

By: Senator(s) Dearing (By Request)

To: Highways and
Transportation; Public
Utilities

SENATE BILL NO. 2418

1 AN ACT TO TRANSFER THE PERSONNEL EMPLOYED BY THE MISSISSIPPI
2 PUBLIC SERVICE COMMISSION TO CARRY OUT AND ENFORCE THE PROVISIONS
3 OF THE MOTOR CARRIER REGULATORY LAW OF 1938 TO THE MISSISSIPPI
4 DEPARTMENT OF TRANSPORTATION; TO PROVIDE THAT REDUCTIONS IN THE
5 PERSONNEL EMPLOYED TO CARRY OUT AND ENFORCE THE PROVISIONS OF THE
6 MOTOR CARRIER REGULATORY LAW SHALL BE FROM ATTRITION AND NOT
7 DISMISSAL; TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION
8 TO EMPLOY ADDITIONAL PERSONNEL TO CARRY OUT AND ENFORCE THE
9 PROVISIONS OF THE MOTOR CARRIER REGULATORY LAW OF 1938; TO
10 TRANSFER THE DUTIES AND RESPONSIBILITIES OF THE MISSISSIPPI PUBLIC
11 SERVICE COMMISSION UNDER THE MOTOR CARRIER REGULATORY LAW OF 1938
12 TO THE MISSISSIPPI TRANSPORTATION COMMISSION AND THE MISSISSIPPI
13 DEPARTMENT OF TRANSPORTATION; TO CREATE THE TRANSPORTATION
14 COMMISSION REGULATION FUND INTO WHICH SHALL BE DEPOSITED ALL FUNDS
15 COLLECTED UNDER THE PROVISIONS OF THE MOTOR CARRIER REGULATORY LAW
16 OF 1938; TO AMEND SECTIONS 77-1-15, 77-3-87, 77-7-7, 77-7-21,
17 77-7-23, 77-7-47, 77-7-115, 77-7-119, 77-7-125, 77-7-127,
18 77-7-333, 77-7-335, 77-7-337 AND 77-7-339, MISSISSIPPI CODE OF
19 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO REPEAL
20 SECTIONS 77-1-19 AND 77-1-21, MISSISSIPPI CODE OF 1972, WHICH
21 AUTHORIZE THE MISSISSIPPI PUBLIC SERVICE COMMISSION TO EMPLOY
22 CERTAIN PERSONNEL TO CARRY OUT AND ENFORCE THE PROVISIONS OF THE
23 MOTOR CARRIER REGULATORY LAW OF 1938; AND FOR RELATED PURPOSES.

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

25 SECTION 1. (1) Effective July 1, 2001, all persons employed
26 by the Mississippi Public Service Commission to carry out and
27 enforce the provisions of the Motor Carrier Regulatory Law of
28 1938, shall be transferred to the Mississippi Department of
29 Transportation. All such transfers shall be in accordance with
30 the rules and regulations of the State Personnel Board.

31 (2) If the number of persons employed by the state to carry
32 out and enforce the provisions of the Motor Carrier Regulatory Law
33 of 1938 are reduced, such reduction shall result from attrition
34 and not dismissal.

35 (3) All records, personnel, property and unexpended balances
36 of appropriations, allocations or other funds of the Public
37 Service Commission affected by the transfer authorized by this



38 section, shall be transferred to the Mississippi Department of
39 Transportation.

40 SECTION 2. The Mississippi Transportation Commission is
41 authorized to employ the following additional employees to carry
42 out and enforce the provisions of the Motor Carrier Regulatory Law
43 of 1938:

44 (a) An assistant secretary and two (2)
45 stenographer-clerks;

46 (b) One (1) combined bookkeeper and stenographer;

47 (c) One (1) stenographer competent to serve as a
48 reporter of evidence taken before the commission; and

49 (d) Twelve (12) additional employees.

