

By: Representative Ford

To: Judiciary A

HOUSE BILL NO. 610  
(As Passed the House)

1 AN ACT TO AMEND SECTION 45-3-21, MISSISSIPPI CODE OF 1972, TO  
2 EXTEND THE AUTHORITY ON CERTAIN POWERS AND DUTIES OF THE HIGHWAY  
3 SAFETY PATROL AND TO AUTHORIZE THE HIGHWAY SAFETY PATROL TO ISSUE  
4 WARNING CITATIONS IN LIEU OF SPEEDING TICKETS; AND FOR RELATED  
5 PURPOSES.

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

7 SECTION 1. Section 45-3-21, Mississippi Code of 1972, is  
8 amended as follows:

9 **[Subsection (1) effective until June 30, 2002; see subsection**  
10 **(2).]**

11 45-3-21. (1) (a) The powers and duties of the Highway  
12 Safety Patrol shall be, in addition to all others prescribed by  
13 law, as follows:

14 (i) To enforce all of the traffic laws, rules and  
15 regulations of the State of Mississippi upon all highways of the  
16 state highway system and the rights-of-way of such highways;  
17 provided, however, that if any person commits an offense upon the  
18 state highway system and be pursued by a member of the Highway  
19 Safety Patrol, such patrol officer may pursue and apprehend such  
20 offender upon any of the highways or public roads of this state,  
21 or to any other place to which such offender may flee.

22 (ii) To enforce all rules and regulations of the  
23 commissioner promulgated pursuant to legal authority.

24 (iii) When so directed by the Governor, to enforce  
25 any of the laws of this state upon any of the highways or public  
26 roads thereof.

27 (iv) Upon the request of the State Tax Commission,

28 and with the approval of the Governor, to enforce all of the  
29 provisions of law with reference to the registration, license and  
30 taxation of vehicles using the highways of this state, and  
31 relative to the sizes, weights and load limits of such vehicles,  
32 and to enforce the provisions of all other laws administered by  
33 the State Tax Commission upon any of the highways or public roads  
34 of this state; and for such purpose the Highway Safety Patrol  
35 shall have the authority to collect and receive all taxes which  
36 may be due under any of such laws, and to report and remit same to  
37 the State Tax Commission in the manner required by law, or the  
38 rules and regulations of the commission.

39 (v) Upon request of the State Highway Commission  
40 or Public Service Commission, and when so instructed by the  
41 commissioner, to aid and assist in the enforcement of all laws  
42 which such agencies are authorized or required to enforce, and in  
43 the enforcement of the rules and regulations of such agencies.

44 (vi) To arrest without warrant any person or  
45 persons committing or attempting to commit any misdemeanor, felony  
46 or breach of the peace within their presence or view, and to  
47 pursue and so arrest any person committing such an offense to and  
48 at any place in the State of Mississippi where he may go or be.  
49 Nothing herein shall be construed as granting the Mississippi  
50 Highway Safety Patrol general police powers.

51 (vii) To aid and assist any law enforcement  
52 officer whose life or safety is in jeopardy. Additionally,  
53 officers of the Highway Safety Patrol may arrest without warrant  
54 any fugitive from justice who has escaped or who is using the  
55 highways of the state in an attempt to flee. With the approval of  
56 the commissioner or his designee, officers of the Highway Safety  
57 Patrol may assist other law enforcement agencies in manhunts for  
58 convicted felons who have escaped and/or for alleged felons where  
59 there is probable cause to believe that the person being sought  
60 committed the felony and a felony had actually been committed.

61 (viii) To cooperate with the State Forest Service  
62 by reporting all forest fires.

63 (ix) Upon request of the sheriff or his designee,  
64 or board of supervisors of any county or the chief of police or  
65 mayor of any municipality, and when so instructed by the  
66 commissioner or his designee, to respond to calls for assistance  
67 in a law enforcement incident; such request and action shall be  
68 noted and clearly reflected on the radio logs of both the  
69 Mississippi Highway Safety Patrol district substation and that of  
70 the requesting agency, entered on the local NCIC terminal, if  
71 available, and a request in writing shall follow within  
72 forty-eight (48) hours. Additionally, the time of commencement  
73 and termination of the specific law enforcement incident shall be  
74 clearly noted on the radio logs of both law enforcement agencies.

