

By: Senator(s) Furniss

To: Judiciary

SENATE BILL NO. 2461

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

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

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

7 11-46-5. (1) Notwithstanding the immunity granted in
8 Section 11-46-3, or the provisions of any other law to the
9 contrary, the immunity of the state and its political subdivisions
10 from claims for money damages arising out of the torts of such
11 governmental entities and the torts of their employees while
12 acting within the course and scope of their employment is hereby
13 waived from and after July 1, 1993, as to the state, and from and
14 after October 1, 1993, as to political subdivisions; provided,
15 however, immunity of a governmental entity in any such case shall
16 be waived only to the extent of the maximum amount of liability
17 provided for in Section 11-46-15.

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

25 (3) For the purposes of this chapter and not otherwise, it
26 shall be a rebuttable presumption that any act or omission of an



27 employee within the time and at the place of his employment is
28 within the course and scope of his employment.

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

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

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

