

By: Representative Eaton

To: Transportation

HOUSE BILL NO. 789

1 AN ACT TO AMEND SECTION 27-19-89, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE APPEALS BOARD OF THE MISSISSIPPI
 3 TRANSPORTATION COMMISSION SHALL REDUCE THE PENALTY ASSESSED
 4 AGAINST THE OWNER/OPERATOR OF A MOTOR VEHICLE FOR EXCEEDING THE
 5 MAXIMUM LEGAL HIGHWAY WEIGHT LIMIT ON A HIGHWAY HAVING A LEGAL
 6 WEIGHT LIMIT OF LESS THAN 80,000 POUNDS; TO PROVIDE THAT THE
 7 PENALTY REDUCTION SHALL NOT BE AUTHORIZED IF THE GROSS WEIGHT OF
 8 THE VEHICLE EXCEEDS 80,000 POUNDS OR, IN ANY EVENT, MORE THAN ONCE
 9 DURING A TWELVE MONTH PERIOD; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 27-19-89, Mississippi Code of 1972, is
 12 amended as follows:

13 27-19-89. (a) If any nonresident owner or operator or other
 14 nonresident person eligible for a temporary permit as provided in
 15 Section 27-19-79, who has not elected to register and pay the
 16 annual privilege taxes prescribed, shall enter or go upon the
 17 public highways of the state and shall fail or refuse to obtain
 18 the permit required by Section 27-19-79, such person shall be
 19 liable, for the first such offense, for the full amount of the
 20 permit fee required, plus a penalty thereon of five hundred
 21 percent (500%). For the second and all subsequent offenses, such
 22 person who fails or refuses to obtain such permits shall be liable
 23 for the pro rata part of the annual tax for the balance of the tag
 24 year for the maximum legal gross weight of the vehicle plus a
 25 penalty thereon of twenty-five percent (25%). Any weight in
 26 excess of the maximum legal gross weight of the vehicle, or in
 27 excess of the maximum highway weight limit, shall be penalized
 28 according to subsection (c) of this section. In either case the
 29 excess weight shall be removed by the operator before the vehicle
 30 can be allowed to proceed. In order to constitute a "second or



31 subsequent offense" under the provisions hereof, it shall not be
32 necessary that the same or identical vehicle be involved, it being
33 the declared purpose hereof to provide that such penalties shall
34 run against the owner or operator rather than against the
35 specified vehicle. It is further provided that, in order for such
36 owner or operator to become liable for the penalties herein
37 provided, it shall not be necessary to show that such owner or
38 operator was guilty of willfulness, gross negligence or
39 wantonness, but the offense shall be complete upon the failure or
40 refusal to obtain the required permit.

41 (b) If any person who has registered his vehicle in
42 Mississippi shall operate such vehicle upon the public highways,
43 having a gross weight greater than the licensed gross weight of
44 such vehicle, and shall fail or refuse to obtain a permit therefor
45 as required by Section 27-19-79, or if any person shall operate
46 any such registered vehicle upon the public highways in a higher
47 classification than that for which it is registered, and shall
48 fail or refuse to obtain a permit therefor as required by Section
49 27-19-79, then such person shall be liable for the pro rata part
50 of the annual tax for the balance of the tag year for the legal
51 gross weight of such vehicle and in the classification in which
52 same is being operated, plus a penalty thereon of twenty-five
53 percent (25%), after having been given credit for the unexpired
54 part of the privilege tax paid, as provided in Section 27-19-75.
55 In order that such owner or operator shall become liable for the
56 penalties herein provided, it shall not be necessary to show that
57 such owner or operator was guilty of willfulness, gross negligence
58 or wantonness, but the offense shall be complete upon the failure
59 or refusal to obtain the required permit.

60 (c) If any person shall operate upon a highway of this state
61 a vehicle which has a greater vehicle gross weight than the
62 maximum gross weight limit established by law for that highway and
63 shall have failed to obtain an overload permit as required by



64 Section 27-19-81, or if any person shall operate a vehicle with a
65 greater load on any axle or axle grouping than allowed by law,
66 then such person, owner or operator shall be assessed a penalty on
67 such axle load weight or vehicle gross weight as exceeds the legal
68 limit in accordance with the following schedule:

69	AMOUNT IN EXCESS OF	
70	LEGAL HIGHWAY WEIGHT	
71	LIMITS IN POUNDS	PENALTY
72	1 to 999	\$10.00 minimum penalty
73	1,000 to 1,999	1¢ per pound in excess of legal limit
74	2,000 to 2,999	2¢ per pound in excess of legal limit
75	3,000 to 3,999	3¢ per pound in excess of legal limit
76	4,000 to 4,999	4¢ per pound in excess of legal limit
77	5,000 to 5,999	5¢ per pound in excess of legal limit
78	6,000 to 6,999	6¢ per pound in excess of legal limit
79	7,000 to 7,999	7¢ per pound in excess of legal limit
80	8,000 to 8,999	8¢ per pound in excess of legal limit
81	9,000 to 9,999	9¢ per pound in excess of legal limit
82	10,000 to 10,999	10¢ per pound in excess of legal limit
83	11,000 or more	11¢ per pound in excess of legal limit

84 Any vehicle in violation of the tolerance allowed pursuant to
85 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)
86 for all weight in excess of the legal highway gross weight limit
87 authorized for such vehicle or for all weight in excess of the
88 legal tandem axle load weight limit of forty thousand (40,000)
89 pounds and the legal single axle load limit of twenty thousand
90 (20,000) pounds, whichever the case may be.

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

95 In instances where both the legal highway gross weight limit
96 and the legal axle load weight limit(s) are exceeded, the fine



97 that shall be levied shall be either the penalty amount for the
98 excess vehicle gross weight or the total of the penalty amounts of
99 all overloaded axles, whichever is the larger amount.

100 Notwithstanding any other provisions of this section to the
101 contrary, the fine assessed against the holder of a harvest permit
102 for exceeding a gross vehicle weight of eighty-four thousand
103 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen
104 Cents (15¢) per pound for exceeding a gross vehicle weight of one
105 hundred thousand (100,000) pounds.

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

128 Notwithstanding any other provision of this subsection (c) to
129 the contrary, upon an appeal to the Appeals Board of the



130 Mississippi Transportation Commission by an owner or operator of a
131 vehicle upon whom a penalty has been assessed under this
132 subsection (c) for exceeding the legal weight limit(s) on a
133 highway having a legal weight limit less than eighty thousand
134 (80,000) pounds, the appeals board shall reduce the penalty
135 assessed against such owner/operator to an amount not to exceed
136 ten percent (10%) of the amount which would otherwise be due
137 without the reduction authorized under this paragraph. A
138 reduction shall not be authorized under this paragraph if the
139 gross weight of the vehicle for which an owner/operator has been
140 charged with a violation of this section exceeds eighty thousand
141 (80,000) pounds, or if the owner/operator holds a valid harvest
142 permit, the gross weight of the vehicle for which the
143 owner/operator has been charged with a violation of this section
144 exceeds eighty-four thousand (84,000) pounds. In any event, no
145 reduction shall be authorized under this paragraph unless a
146 penalty assessed under this section is appealed to the appeals
147 board and unless the board determines, based upon its records,
148 that such owner/operator has not been granted a penalty reduction
149 under this paragraph within a period of twelve (12) months
150 immediately preceding the date of filing an appeal with the board
151 for a penalty reduction under this paragraph.

152 (d) If any nonresident owner or operator who has not
153 registered his vehicle and paid the annual privilege taxes
154 prescribed shall operate his vehicle upon the highways of this
155 state when such vehicle has a greater gross weight than permitted
156 by law for the highway traveled upon, and for which such excess
157 gross weight a permit was not or could not be procured from the
158 transportation department as required by Section 27-19-81, such
159 person shall be liable upon his second and all subsequent offenses
160 for the pro rata part of the annual tax for the balance of the tag
161 year for the legal gross weight of the vehicle, and in addition
162 thereto the penalty fee on the excess weight as specified in



163 subsection (c) of this section. In order that such owner or
164 operator shall become liable for the penalties herein provided, it
165 shall not be necessary that the same or identical vehicle be
166 involved, it being the declared purpose hereof to provide that
167 such penalties shall run against the owner or operator rather than
168 against the specific vehicle.

169 (e) All fines and penalties imposed and collected by the
170 Mississippi Department of Transportation for violations of the
171 maximum legal vehicle weight limits authorized on the highways of
172 this state shall be deposited into a special fund that is created
173 in the State Treasury. Monies in the fund shall be allocated and
174 distributed quarterly, beginning September 30, 1994, to each
175 county of the state based on the amount of such fines and
176 penalties imposed and collected in the county during the
177 immediately preceding three (3) months. Monies distributed to the
178 counties under this subsection shall be deposited in each county's
179 road and bridge fund and may be expended, upon approval of the
180 board of supervisors, for any purpose for which county road and
181 bridge fund monies lawfully may be expended.

182 SECTION 2. This act shall take effect and be in force from
183 and after July 1, 2001.