75 (x) In the discretion of the Highway Safety  
76 Patrol, to issue warning citations, in accordance with policy  
77 established by the Department of Public Safety, to persons charged  
78 with any violation of Sections 63-3-501 through 63-3-505, 63-3-509  
79 or 63-3-513 through 63-3-516. When a warning citation is issued,  
80 no penalty may be assessed. If a party who is issued a warning  
81 citation is not charged within a period of time, as established by  
82 the department, with a subsequent violation of Sections 63-3-501  
83 through 63-3-505, 63-3-509 or 63-3-513 through 63-3-516, the  
84 warning citation shall be retired to the file and the fines and  
85 imprisonment authorized under Section 63-9-11 shall not be  
86 imposed. A warning citation shall not be a part of a person's  
87 permanent driving record, and all records of such citations shall  
88 be the property of the Department of Public Safety. Records of  
89 warning citations maintained by the department shall not be  
90 available for inspection by the general public; this requirement  
91 of confidentiality may not be waived by an offender for any  
92 purpose.

93 (b) The Legislature declares that the primary law

94 enforcement officer in any county in the State of Mississippi is  
95 the duly qualified and elected sheriff thereof, but for the  
96 purposes of this paragraph there is hereby vested in the  
97 Department of Public Safety, in addition to the powers hereinabove  
98 mentioned and the other paragraphs of this subsection under the  
99 terms and limitations hereinafter mentioned and for the purpose of  
100 insuring domestic tranquility and for the purpose of preventing or  
101 suppressing, or both, crimes of violence, acts and conduct  
102 calculated to, or which may, provoke or lead to violence and/or  
103 incite riots, mobs, mob violence, a breach of the peace, and acts  
104 of intimidation or terror, the powers and duties to include the  
105 enforcement of all the laws of the State of Mississippi relating  
106 to such purposes, to investigate any violation of the laws of the  
107 State of Mississippi and to aid in the arrest and prosecution of  
108 persons charged with violating the laws of the State of  
109 Mississippi which relate to such purposes. Investigators of the  
110 Mississippi Criminal Investigation Bureau of the Department of  
111 Public Safety shall have general police powers to enforce all the  
112 laws of the State of Mississippi. All officers of the Department  
113 of Public Safety charged with the enforcement of the laws  
114 administered by that agency, for the purposes herein set forth,  
115 shall have full power to investigate, prevent, apprehend and  
116 arrest law violators anywhere in the state, and shall be vested  
117 with the power of general police officers in the performance of  
118 their duties. The officers of the Department of Public Safety are  
119 authorized and empowered to carry and use firearms and other  
120 weapons deemed necessary in the discharge of their duties as such  
121 and are also empowered to serve warrants and subpoenas issued  
122 under the authority of the State of Mississippi. The Governor  
123 shall be authorized to offer and pay suitable rewards to persons  
124 aiding in the investigation, apprehension and conviction of  
125 persons charged with acts of violence, or threats of violence or  
126 intimidation or acts of terrorism. The additional powers herein

127 granted to or vested in the Department of Public Safety or any of  
128 its officers or employees by this subsection, excepting  
129 investigating powers, and those powers of investigators who shall  
130 have general police power, being the investigators in the  
131 Mississippi Criminal Investigation Bureau of the Department of  
132 Public Safety, shall not be exercised by the Department of Public  
133 Safety, or any of its officers or employees, except upon authority  
134 and direction of the Governor or Acting Governor, by proclamation  
135 duly signed, in the following instances, to wit:

136           (i) When requested by the sheriff or board of  
137 supervisors of any county or the mayor of any municipality on the  
138 grounds that mob violence, crimes of violence, acts and conduct of  
139 terrorism, riots or acts of intimidation, or either, calculated to  
140 or which may provoke violence or incite riots, mobs, mob violence,  
141 violence, or lead to any breach of the peace, or either, and acts  
142 of intimidation or terror are anticipated, and when such acts or  
143 conduct in the opinion of the Governor or Acting Governor would  
144 provoke violence or any of the foregoing acts or conduct set out  
145 in this subsection, and the sheriff or mayor, as the case may be,  
146 lacks adequate police force to prevent or suppress the same.

