percent (27-1/2%), inclusive of the three percent (3%) markup imposed by Section 27-71-7(2).

The commission shall sell alcoholic beverages at uniform prices throughout the State.

SECTION 26. Section 27-71-307, Mississippi Code of 1972, is amended as follows:

27-71-307. In addition to the specific tax imposed in Section 27-71-303, there is hereby imposed, levied and assessed to be collected as hereinafter provided, an excise or privilege tax upon each person engaged or continuing in the business of wholesaler or distributor of light wines or beer, equivalent to 42.68 Cents per gallon upon all light wines and beer acquired for sale or distribution in this state; provided, however, that from and after June 1, 1985, and until the date on which the legal age for consumption of light wine and beer in this state increases from the age of eighteen (18) to the age of twenty-one (21), such tax shall be equivalent to 46.95 Cents per gallon. Such tax is hereby imposed as an additional tax for the privilege of engaging or continuing in such business.

Such tax shall be paid by the affixing of stamps, or other evidences of tax payment to be prescribed by the commissioner, to the container in which such light wines or beer may be sold or distributed. The commissioner is hereby authorized to prescribe the form of such evidences of payment, the design, and the denominations thereof and is authorized to promulgate rules and regulations covering the method of affixing and cancelling of such evidences of tax payment. In the instance of stamps to be affixed by wholesaler or distributor, such stamps shall be affixed by the wholesaler or distributor within forty-eight (48) hours after receipt of such light wines and beer by such wholesaler or distributor.

It is further provided that the commissioner, for the reason of better administration, may have such stamps, or other evidences of tax payment, affixed to each individual container usually sold to consumers, as distinguished from cases, cartons or larger units which are composed of a number of individual containers.

Dealers subject to the provisions of this article may be allowed as compensation for their services in affixing the stamps herein required, a sum to be prescribed by the commissioner not in excess of five percent (5%) of the face value of the stamps purchased by them; provided, that the commissioner shall allow no discount on purchase orders of stamps by wholesalers where the aggregate amount of such order is less than One Hundred Dollars (\$100.00); and, where the evidences of tax payment are to be affixed by manufacturers or brewers, there may be allowed by the commissioner an amount to be prescribed by the commissioner not to exceed two percent (2%) of the face value of purchase orders, to cover "breakage" and the value of such unused and unusable tax evidences.

It is further provided that the commissioner may, in his discretion, either reduce the compensation allowed, or disallow any compensation for the affixing of tax evidences for failure of such dealer or manufacturer or brewer to comply with any provisions of the law, or rules and regulations promulgated by the commissioner.

Provided that persons operating a railroad dining car, club car, or other car in interstate commerce upon which light wines or beer may be sold and, who are licensed under the provisions of Section 67-3-27, and any other law relating to the sale of such beverages, shall not be required on reaching the borders of this state to evidence the payment of the tax herein provided for by the affixing evidences of tax payment as provided for in this article on any such beverages on which the tax has not been prepaid, but instead shall keep such records of the sales of such light wines and beer in this state as the commissioner shall prescribe and shall submit monthly reports of such sales to the commissioner within fifteen (15) days after the end of each month, on a form prescribed therefor by the commissioner, and shall pay the tax due under the provisions of this section at the time such reports are filed.

SECTION 27. (1) For the purposes of this section, unless the context otherwise requires, the term "motor vehicle" means a private carrier of passengers required to be registered or licensed by the county tax collectors pursuant to Section 27-19-43, Mississippi Code of 1972.

(2) Upon every person, firm or corporation purchasing other than at wholesale within this state any motor vehicle required to be registered or licensed with the tax collector of any county in this state from any person, firm or corporation which is not a licensed dealer engaged in selling motor vehicles, there shall be levied and collected a sales tax at the rate of three percent (3%) of the purchase price.

(3) Upon every person, firm or corporation purchasing other than at wholesale outside the state any motor vehicle required to be registered or licensed with the tax collector of any county in this state from any person, firm or corporation which is not a licensed dealer engaged in selling motor vehicles, for use, storage or other consumption within this state there is levied a use tax at the rate of three percent (3%) of the purchase price.

