To: Transportation

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001

By: Representative Ellzey

HOUSE BILL NO. 231


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

SECTION 1. Section 27-19-81, Mississippi Code of 1972, is amended as follows:

27-19-81. (1) No vehicle shall be registered by the State Tax Commission or by a tax collector, and no license tag whatsoever shall be issued therefor, where the gross weight of such vehicle exceeds the limits provided by law. In the event of an emergency requiring the hauling of a greater gross weight than permitted by law, the owner or operator of such vehicle shall obtain an excess weight authorization from the Mississippi Department of Transportation or local authority having jurisdiction of the particular road, street or highway before operating such vehicle on the highways of this state to haul such a gross weight over a route to be designated by the aforesaid department. It shall then be necessary for the owner or operator of the vehicle to obtain a permit from the Transportation Department, which shall be issued by the department under the same provisions as are provided for the issuance of trip permits under Section 27-19-79, but which permit shall likewise be obtained prior to the operation of such vehicle on the highways. No
persons or agencies other than the Mississippi Department of Transportation shall have authority to issue the permits provided for in this section. The fee to be charged for such permits shall be computed in the same manner provided in Section 27-19-79 for each one thousand (1,000) pounds, or fractional part thereof, of gross weight above the licensed capacity of the vehicle, up to the maximum legal weights provided by this article on the roads to be traveled.

This subsection shall apply, but not be limited, to any tractor, road roller or road machinery used solely and specifically in road building or other highway construction or maintenance work.

For each one thousand (1,000) pounds, or fractional part thereof, in excess of the weight authorized by Sections 63-5-29 and 63-5-33 for any such vehicle or in excess of the limits set by the Transportation Department for specified roads and bridges, the fee shall be Five Cents (5¢) per one thousand (1,000) pounds, or fractional part thereof, for each mile traveled upon the highways of the state, except that the fee for manufactured housing modular units, residential or commercial, shall be Two Cents (2¢) per one thousand (1,000) pounds, or fractional part thereof, for each mile traveled upon the highways of the state. Provided, however, no permit shall be issued for a fee of less than Ten Dollars ($10.00).

The Transportation Department may provide for an annual permit which will allow pre-approved vehicles and loads to travel predesignated routes with self-issued permits. Under such self-issuance authority, the owner of the vehicle shall complete the permit in a format designated by the department, electronically transmit a copy to the department prior to the move, and ensure that a copy is in the possession of the operator. Vehicles having a gross weight exceeding the limits provided by law that have a nondivisible gross vehicle weight of ninety-five...
thousand (95,000) pounds or less, which are otherwise legal, shall
not be restricted as to the hours of the day such vehicles may be
operated on predesignated routes. The department shall bill the
vehicle owner according to the provisions of the preceding
paragraph. The department is authorized to modify predesignated
routes at any time for cause, such as highway construction or
hazardous highway conditions. The annual fee for the
self-issuance permit authority obtained pursuant to this paragraph
shall be Five Hundred Dollars ($500.00) per owner, regardless of
the number of vehicles which he will operate pursuant to such
permit, in addition to any other fees required by this section.
Any vehicle and load being operated pursuant to this paragraph for
which the operator does not have the permit or a copy thereof in
his possession, or for which a copy of the permit was not
electronically transmitted to the department, shall be deemed not
to have a permit and shall be penalized accordingly.

(2) Before operating a vehicle where the size of the load
being hauled is in excess of that permitted by law, the owner or
operator of such vehicle shall obtain excess size authorization
from the Transportation Department or proper local authority and
an excess size permit from the Transportation Department. Such
excess size permit shall be issued by the Mississippi Department
of Transportation under the same provisions as are provided for
the issuance of trip permits under Section 27-19-79, and it shall
be obtained prior to the operation of such vehicle on the
highways. The fee to be charged for such excess size permit shall
be Ten Dollars ($10.00) per trip. Such permits may be issued for
an extended period of time and must coincide with the expiration
date and other provisions of the carrier's permit or authorization
issued by the Transportation Department or local authority. The
fee for such extended permits shall be based upon an annual fee of
One Hundred Dollars ($100.00) per carrier. No permit shall be
issued under this subsection if the issuance of the permit would
violate federal law or would cause the State of Mississippi to lose federal aid funds. This subsection shall not apply to any tractor, road roller or road machinery used solely and specifically in road building or other highway construction or maintenance work or to any machinery or equipment operated on the highways or transported thereon in the course of normal farming activities, including cotton module transporters.

(3) The Executive Director of the Mississippi Department of Transportation may authorize certain carriers of property to issue overweight and/or oversize permits for vehicles owned or operated by such carriers, provided such carriers have blanket authorization from the Transportation Commission and also meet other requirements established by the Transportation Commission.