147           (ii) Acting upon evidence submitted to him by the  
148 Department of Public Safety, or other investigating agency  
149 authorized by the Governor or Acting Governor to make such  
150 investigations, because of the failure or refusal of the sheriff  
151 of any county or mayor of any municipality to take action or  
152 employ such means at his disposal, to prevent or suppress the  
153 acts, conduct or offenses provided for in paragraph (a) of this  
154 subsection, the Governor or Acting Governor deems it necessary to  
155 invoke the powers and authority vested in the Department of Public  
156 Safety.

157           (iii) The Governor or Acting Governor is hereby  
158 authorized and empowered to issue his proclamation invoking the  
159 powers and authority vested by this paragraph, as provided in

160 items (i) and (ii) of this paragraph, and when the Governor or  
161 Acting Governor issues said proclamation in accordance herewith,  
162 said proclamation shall become effective upon the signing thereof  
163 and shall continue in full force and effect for a period of ninety  
164 (90) days, or for a shorter period if otherwise ordered by the  
165 Governor or Acting Governor. At the signing of the proclamation  
166 by the Governor or Acting Governor, the Department of Public  
167 Safety and its officers and employees shall thereupon be  
168 authorized to exercise the additional power and authority vested  
169 in them by this paragraph. The Governor and Acting Governor may  
170 issue additional proclamations for periods of ninety (90) days  
171 each under the authority of items (i) and (ii) above of this  
172 paragraph.

173 (c) All proclamations issued by the Governor or Acting  
174 Governor shall be filed in the office of the Secretary of State on  
175 the next succeeding business day.

176 (d) It is not the intention of this section to vest the  
177 wide powers and authority herein provided for, as general powers  
178 of the Department of Public Safety, and the same are not hereby so  
179 vested, but to limit these general powers to cases and incidents  
180 wherein it is deemed necessary to prevent or suppress the offenses  
181 and conditions herein mentioned in this and other subsections of  
182 this section, and under the terms and conditions hereinabove  
183 enumerated, it being the sense of the Legislature that the prime  
184 duties of the Department of Public Safety are to patrol the  
185 highways of this state and enforce the highway safety laws.

186 (e) Patrol officers shall have no interest in any costs  
187 in the prosecution of any case through any court; nor shall any  
188 patrol officer receive any fee as a witness in any court held in  
189 this state, whether a state or federal court.

190 (f) Provided, however, that the general police power  
191 vested by virtue of the terms of paragraph (b) of subsection (1)  
192 of this section is solely for the purposes set out in said

193 subsection.

194 (2) Subsection (1) of this section shall be automatically  
195 repealed from and after June 30, 2002; subsection (3) of this  
196 section shall take effect and be in force in lieu thereof from and  
197 after June 30, 2002.

198 **[Subsection (3) effective from and after June 30, 2002 as**  
199 **provided in subsection (2).]**

200 (3) (a) The powers and duties of the Highway Safety Patrol  
201 shall be, in addition to all others prescribed by law, as follows:

202 (i) To enforce all of the traffic laws, rules and  
203 regulations of the State of Mississippi upon all highways of the  
204 state highway system and the rights-of-way of such highways;  
205 provided, however, that if any person commits an offense upon the  
206 state highway system and be pursued by a member of the Highway  
207 Safety Patrol, such patrol officer may pursue and apprehend such  
208 offender upon any of the highways or public roads of this state,  
209 or to any other place to which such offender may flee.

210 (ii) To enforce all rules and regulations of the  
211 commissioner promulgated pursuant to legal authority.

212 (iii) When so directed by the Governor, to enforce  
213 any of the laws of this state upon any of the highways or public  
214 roads thereof.

215 (iv) Upon the request of the State Tax Commission,  
216 and with the approval of the Governor, to enforce all of the  
217 provisions of law with reference to the registration, license and  
218 taxation of vehicles using the highways of this state, and  
219 relative to the sizes, weights and load limits of such vehicles,  
220 and to enforce the provisions of all other laws administered by  
221 the State Tax Commission upon any of the highways or public roads  
222 of this state; and for such purpose the Highway Safety Patrol  
223 shall have the authority to collect and receive all taxes which  
224 may be due under any of such laws, and to report and remit same to  
225 the State Tax Commission in the manner required by law, or the

226 rules and regulations of the commission.

