

By: Representative Ford

To: Judiciary A

HOUSE BILL NO. 433

1 AN ACT TO AMEND SECTION 45-3-21, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE DATE OF REPEAL OF CERTAIN POWERS AND DUTIES OF THE
3 HIGHWAY SAFETY PATROL; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 45-3-21, Mississippi Code of 1972, is
6 amended as follows:

7 **[Until July 1, 2003, this section shall read as follows:]**

8 45-3-21. (1) The powers and duties of the Highway Safety
9 Patrol shall be, in addition to all others prescribed by law, as
10 follows:

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

19 (b) To enforce all rules and regulations of the
20 commissioner promulgated pursuant to legal authority.

21 (c) When so directed by the Governor, to enforce any of
22 the laws of this state upon any of the highways or public roads
23 thereof.

24 (d) Upon the request of the State Tax Commission, and
25 with the approval of the Governor, to enforce all of the
26 provisions of law with reference to the registration, license and
27 taxation of vehicles using the highways of this state, and



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

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

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

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

58 (h) To cooperate with the State Forest Service by
59 reporting all forest fires.



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

72 (2) The Legislature declares that the primary law
73 enforcement officer in any county in the State of Mississippi is
74 the duly qualified and elected sheriff thereof, but for the
75 purposes of this subsection there is hereby vested in the
76 Department of Public Safety, in addition to the powers hereinabove
77 mentioned and the other provisions of this section under the terms
78 and limitations hereinafter mentioned and for the purpose of
79 insuring domestic tranquility and for the purpose of preventing or
80 suppressing, or both, crimes of violence, acts and conduct
81 calculated to, or which may, provoke or lead to violence and/or
82 incite riots, mobs, mob violence, a breach of the peace, and acts
83 of intimidation or terror, the powers and duties to include the
84 enforcement of all the laws of the State of Mississippi relating
85 to such purposes, to investigate any violation of the laws of the
86 State of Mississippi and to aid in the arrest and prosecution of
87 persons charged with violating the laws of the State of
88 Mississippi which relate to such purposes. Investigators of the
89 Mississippi Criminal Investigation Bureau of the Department of
90 Public Safety shall have general police powers to enforce all the
91 laws of the State of Mississippi. All officers of the Department
92 of Public Safety charged with the enforcement of the laws



administered by that agency, for the purposes herein set forth, shall have full power to investigate, prevent, apprehend and arrest law violators anywhere in the state, and shall be vested with the power of general police officers in the performance of their duties. The officers of the Department of Public Safety are authorized and empowered to carry and use firearms and other weapons deemed necessary in the discharge of their duties as such and are also empowered to serve warrants and subpoenas issued under the authority of the State of Mississippi. The Governor shall be authorized to offer and pay suitable rewards to persons aiding in the investigation, apprehension and conviction of persons charged with acts of violence, or threats of violence or intimidation or acts of terrorism. The additional powers herein granted to or vested in the Department of Public Safety or any of its officers or employees by this section, excepting investigating powers, and those powers of investigators who shall have general police power, being the investigators in the Mississippi Criminal Investigation Bureau of the Department of Public Safety, shall not be exercised by the Department of Public Safety, or any of its officers or employees, except upon authority and direction of the Governor or Acting Governor, by proclamation duly signed, in the following instances, to wit:

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



126 **(b)** Acting upon evidence submitted to him by the
127 Department of Public Safety, or other investigating agency
128 authorized by the Governor or Acting Governor to make such
129 investigations, because of the failure or refusal of the sheriff
130 of any county or mayor of any municipality to take action or
131 employ such means at his disposal, to prevent or suppress the
132 acts, conduct or offenses provided for in subsection (1) of this
133 section, the Governor or Acting Governor deems it necessary to
134 invoke the powers and authority vested in the Department of Public
135 Safety.