50 SECTION 3. For the purpose of enforcing the provisions of
51 the Mississippi Motor Carrier Regulatory Law of 1938, the
52 Mississippi Transportation Commission is hereby authorized to
53 employ, in addition to other necessary personnel, one (1) chief
54 enforcement officer and thirty-one (31) inspectors, the salaries
55 of whom shall be fixed by the commission. The chief enforcement
56 officer and the inspectors shall devote their full time to the
57 performance of their duties and shall take an oath to faithfully
58 perform the duties of their position. The commission shall
59 require bonds to be carried on such employees as the commission
60 may deem necessary, the cost thereof to be paid by the commission.
61 The chief enforcement officer and inspectors shall be qualified by
62 experience and training in law enforcement or investigative work,
63 and shall attend and satisfactorily complete an appropriate course
64 of instruction established by the Commissioner of Public Safety at
65 the Law Enforcement Officers Training Academy. The chief
66 enforcement officer and the inspectors shall be selected after an
67 examination as to physical and mental fitness. Such employees
68 shall be citizens of the United States and the State of
69 Mississippi, and of good moral character. All such employees



70 shall be appointed by the commission and shall be subject to
71 removal at any time by the commission.

72 SECTION 4. From and after July 1, 2001, the duties and
73 responsibilities of the Mississippi Public Service Commission
74 under the Motor Carrier Regulatory Law of 1938 shall be
75 transferred to the Mississippi Transportation Commission and the
76 Mississippi Department of Transportation.

77 SECTION 5. There is hereby established in the State Treasury
78 a special fund to be known as the "Transportation Commission
79 Regulation Fund." The fund shall be the sole fund for the deposit
80 of all monies collected by the Mississippi Transportation
81 Commission or the Mississippi Department of Transportation under
82 the provisions of the Motor Carrier Regulatory Act of 1938. The
83 fund shall be audited annually by the State Auditor.

84 SECTION 6. Section 77-1-15, Mississippi Code of 1972, is
85 amended as follows:

86 77-1-15. (1) There shall be an executive secretary of the
87 commission, hereinafter referred to in this chapter as the
88 secretary, to be appointed by the commission, by and with the
89 advice and consent of the Senate, for the term of the
90 commissioners. The secretary must have the same qualifications as
91 the commissioners and shall be subject to the same
92 disqualifications and to like penalties, except that he shall not
93 be liable to impeachment. He shall receive a salary fixed by the
94 Legislature. He shall take the oath of office and shall be
95 removable at the pleasure of the commission, which may fill any
96 vacancy until the Senate confirms a successor. The secretary
97 shall make bond as provided for other state officers, in the sum
98 of Ten Thousand Dollars (\$10,000.00), conditioned upon the
99 faithful performance of the duties of his office.

100 (2) The secretary shall collect all fees and penalties
101 collected by or paid to the commission, and shall cover the same
102 into the State Treasury * * *.



103 (3) The secretary of the commission shall be the custodian
104 of all records, documents, and the seal of the commission. He
105 shall issue all citations, subpoenas and other rightful orders and
106 documents, and perform all other duties usually required of such
107 officer, and as required by the commission.

108 (4) It shall be the duty and responsibility of the secretary
109 to supervise and manage the offices and staff of the Public
110 Service Commission and formulate written policies and procedures
111 for the effective and efficient operation of the office and
112 present these policies and procedures to the board for
113 promulgation.