(4) Where any motor vehicle is taken in trade as a credit or part payment on the sale of a motor vehicle taxable under this section, the tax levied by this section shall be paid on the net difference, that is, the price of the motor vehicle sold less the credit for the motor vehicle taken in trade.

(5) (a) The tax levied by this section shall be collected by the tax collector before the registration of or licensing of any such motor vehicle. The tax collector shall give to the person registering the vehicle a receipt in a form prescribed and furnished by the State Tax Commission for the amount of tax collected.

(b) The tax collector shall require, as proof of the purchase price of the motor vehicle, the presentment of a sworn report by the purchaser reflecting such purchase price on a form to be provided by the State Tax Commission.

(c) In lieu of the requirements contained in paragraph (b) of this subsection, the purchaser may stipulate to the tax collector that the purchase price of the motor vehicle to be taxed is equivalent to a standard value for the year, make and model established by the State Tax Commission for the taxable item. The purchase price so stipulated shall be conclusively presumed to be the purchase price of such item for the purposes of this section.

(6) Any purchaser who knowingly furnishes false information regarding the purchase price of the motor vehicle to be taxed, which results in the assessment of a lower tax than would otherwise be due, shall be liable for double the amount of taxes due.

(7) County tax collectors shall be liable for the tax they are required to collect, and taxes which are in fact collected, under this section and failure to properly collect or maintain proper records shall not relieve them of liability for payment to the State Tax Commission. Deficiencies in collection or payment shall be assessed against the tax collector, or his successor, in the same manner and subject to the same penalties and provisions for appeal as are deficiencies assessed against taxpayers under Chapter 65, Title 27, Mississippi Code of 1972.

Each tax collector of the several counties shall, on or before the twentieth day of each month, file a report with and pay to the State Tax Commission all funds collected under the provisions of this section, less a commission of three percent (3%) which shall be retained by the tax collector as a commission for collecting such tax, and such commission shall be deposited in the county general fund. The report required to be filed shall cover all collections made during the calendar month next preceding the date on which the report is due and filed. All funds remitted to the State Tax Commission shall be deposited to the credit of the State General Fund.

Any error in the report and remittance to the State Tax Commission may be adjusted on a subsequent report. If the error was in the collection by the tax collector, it shall be adjusted through the tax collector with the taxpayer before credit is allowed by the State Tax Commission.

All information relating to the collection of this tax by tax collectors and such records as the State Tax Commission may require shall be preserved in the tax collector's office for a period of three (3) years for audit by the State Tax Commission.

(8) The tax levied by this section shall not apply to the following:

(a) Transfers of legal ownership of motor vehicles between husband and wife, parent and child, or grandparents and grandchildren, unless the transferor is a licensed dealer of motor vehicles and the transfer of the motor vehicle is made in the regular course of business.

(b) Transfers of legal ownership of motor vehicles pursuant to a will or pursuant to any law providing for the distribution of the property of one dying intestate.

(c) Transfers of legal ownership of motor vehicles seven (7) or more years after the date of the manufacture of such vehicle.

SECTION 28. (1) Each resident individual taxpayer who files a Mississippi income tax return and who will receive a tax refund from the State Tax Commission may designate that a contribution be made to the "Mississippi Educational Trust Fund" authorized in House Concurrent Resolution No. 35, 1985 Regular Session, by marking the appropriate box printed on the return pursuant to this subsection. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to such fund.

The State Tax Commission shall print on the face of the Mississippi income tax form for residents a space for designating the contribution in substantially the following form:

"MISSISSIPPI EDUCATIONAL TRUST FUND.

I wish to contribute ()\$1 ()\$5 ()\$10 () other \$ ____ of my TAX REFUND TO THE MISSISSIPPI EDUCATIONAL TRUST FUND."

(2) The State Tax Commission shall explain in the instructions accompanying the individual income tax form the purposes for which the contributions authorized herein shall be used.