136 **(c)** The Governor or Acting Governor is hereby
137 authorized and empowered to issue his proclamation invoking the
138 powers and authority vested by this paragraph, as provided in
139 paragraphs (a) and (b) of this subsection, and when the Governor
140 or Acting Governor issues said proclamation in accordance
141 herewith, said proclamation shall become effective upon the
142 signing thereof and shall continue in full force and effect for a
143 period of ninety (90) days, or for a shorter period if otherwise
144 ordered by the Governor or Acting Governor. At the signing of the
145 proclamation by the Governor or Acting Governor, the Department of
146 Public Safety and its officers and employees shall thereupon be
147 authorized to exercise the additional power and authority vested
148 in them by this paragraph. The Governor and Acting Governor may
149 issue additional proclamations for periods of ninety (90) days
150 each under the authority of paragraphs (a) and (b) of this
151 subsection (2).

152 **(3)** All proclamations issued by the Governor or Acting
153 Governor shall be filed in the Office of the Secretary of State on
154 the next succeeding business day.

155 **(4)** It is not the intention of this section to vest the wide
156 powers and authority herein provided for, as general powers of the
157 Department of Public Safety, and the same are not hereby so
158 vested, but to limit these general powers to cases and incidents



wherein it is deemed necessary to prevent or suppress the offenses and conditions herein mentioned in this and other subsections of this section, and under the terms and conditions hereinabove enumerated, it being the sense of the Legislature that the prime duties of the Department of Public Safety are to patrol the highways of this state and enforce the highway safety laws.

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

(6) Provided, however, that the general police power vested by virtue of the terms of * * * subsection (2) of this section is solely for the purposes set out in said subsection.

* * *

[From and after July 1, 2003, this section shall read as follows:]

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

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

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

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



191 (d) Upon the request of the State Tax Commission, and
192 with the approval of the Governor, to enforce all of the
193 provisions of law with reference to the registration, license and
194 taxation of vehicles using the highways of this state, and
195 relative to the sizes, weights and load limits of such vehicles,
196 and to enforce the provisions of all other laws administered by
197 the State Tax Commission upon any of the highways or public roads
198 of this state; and for such purpose the Highway Safety Patrol
199 shall have the authority to collect and receive all taxes which
200 may be due under any of such laws, and to report and remit same to
201 the State Tax Commission in the manner required by law, or the
202 rules and regulations of the commission.

203 (e) Upon request of the State Highway Commission or
204 Public Service Commission, and when so instructed by the
205 commissioner, to aid and assist in the enforcement of all laws
206 which such agencies are authorized or required to enforce, and in
207 the enforcement of the rules and regulations of such agencies.

208 (f) To arrest without warrant any person or persons
209 committing or attempting to commit any misdemeanor, felony or
210 breach of the peace within their presence or view, and to pursue
211 and so arrest any person committing such an offense to and at any
212 place in the State of Mississippi where he may go or be. Nothing
213 herein shall be construed as granting the Mississippi Highway
214 Safety Patrol general police powers.

215 (g) To aid and assist any law enforcement officer whose
216 life or safety is in jeopardy. Additionally, officers of the
217 Highway Safety Patrol may arrest without warrant any fugitive from
218 justice who has escaped or who is using the highways of the state
219 in an attempt to flee. With the approval of the commissioner or
220 his designee, officers of the Highway Safety Patrol may assist
221 other law enforcement agencies in manhunts for convicted felons
222 who have escaped and/or for alleged felons where there is probable



cause to believe that the person being sought committed the felony and a felony had actually been committed.

(h) To cooperate with the State Forest Service by reporting all forest fires.

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

(2) The patrol officers of the Highway Safety Patrol shall not have the power, and shall never be used or ordered, to perform in the duties or functions properly devolving upon the organized militia of the state; nor shall the patrol ever be used in any strike, walkout, lockout, or other labor controversy or dispute; nor shall they ever displace or act as deputy, or exercise the authority, of the peace officers of this state. All fines collected under the authority of this section, or any other laws enforced by the Highway Safety Patrol, shall be paid by the officer collecting same into the county treasury, unless it be otherwise provided by law. Patrol officers shall have no interest in any costs in the prosecution of any case through any court; nor shall any patrol officer receive any fee as a witness in any court upon arrests made by such patrol officers, and where charges have been preferred against alleged violators, shall be approved by the regularly constituted peace officers in the manner and methods provided by law.



256 **SECTION 2.** This act shall take effect and be in force from
257 and after June 30, 2002.