114 SECTION 7. Section 77-3-87, Mississippi Code of 1972, is
115 amended as follows:

116 77-3-87. All reasonable and necessary expenses of the
117 administration of the duties imposed on the Public Utilities Staff
118 and on the commission by Title 77, Mississippi Code of 1972,
119 excluding the reasonable and necessary expenses of the
120 administration and enforcement by the commission of the laws of
121 this state pursuant to Chapter * * * 9 of Title 77, Mississippi
122 Code of 1972, shall be provided as follows: There is hereby
123 levied a tax upon (a) all utilities, the rates of which are
124 subject to regulation by the provisions of this chapter and upon
125 (b) all utilities not subject to such rate regulation which
126 furnish to the ultimate consumer utility services of the type
127 described by subparagraph (i) of paragraph (d) of Section 77-3-3
128 and otherwise subject to regulation by the provisions of this
129 chapter, such levy to be effective on the first day of each year
130 and to be calculated as follows: The rate of the tax shall be one
131 hundred sixty-four thousandths of one percent (164/1000 of 1%) per
132 year, of the gross revenues from the intrastate operations of the
133 utilities taxed under this section. The rate of the tax for
134 electric power associations and rural electrification authorities
135 shall be ninety thousandths of one percent (90/1000 of 1%) per



136 year of the gross revenues from the intrastate operations of
137 electric power associations and rural electrification authorities
138 taxed under this section. The sum of all taxes levied by this
139 section shall not exceed the total legislative appropriation of
140 monies from the "Public Utilities Staff Regulation Fund" and the
141 "Public Service Commission Regulation Fund" for the ensuing fiscal
142 year. The commission and the Executive Director of the Public
143 Utilities Staff shall certify to the State Tax Commission the
144 amount of legislative appropriations of monies for the regulation
145 of utilities. The State Tax Commission shall adjust the tax rates
146 on a pro rata basis to generate the necessary revenues established
147 by such legislative appropriations. Each utility which is subject
148 to the tax levied by this section shall file a statement of its
149 gross revenue by April 1 of each year showing the gross revenue
150 for the preceding year's operation. These statements of gross
151 revenue shall be filed with the State Tax Commission on forms
152 prescribed and furnished by the State Tax Commission. The State
153 Tax Commission shall file a copy of these statements of gross
154 revenue with the Public Utilities Staff and the commission. The
155 State Tax Commission shall calculate the amount of tax to be paid
156 by each of the utilities and shall submit a statement thereof to
157 the respective utilities, and the amount shown due in the
158 statements to the utilities shall be paid by them within thirty
159 (30) days thereafter to the State Tax Commission. The State Tax
160 Commission shall furnish the Public Utilities Staff and the
161 commission with an itemized list showing gross and net revenues,
162 assessments, tax collections and other related information for the
163 respective utilities. The State Tax Commission shall pay these
164 funds into the State Treasury on the same day collected to the
165 credit of the "Public Utilities Staff Regulation Fund" and to the
166 "Public Service Commission Regulation Fund" in the proportion that
167 the legislative appropriation of monies from each fund for the
168 regulation of utilities for the ensuing fiscal year bears to the



169 total legislative appropriation of monies from both funds for the
170 regulation of utilities for the ensuing fiscal year.

171 All administrative provisions of the Mississippi Sales Tax
172 Law, including those which fix damages, penalties and interest for
173 nonpayment of taxes and for noncompliance with the provisions of
174 such chapter, and all other duties and requirements imposed upon
175 taxpayers, shall apply to all persons liable for taxes under the
176 provisions of this chapter, and the Tax Commissioner shall
177 exercise all the power and authority and perform all the duties
178 with respect to taxpayers under this chapter as are provided in
179 the Mississippi Sales Tax Law except where there is a conflict,
180 then the provisions of this chapter shall control. The term
181 "gross revenue" as used in this section is the total amount of all
182 revenue derived by each of the utilities from its intrastate
183 operations, which are subject to rate regulation under the
184 provisions of this chapter or which constitute utility services of
185 the type described by subparagraph (i) of paragraph (d) of Section
186 77-3-3 and which are regulated by this chapter and furnished to
187 ultimate consumers. The State Tax Commission is hereby authorized
188 to use all tax returns of any utilities available to it and to
189 make audits as may be deemed necessary of all records of utilities
190 in order to correctly determine the amount of such gross revenue.

191 All proceeds of the above-mentioned tax are hereby allocated
192 to the Public Utilities Staff and to the commission in the manner
193 provided in this section for the purpose of this chapter.