(3) This section shall apply to taxable years beginning on or after January 1, 1986.

(4) The Chairman of the State Tax Commission shall determine annually the total amount designated by individuals to be paid to the fund, along with all interest earned thereon, and shall report such amount to the State Treasurer who shall pay such amount into the "Mississippi Educational Trust Fund" established in House Concurrent Resolution No. 35, 1985 Regular Session.

(5) This section shall take effect and be in force from and after the date House Concurrent Resolution No. 35, 1985 Regular Session of the Legislature, is ratified by the electorate.

SECTION 29. Section 37-19-7, Mississippi Code of 1972, is amended as follows:

37-19-7. The allowance in the minimum education program for teachers' salaries in each county and separate school district shall be determined and paid in accordance with the scale for teachers' salaries as provided herein for the number of teachers employed not in excess of the number of teacher units allotted. For teachers holding the following types of certificates or the equivalent as determined by the State Board of Education the scale shall be as follows:

1985-1986 School Year

| | |
|-----------|-------------|
| AAAA..... | \$16,275.00 |
| AAA..... | 15,475.00 |
| AA..... | 14,675.00 |
| A..... | 13,875.00 |

1986-1987 School Year

| | |
|-----------|-------------|
| AAAA..... | \$17,275.00 |
| AAA..... | 16,475.00 |
| AA..... | 15,675.00 |
| A..... | 14,875.00 |

1987-1988 School Year and School Years Thereafter

| | |
|-----------|-------------|
| AAAA..... | \$18,275.00 |
| AAA..... | 17,475.00 |
| AA..... | 16,675.00 |
| A..... | 15,875.00 |

Notwithstanding the above minimum salary scale for the 1987-1988 school year and school years thereafter, it is the intent of the Legislature that any state funds made available for salaries of certificated personnel in excess of the funds paid for such salaries for the 1986-1987 school year shall be paid to certificated personnel pursuant to a personnel appraisal and compensation system when such system is implemented by the State Board of Education. The State Board of Education shall have the authority to adopt and amend rules and regulations as are necessary to establish, administer and maintain the system. For the purposes of this paragraph, "certificated personnel" means the following employees of public school districts: classroom teachers, superintendents, assistant superintendents, principals, assistant principals, supervisors of programs, librarians, guidance personnel, audiovisual personnel and vocational directors.

All teachers employed on a full-time basis shall be paid a minimum salary in accordance with the above scale. Provided, however, that no school district shall receive any funds under the provisions of this section for any school year during which the local supplement paid to any individual teacher shall have been reduced to a sum less than that paid to said individual teacher for performing the same duties from local supplement during the immediately preceding school year. The amount actually spent for the purposes of group health and/or life insurance shall be considered as a part of the aggregate amount of local supplement.

For teachers holding a Class AAAA certificate, the minimum base pay specified in this section shall be increased by the sum of Three Hundred Fifty Dollars (\$350.00) for each year of teaching experience possessed by the person holding such certificate until such person shall have seventeen (17) years of teaching experience.

For teachers holding a Class AAA certificate, the minimum base pay specified in this section shall be increased by the sum of Three Hundred Twenty-five Dollars (\$325.00) for each year of teaching experience possessed by the person holding such certificate until such person shall have seventeen (17) years of teaching experience.

For teachers holding a Class AA certificate, the minimum base pay specified in this section shall be increased by the sum of Three Hundred Dollars (\$300.00) for each year of teaching experience possessed by the person holding such certificate until such person shall have had sixteen (16) years of teaching experience.

For teachers holding a Class A certificate, the minimum base pay specified in this section shall be increased by the sum of Two Hundred Seventy-five Dollars (\$275.00) for each year of teaching experience possessed by the person holding such certificate until such person shall have had fourteen (14) years of teaching experience.

The level of professional training of each teacher to be used in establishing the salary allotment for said teachers for each year shall be determined by the type of valid teacher's certificate issued to such teachers on or before September 1 of the current school year.

