HOUSE BILL NO. 1504

AN ACT TO AMEND SECTION 11-46-5, MISSISSIPPI CODE OF 1972, TO
EXPAND RECOVERY UNDER THE TORTS CLAIM ACT; AND FOR RELATED
PURPOSES.

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

SECTION 1.  Section 11-46-5, Mississippi Code of 1972, is
amended as follows:

11-46-5.  (1)  Notwithstanding the immunity granted in
Section 11-46-3, or the provisions of any other law to the
contrary, the immunity of the state and its political subdivisions
from claims for money damages arising out of the torts of such
governmental entities and the torts of their employees while
acting within the course and scope of their employment is hereby
waived from and after July 1, 1993, as to the state, and from and
after October 1, 1993, as to political subdivisions; provided,
however, immunity of a governmental entity in any such case shall
be waived only to the extent of the maximum amount of liability
provided for in Section 11-46-15.

(2)  For the purposes of this chapter, an employee shall not
be considered as acting within the course and scope of his
employment and a governmental entity shall not be liable or be
considered to have waived immunity for any conduct of its employee
if the employee's conduct constituted fraud, malice, libel,
slander, defamation or any criminal offense other than traffic
violations.

(3)  For the purposes of this chapter and not otherwise, it
shall be a rebuttable presumption that any act or omission of an
employee within the time and at the place of his employment is
within the course and scope of his employment.

(4) For the purposes of this chapter and not otherwise,
damage to beehives and related property when caused by black bears
shall be considered a tort on the part of the Department of
Wildlife, Fisheries and Parks for which recovery may be had under
this chapter.

(5) Nothing contained in this chapter shall be construed to
waive the immunity of the state from suit in federal courts
guaranteed by the Eleventh Amendment to the Constitution of the
United States.

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