194 Each utility subject to the provisions of this section shall
195 be allowed to recover, through the use of a rate adjustment clause
196 or rider, the total amount of taxes paid by the utility pursuant
197 to this section for the reasonable and necessary expenses of the
198 commission and the Public Utilities Staff.

199 SECTION 8. Section 77-7-7, Mississippi Code of 1972, is
200 amended as follows:



201 77-7-7. Whenever used in this chapter unless expressly
202 stated otherwise:

203 (a) The term "person" means an individual, firm,
204 copartnership, corporation, company, association or joint-stock
205 association, and includes any trustee, receiver, assignee or
206 personal representative thereof.

207 (b) The term "commission" means the Mississippi
208 Transportation Commission.

209 (c) The term "highway" means every public highway or
210 place of whatever nature open to the use of the public for
211 purposes of vehicle travel in this state, including the streets
212 and alleys in towns and cities.

213 (d) The term "motor vehicle" and "vehicle" means any
214 vehicle, machine, tractor, trailer or semitrailer propelled or
215 drawn by mechanical power and used upon the highways in the
216 transportation of passengers or property; such term, however, does
217 not include any vehicle, locomotive or car operated exclusively on
218 a rail or rails.

219 (e) The term "common carrier by motor vehicle" means
220 any person who or which undertakes, whether directly or by a lease
221 or any other arrangement, to transport passengers or household
222 goods.

223 (f) The term "contract carrier by motor vehicle" means
224 any person, not included under subsection (e) of this section, who
225 or which, under special and individual contracts or agreements,
226 and whether directly or by a lease or any other arrangement,
227 transports passengers or household goods.

228 (g) The term "restricted motor carrier" means all
229 carriers of property, except household goods, by motor vehicle for
230 compensation.

231 (h) The "services" and "transportation" to which this
232 chapter applies include all vehicles operated by, for or in the
233 interest of any motor carrier irrespective of ownership or



234 contract, express or implied, together with all facilities and
235 property operated or controlled by any such carrier or carriers
236 and used in the transportation of passengers or property or in the
237 performance of any service in connection therewith.

238 (i) The term "certificate" means a certificate of
239 public convenience and necessity issued by the commission to
240 common carriers by motor vehicle and restricted common carriers by
241 motor vehicle under this chapter.

242 (j) The term "permit" means a permit issued by the
243 commission to contract carriers by motor vehicle under this
244 chapter.

245 (k) The term "interstate permit" means a permit issued
246 under the terms of this chapter to the holder of a certificate of
247 public convenience and necessity, a permit, or other operating
248 authority from the Interstate Commerce Commission.

249 (l) The term "owner" or "operator" and "owner and
250 operator" means any individual, firm, copartnership, corporation,
251 company, association or joint stock association, and includes any
252 trustee, receiver, assignee or personal representative thereof, to
253 whom or to which a certificate of convenience and necessity or
254 permit or interstate permit has been issued by the * * *
255 commission.

256 (m) The term "vanpooling" means a nonprofit arrangement
257 entered into to provide for the transportation of persons to and
258 from their places of employment utilizing a motor vehicle
259 manufactured primarily for the transporting of not less than eight
260 (8) nor more than fifteen (15) people, and where the costs of
261 operating said vehicle, including reasonable vehicle depreciation
262 costs, are paid for by those people utilizing such arrangement.

263 SECTION 9. Section 77-7-21, Mississippi Code of 1972, is
264 amended as follows:

265 77-7-21. No restricted motor carrier not exempted in this
266 chapter shall engage in intrastate operation on any highway within



267 the state unless such carrier is in compliance with the
268 requirements of the laws and regulations of the * * * commission.

269 SECTION 10. Section 77-7-23, Mississippi Code of 1972, is
270 amended as follows:

271 77-7-23. The * * * commission shall promulgate rules,
272 regulations and procedures for the regulation of minimum amounts
273 of financial responsibility relating to insurance requirements and
274 self-insurance authorization, safety of operations and appointment
275 of agents of service of process for restricted motor carriers.