SECTION 30. Section 37-19-21, Mississippi Code of 1972, is amended as follows:

37-19-21. (1) In addition to other funds allowed in this chapter, each school district shall be allotted Three Thousand One Hundred Seventy-five Dollars (\$3,175.00) for use in supportive services. The sums allotted may be used for the following purposes:

(a) Not less than Two Hundred Dollars (\$200.00) per teacher unit of such allotment must be used for salaries of teachers of business education, health and physical education, music and/or art, librarians or guidance personnel, who are not otherwise included in the allotment of funds for teachers' salaries under the minimum program.

(b) Salaries of certificated personnel, lunchroom personnel, school nurses, principals, assistant principals, and all other employees. Lunchroom personnel shall be paid at a rate not less than the minimum wage provided by the Fair Labor Standards Amendments of 1977, P.L. 95-151.

(c) Purchase, installation and maintenance of audiovisual materials, teaching supplies, textbooks, library books and supplies, and other equipment used or usable in classroom instruction.

(d) School building improvement and maintenance of any kind including, but not limited to, heating, plumbing, air conditioning, electrical installations and repairs, janitorial services and other items necessary for operating schools.

(e) Costs of transportation of students, not to exceed One Hundred Dollars (\$100.00) per teacher unit. In the event any county board of education which is responsible for the operation of a transportation system for one or more consolidated school districts shall find and determine that adequate funds are not available from other sources to efficiently operate any such transportation system, then such county board of education shall have the right, by appropriate order entered on its minutes and filed with the State Department of Education and the boards of trustees of the school districts affected, to appropriate such portion of the allowance for supportive services which would otherwise be allotted to said consolidated school district, up to a maximum of One Hundred Dollars (\$100.00) per teacher unit for each of such districts, to be used to defray the cost of transportation. Upon the proper filing of certified copies of such a resolution on or before July 1 of any year, the State Department of Education shall make the allotment of funds called for by such resolution to the county board of education filing the same and deduct the amount thereof from the allotments which would otherwise be made to any such consolidated districts for the next succeeding school year.

(2) Each school district which provides Two Hundred Fifty Dollars (\$250.00) or more per certificated personnel out of the funds other than minimum program funds for group health and/or life insurance as authorized in Sections 25-15-101 and 25-15-103 shall be allotted an additional One Hundred Seventy-five Dollars (\$175.00) for use in supportive services. Provided, however, that in order to qualify for such additional allotment, the Two Hundred Fifty Dollars (\$250.00) shall be paid from local school district funds and shall not be diverted from the salary contracted for by such certificated personnel. It is the intent of the Legislature that no state funds shall be used for the purchase of such group health and/or life insurance.

SECTION 31. (1) For purposes of this section:

(a) "Strike" means a concerted failure to report for duty, a willful absence from one's position, the stoppage of work, a deliberate slowing down of work, or the withholding, in whole or in part, of the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment; provided, however, that nothing herein shall limit or impair the right of any certified teacher to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed and does not interfere with the full, faithful and proper performance of the duties of employment.

(b) "Certified teacher" shall mean the following employees of public school districts: classroom teachers, supervisors of programs, librarians, guidance personnel, audiovisual personnel and vocational directors.

(2) It is hereby declared that a strike, concerted work stoppage or concerted refusal to perform lawful duties in any manner by certified teachers against public school districts within the State of Mississippi shall be illegal, unprotected and contrary to the public policy of the State of Mississippi.

(3) No certified teacher, group of certified teachers or teacher organization shall promote, encourage or participate in any strike against a public school district, the State of Mississippi or any agency thereof.

(4) No person exercising any authority, supervision or direction over any certified teacher shall have the power to authorize, approve or consent to a strike by one or more certified teachers, and such person shall not authorize, approve or consent to such strike. No local school governing board or any person exercising authority, supervision or direction over any public school shall attempt to close or curtail the operations of the public school, or to change or alter in any manner the schedule of operations of said school in order to circumvent the full force and effect of this statute. In the event of a strike against the public school, the local school governing board shall continue school operations as long as practicable in order to ascertain which teachers are on strike, and certify the names of such teachers to the Attorney General. Any member of a local school governing board or public school administrator who violates this subsection shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each day such violation continues.