(4) The owner or operator of a vehicle hauling sand, gravel, fill dirt, agricultural products or unprocessed forestry products may apply to the Mississippi Department of Transportation for a harvest permit for the purpose of authorizing any such vehicles to operate on the highways in this state (other than the federal interstate system or those highways designated by the Mississippi Department of Transportation as not capable of carrying more than fifty-seven thousand six hundred fifty (57,650) pounds at the maximum gross weight specified in Section 63-5-33). Harvest permits may be issued and are valid to permit any such vehicle to be operated on a highway in this state that has been designated by the Mississippi Department of Transportation as not capable of carrying more than fifty-seven thousand six hundred fifty (57,650) pounds only if such vehicle operates in compliance with the provisions of Section 63-5-29(3)(b). A fee of Twenty-five Dollars ($25.00) shall be charged for each permit issued. The permit shall be in the form of a decal which shall be affixed to each permitted vehicle on the upper left corner of the windshield on the driver's side. Each permit shall expire one (1) year from its date of issue. The fees collected under this subsection shall be
deposited into the special fund that is created under Section 3 of this act. This subsection (4) shall stand repealed from and after July 1, 2002.

(5) Any owner or operator who has met the requirements set by the Mississippi Transportation Commission may defer payment of permits issued by the department until the end of the current month. If full payment is not received by the twentieth of the following month, there may be added as damages to the total amount of the delinquency or deficiency the following percentages: ten percent (10%) for the first offense; fifteen percent (15%) for the second offense and twenty-five percent (25%) for the third and any subsequent offense. Upon the third offense, the department may suspend the privilege to defer payment. The balance due shall become payable upon notice and demand by the department.

(6) The permit fee monies collected under this section, except as provided for in subsection (4) of this section, shall be deposited into the State Highway Fund for the construction, maintenance and reconstruction of highways and roads of the State of Mississippi or the payment of interest and principal on bonds authorized by the Legislature for construction and reconstruction of highways.

(7) The department may waive the permits, taxes and fees set forth in this section whenever a motor vehicle is operated upon the public highways in this state in response to an emergency, a major disaster or the threat of a major disaster.

SECTION 2. Section 27-19-89, Mississippi Code of 1972, is amended as follows:

27-19-89. (a) If any nonresident owner or operator or other nonresident person eligible for a temporary permit as provided in Section 27-19-79, who has not elected to register and pay the annual privilege taxes prescribed, shall enter or go upon the public highways of the state and shall fail or refuse to obtain the permit required by Section 27-19-79, such person shall be
liable, for the first such offense, for the full amount of the permit fee required, plus a penalty thereon of five hundred percent (500%). For the second and all subsequent offenses, such person who fails or refuses to obtain such permits shall be liable for the pro rata part of the annual tax for the balance of the tag year for the maximum legal gross weight of the vehicle plus a penalty thereon of twenty-five percent (25%). Any weight in excess of the maximum legal gross weight of the vehicle, or in excess of the maximum highway weight limit, shall be penalized according to subsection (c) of this section. In either case the excess weight shall be removed by the operator before the vehicle can be allowed to proceed. In order to constitute a "second or subsequent offense" under the provisions hereof, it shall not be necessary that the same or identical vehicle be involved, it being the declared purpose hereof to provide that such penalties shall run against the owner or operator rather than against the specified vehicle. It is further provided that, in order for such owner or operator to become liable for the penalties herein provided, it shall not be necessary to show that such owner or operator was guilty of willfulness, gross negligence or wantonness, but the offense shall be complete upon the failure or refusal to obtain the required permit.

(b) If any person who has registered his vehicle in Mississippi shall operate such vehicle upon the public highways, having a gross weight greater than the licensed gross weight of such vehicle, and shall fail or refuse to obtain a permit therefor as required by Section 27-19-79, or if any person shall operate any such registered vehicle upon the public highways in a higher classification than that for which it is registered, and shall fail or refuse to obtain a permit therefor as required by Section 27-19-79, then such person shall be liable for the pro rata part of the annual tax for the balance of the tag year for the legal gross weight of such vehicle and in the classification in which
same is being operated, plus a penalty thereon of twenty-five percent (25%), after having been given credit for the unexpired part of the privilege tax paid, as provided in Section 27-19-75. In order that such owner or operator shall become liable for the penalties herein provided, it shall not be necessary to show that such owner or operator was guilty of willfulness, gross negligence or wantonness, but the offense shall be complete upon the failure or refusal to obtain the required permit.