276 SECTION 11. Section 77-7-47, Mississippi Code of 1972, is
277 amended as follows:

278 77-7-47. If the commission should decide that an emergency
279 exists at any time, said commission is hereby authorized and
280 empowered to issue a temporary certificate of convenience and
281 necessity or temporary contract carrier permit to fit applicants,
282 and the State Tax Commission is hereby authorized to collect
283 inspection fees and issue temporary identification credentials to
284 any owner or operator to whom a temporary certificate of
285 convenience and necessity or a temporary contract carrier permit
286 has been issued by the * * * commission. The State Tax Commission
287 is also hereby authorized to issue to holders of temporary
288 certificates of convenience and necessity or temporary contract
289 carrier permits the necessary road and bridge privilege license
290 tax temporary permits in the same manner as temporary or seasonal
291 permits are now issued under the provisions of Chapter 19 of Title
292 27, Mississippi Code of 1972. No temporary certificate of
293 convenience and necessity or contract carrier permit shall be
294 issued by the commission for a period of time less than one (1)
295 month or longer than six (6) months. Reissue of such certificate
296 or permit is hereby authorized if, in the opinion of the
297 commission, such is justified.

298 SECTION 12. Section 77-7-115, Mississippi Code of 1972, is
299 amended as follows:



300 77-7-115. On or before January 1 of each year, or prior to
301 commencement of business, every holder of a certificate of
302 convenience and necessity or permit or interstate authority issued
303 by the Interstate Commerce Commission upon whom the fee is levied
304 by Section 77-7-119, shall pay to the * * * commission * * * an
305 amount equal to the fees imposed in the section for each vehicle
306 operated within this state.

307 SECTION 13. Section 77-7-119, Mississippi Code of 1972, is
308 amended as follows:

309 77-7-119. (1) It shall be unlawful for any holder of a
310 certificate of public convenience and necessity or permit, issued
311 in accordance with this chapter, to operate over the highways of
312 this state unless there shall be accompanying each vehicle so
313 operated a receipt which shall have been procured from the * * *
314 commission as herein required. The receipts shall bear necessary
315 numbers and identification markings which, in the opinion of
316 the * * * commission, are necessary to carry out the provisions of
317 this section. The receipts required hereby shall be obtained by
318 each operator liable therefor for each vehicle used in the conduct
319 of his business in this state. The * * * commission shall collect
320 a fee of Ten Dollars (\$10.00) for each receipt issued by the
321 commission, and the Ten Dollar (\$10.00) fee shall not be prorated
322 monthly.

323 (2) It shall be unlawful for any holder of authority from
324 the Interstate Commerce Commission to operate over the highways of
325 this state unless such carrier has paid a fee of Ten Dollars
326 (\$10.00) for each vehicle operated in or through the State of
327 Mississippi pursuant to the Interstate Commerce Commission's
328 single state insurance registration.

329 (3) The * * * commission is authorized to promulgate all
330 rules and regulations necessary to enable this state to
331 participate in the single state insurance registration system for
332 motor carriers authorized by Section 4005 of the Intermodal



333 Surface Transportation Efficiency Act of 1991, P.L. No. 102-240,
334 105 Stat. 1914 (1991), codified at 49 U.S.C.A. Section 11506
335 (West Supp. 1992), and by applicable rules and regulations of the
336 Interstate Commerce Commission and any amendments thereto.

337 SECTION 14. Section 77-7-125, Mississippi Code of 1972, is
338 amended as follows:

339 77-7-125. The * * * commission shall have the sole and
340 complete power and authority to issue registration receipts to
341 owners and operators required to have the receipts.

342 SECTION 15. Section 77-7-127, Mississippi Code of 1972, is
343 amended as follows:

344 77-7-127. All funds collected by the * * * commission under
345 the provisions of this chapter shall be deposited in the State
346 Treasury to the credit of the "Transportation Commission
347 Regulation Fund" for use by the * * * commission for the
348 administration and enforcement of the laws of this state relative
349 to the inspection, control and supervision of the business,
350 equipment, service or accounts of motor carriers subject to this
351 chapter.