(5) Chancery courts having jurisdiction of the parties are vested with the authority to hear and determine all actions alleging violations of subsection (3) of this section. Suits to enjoin violations of subsection (3) of this section shall have priority over all matters on the court's docket except other emergency matters.

(6) If a certified teacher, a group of certified teachers, a teacher organization, or any officer, agent or representative of any teacher organization engages in a strike in violation of subsection (3) of this section, any public school district whose employees are involved or whose employees may be affected by the strike shall file suit to enjoin the strike in the Chancery Court of the First Judicial District of Hinds County, Mississippi, or in the chancery court having proper jurisdiction and proper venue of such actions. The chancery court shall conduct a hearing with notice to all interested parties, at the earliest practicable time. If the complainant makes a prima facie showing that a violation of subsection (3) of this section is in progress or that there is a clear, real and present danger that such a strike is about to commence, the chancery court shall issue a temporary restraining order enjoining the strike. Upon final hearing, the chancery court shall either make the injunction permanent or dissolve it.

(7) If an injunction to enjoin a strike issued pursuant to this section is not promptly complied with, on the application of the complainant, the chancery court shall immediately initiate contempt proceedings against those who appear to be in violation. A teacher organization found to be in contempt of court for violating an injunction against a strike shall be fined up to Twenty Thousand Dollars (\$20,000.00) for each such calendar day. The fines so collected shall immediately accrue to the school district and shall be used by it to replace those services denied the public as a result of the strike. Each officer, agent or representative of a teacher organization found to be in contempt of court for violating an injunction against a teacher organization shall be liable for any damages which might be suffered by a public employer as a result of a violation of the provisions of subsection (3) of this section by the teacher organization or its representatives, officers and agents. The chancery court having jurisdiction over such actions is empowered to enforce judgment against teacher organizations by the attachment or garnishment of organization initiation fees or dues.

(8) If the court, after a hearing on notice, determines that a certified teacher has violated subsection (3) of this section, it shall order the termination of his or her employment by the public school district. No person knowingly violating the provision of said subsection may, subsequent to such violation, be employed or reemployed as a teacher by any public school district in the state unless the court first finds a public necessity therefor.

The provisions of this subsection (8) shall be cumulative and supplemental to any other applicable provision of law.

SECTION 32. All provisions of Section 31 of this act prohibiting strikes by teachers and teacher organizations and providing penalties therefor, and providing certain responsibilities for members of local school governing boards and school administrators shall likewise apply as far as is practicable to all public employees and public employers respectively.

For purposes of this section, "public employee" means any person holding a position by employment, contract or appointment with a public employer; and

"Public employer" means any governmental entity in this state whose employees are paid in whole or in part by funds appropriated or otherwise provided by the state.

SECTION 33. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the tax laws amended by this act prior to the date on which such amendments become effective, whether such assessments, appeals, suits, claims or actions shall have been begun before the date on which such amendments become effective or shall thereafter be begun; and the provisions of such tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and executing of any warrant under said laws prior to the date on which such amendments become effective, and for the imposition of any penalties, forfeitures or claims for failure to comply therewith.

SECTION 34. Sections 25, 28, 31, 32 and 33 shall take effect and be in force from and after May 1, 1985; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26 and 27 shall take effect and be in force from and after June 1, 1985; and Sections 29 and 30 shall take effect and be in force from and after July 1, 1985.

VETOED BY GOVERNOR: MARCH 18, 1985

**PASSED BY HOUSE OF REPRESENTATIVES OVER GOVERNOR'S VETO;
PURSUANT TO SECTION 72, MISSISSIPPI CONSTITUTION OF 1890: MARCH 19,
1985.**

**PASSED BY SENATE OVER GOVERNOR'S VETO: PURSUANT TO SECTION
72, MISSISSIPPI CONSTITUTION OF 1890: MARCH 19, 1985.**