227                   (v) Upon request of the State Highway Commission  
228 or Public Service Commission, and when so instructed by the  
229 commissioner, to aid and assist in the enforcement of all laws  
230 which such agencies are authorized or required to enforce, and in  
231 the enforcement of the rules and regulations of such agencies.

232                   (vi) To arrest without warrant any person or  
233 persons committing or attempting to commit any misdemeanor, felony  
234 or breach of the peace within their presence or view, and to  
235 pursue and so arrest any person committing such an offense to and  
236 at any place in the State of Mississippi where he may go or be.  
237 Nothing herein shall be construed as granting the Mississippi  
238 Highway Safety Patrol general police powers.

239                   (vii) To aid and assist any law enforcement  
240 officer whose life or safety is in jeopardy. Additionally,  
241 officers of the Highway Safety Patrol may arrest without warrant  
242 any fugitive from justice who has escaped or who is using the  
243 highways of the state in an attempt to flee. With the approval of  
244 the commissioner or his designee, officers of the Highway Safety  
245 Patrol may assist other law enforcement agencies in manhunts for  
246 convicted felons who have escaped and/or for alleged felons where  
247 there is probable cause to believe that the person being sought  
248 committed the felony and a felony had actually been committed.

249                   (viii) To cooperate with the State Forest Service  
250 by reporting all forest fires.

251                   (ix) Upon request of the sheriff or his designee,  
252 or board of supervisors of any county or the chief of police or  
253 mayor of any municipality, and when so instructed by the  
254 commissioner or his designee, to respond to calls for assistance  
255 in a law enforcement incident; such request and action shall be  
256 noted and clearly reflected on the radio logs of both the  
257 Mississippi Highway Safety Patrol district substation and that of  
258 the requesting agency, entered on the local NCIC terminal, if



259 available, and a request in writing shall follow within  
260 forty-eight (48) hours. Additionally, the time of commencement  
261 and termination of the specific law enforcement incident shall be  
262 clearly noted on the radio logs of both law enforcement agencies.

263 (x) In the discretion of the Highway Safety  
264 Patrol, to issue warning citations, in accordance with policy  
265 established by the Department of Public Safety, to persons charged  
266 with any violation of Sections 63-3-501 through 63-3-505, 63-3-509  
267 or 63-3-513 through 63-3-516. When a warning citation is issued,  
268 no penalty may be assessed. If a party who is issued a warning  
269 citation is not charged within a period of time, as established by  
270 the department, with a subsequent violation of Sections 63-3-501  
271 through 63-3-505, 63-3-509 or 63-3-513 through 63-3-516, the  
272 warning citation shall be retired to the file and the fines and  
273 imprisonment authorized under Section 63-9-11 shall not be  
274 imposed. A warning citation shall not be a part of a person's  
275 permanent driving record, and all records of such citations shall  
276 be the property of the Department of Public Safety. Records of  
277 warning citations maintained by the department shall not be  
278 available for inspection by the general public; this requirement  
279 of confidentiality may not be waived by an offender for any  
280 purpose.

281 (b) The patrol officers of the Highway Safety Patrol  
282 shall not have the power, and shall never be used or ordered, to  
283 perform in the duties or functions properly devolving upon the  
284 organized militia of the state; nor shall the patrol ever be used  
285 in any strike, walkout, lockout, or other labor controversy or  
286 dispute; nor shall they ever displace or act as deputy, or  
287 exercise the authority, of the peace officers of this state. All  
288 fines collected under the authority of this section, or any other  
289 laws enforced by the Highway Safety Patrol, shall be paid by the  
290 officer collecting same into the county treasury, unless it be  
291 otherwise provided by law. Patrol officers shall have no interest

292 in any costs in the prosecution of any case through any court; nor  
293 shall any patrol officer receive any fee as a witness in any court  
294 upon arrests made by such patrol officers, and where charges have  
295 been preferred against alleged violators, shall be approved by the  
296 regularly constituted peace officers in the manner and methods  
297 provided by law.

298 SECTION 2 This act shall take effect and be in force from  
299 and after its passage.