352 SECTION 16. Section 77-7-333, Mississippi Code of 1972, is
353 amended as follows:

354 77-7-333. After selection, the chief enforcement officer and
355 the inspectors shall go through thirty (30) days of intensive
356 instruction of the laws of this state pertaining to * * * the
357 Mississippi Department of Transportation * * * and the Department
358 of Public Safety, together with rules and regulations of all these
359 departments, and the laws of this state pertaining to arrest. The
360 expenses of attending such school shall be paid out of the
361 "Transportation Commission Regulation Fund" on presentation of
362 paid bills for travel and subsistence to the secretary of the
363 commission.

364 SECTION 17. Section 77-7-335, Mississippi Code of 1972, is
365 amended as follows:



366 (1) All inspectors on duty shall wear uniforms, shall have
367 the right to bear arms, and shall have the authority to make
368 arrests and hold and impound any vehicle and the contents thereof
369 which is being operated in violation of this chapter or the
370 commission's rules, regulations or general orders promulgated
371 thereunder.

372 (2) All inspectors shall have the authority to enforce all
373 of the laws, rules and regulations of the Mississippi
374 Transportation Commission upon all highways in the state and the
375 rights-of-way of such highways and other properties as defined in
376 Section 77-7-261; except that if any person commits an offense in
377 violation of this chapter or the rules and regulations of this
378 commission upon a highway in the state and be pursued by a member
379 or inspector of the * * * commission, such member may pursue and
380 apprehend such offender upon any of the highways in this state, or
381 to any other place to which such offender may flee.

382 (3) All inspectors shall have the authority to aid and
383 assist any law enforcement officer whose life or safety is in
384 jeopardy and may arrest without warrant any fugitive from justice
385 who has escaped or who is using the highways in the state in an
386 attempt to flee. With the approval of the commission or its
387 designee, inspectors of the Mississippi Department of
388 Transportation may assist other law enforcement agencies in
389 searching for convicted felons who have escaped or for alleged
390 felons where there is probable cause to believe that the person
391 being sought committed the felony and a felony had actually been
392 committed.

393 (4) Upon request of the Mississippi Highway Patrol, a
394 sheriff of any county or the chief of police of any community and
395 with the consent of the commission, all inspectors have the
396 authority to assist in traffic control during time of natural
397 disasters, such as hurricanes, tornados or floods.



398 (5) Nothing in this section shall be construed as granting
399 the Mississippi Transportation Commission general police powers.

400 SECTION 18. Section 77-7-337, Mississippi Code of 1972, is
401 amended as follows:

402 77-7-337. The commission is hereby authorized and empowered
403 to purchase all necessary equipment to enforce the provisions of
404 this chapter, and to pay for the same out of the "Transportation
405 Commission Regulation Fund."

406 SECTION 19. Section 77-7-339, Mississippi Code of 1972, is
407 amended as follows:

408 77-7-339. The salary of the chief enforcement officer and
409 the inspectors, and the reasonable and necessary expenses of such
410 employees and the administration of the duties imposed on the
411 commission by this chapter, shall be paid out of the special fund
412 in the State Treasury designated as the "Transportation Commission
413 Regulation Fund," upon requisition and warrants in the same manner
414 provided by law for the disbursements of appropriations for the
415 commission. An itemized account shall be kept of all receipts and
416 expenditures and shall be reported to the Legislature by the
417 commission.

418 SECTION 20. Sections 77-1-19 and 77-1-21, Mississippi Code
419 of 1972, which authorize the Mississippi Public Service Commission
420 to employ certain personnel to carry out and enforce the
421 provisions of the Motor Carrier Regulatory Law of 1938.

422 SECTION 21. This act shall take effect and be in force from
423 and after July 1, 2001.