(c) If any person shall operate upon a highway of this state a vehicle which has a greater vehicle gross weight than the maximum gross weight limit established by law for that highway and shall have failed to obtain an overload permit as required by Section 27-19-81, or if any person shall operate a vehicle with a greater load on any axle or axle grouping than allowed by law, then such person, owner or operator shall be assessed a penalty on such axle load weight or vehicle gross weight as exceeds the legal limit in accordance with the following schedule:

<table>
<thead>
<tr>
<th>AMOUNT IN EXCESS OF LEGAL HIGHWAY WEIGHT</th>
<th>PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 999</td>
<td>$10.00 minimum penalty</td>
</tr>
<tr>
<td>1,000 to 1,999</td>
<td>1¢ per pound in excess of legal limit</td>
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<tr>
<td>2,000 to 2,999</td>
<td>2¢ per pound in excess of legal limit</td>
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<tr>
<td>3,000 to 3,999</td>
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<tr>
<td>4,000 to 4,999</td>
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<td>5,000 to 5,999</td>
<td>5¢ per pound in excess of legal limit</td>
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<td>6,000 to 6,999</td>
<td>6¢ per pound in excess of legal limit</td>
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<td>7,000 to 7,999</td>
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<td>8,000 to 8,999</td>
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<td>9,000 to 9,999</td>
<td>9¢ per pound in excess of legal limit</td>
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<td>10,000 to 10,999</td>
<td>10¢ per pound in excess of legal limit</td>
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<tr>
<td>11,000 or more</td>
<td>11¢ per pound in excess of legal limit</td>
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Any vehicle in violation of the tolerance allowed pursuant to Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c) for all weight in excess of the legal highway gross weight limit authorized for such vehicle or for all weight in excess of the legal tandem axle load weight limit of forty thousand (40,000) pounds and the legal single axle load limit of twenty thousand (20,000) pounds, whichever the case may be.

The penalty to be assessed for operations of a vehicle with a greater load on any axle or axle grouping than the legal axle load weight limits shall be one-half (1/2) the penalty for operation in excess of the legal gross weight limit.

In instances where both the legal highway gross weight limit and the legal axle load weight limit(s) are exceeded, the fine that shall be levied shall be either the penalty amount for the excess vehicle gross weight or the total of the penalty amounts of all overloaded axles, whichever is the larger amount.

Notwithstanding any other provisions of this section to the contrary, the fine assessed against the holder of a harvest permit for exceeding a gross vehicle weight of eighty-four thousand (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen Cents (15¢) per pound for exceeding a gross vehicle weight of one hundred thousand (100,000) pounds.

Notwithstanding any other provision of this subsection (c) to the contrary, upon an appeal to the Appeals Board of the Mississippi Transportation Commission by an owner or operator of a vehicle hauling without a harvest permit any of the products or materials described in subsection (3) of Section 63-5-33 and upon whom a penalty has been assessed under this subsection (c) for exceeding the legal weight limit(s) on a highway having a legal weight limit of eighty thousand (80,000) pounds or less, the appeals board shall reduce the penalty assessed against such owner/operator to an amount not to exceed ten percent (10%) of the amount which would otherwise be due without the reduction.
authorized under this paragraph. A reduction shall not be authorized under this paragraph if the gross weight of the vehicle for which an owner/operator has been charged with a violation of this section exceeds eighty-four thousand (84,000) pounds; and, in any event, no reduction shall be authorized under this paragraph unless a penalty assessed under this section is appealed to the appeals board and unless the board determines, based upon its records, that such owner/operator has not been granted a penalty reduction under this paragraph within a period of twelve (12) months immediately preceding the date of filing an appeal with the board for a penalty reduction under this paragraph.

(d) If any nonresident owner or operator who has not registered his vehicle and paid the annual privilege taxes prescribed shall operate his vehicle upon the highways of this state when such vehicle has a greater gross weight than permitted by law for the highway traveled upon, and for which such excess gross weight a permit was not or could not be procured from the transportation department as required by Section 27-19-81, such person shall be liable upon his second and all subsequent offenses for the pro rata part of the annual tax for the balance of the tag year for the legal gross weight of the vehicle, and in addition thereto the penalty fee on the excess weight as specified in subsection (c) of this section. In order that such owner or operator shall become liable for the penalties herein provided, it shall not be necessary that the same or identical vehicle be involved, it being the declared purpose hereof to provide that such penalties shall run against the owner or operator rather than against the specific vehicle.

(e) All fines and penalties imposed and collected by the Mississippi Department of Transportation for violations of the maximum legal vehicle weight limits authorized on the highways of this state shall be deposited into the special fund that is created under Section 3 of this act.
SECTION 3. (1) There is created in the State Treasury a special fund to be designated as the "2001 Feeder Road Improvement Fund." The fund shall consist of the monies required to be deposited therein under Sections 27-19-81(4) and 27-19-89(e) and such other monies as the Legislature appropriates or otherwise designates for deposit into the fund. Monies in the fund shall be allocated and distributed to each of the counties in the state upon requisition of the State Aid Engineer on October 1 of each year in accordance with the state aid road formula as prescribed in Section 65-9-3. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

(2) A county may expend funds allocated and distributed to it under this section to construct, reconstruct, repair or maintain roads, streets, highways and bridges of the county that are not included on the state highway system or the state aid road system. Monies allocated and distributed to a county under this section may also be used to match any federal funds that may be available for the same or similar purposes.

SECTION 4. This act shall take effect and be in force from and after July 1, 2001.