To: Highways and Transportation

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002

By: Senator(s) Kirby

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2688

AN ACT TO AMEND SECTION 27-19-89, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A VEHICLE ENGAGED IN THE COLLECTING OR HAULING OF SOLID WASTE SHALL NOT BE ASSESSED A PENALTY FOR EXCEEDING THE LEGAL AXLE LOAD WEIGHT LIMIT IF SUCH VEHICLE DOES NOT ALSO EXCEED THE LEGAL HIGHWAY GROSS WEIGHT LIMIT; TO PROVIDE THAT SUCH A VEHICLE SHALL NOT BE ASSESSED A PENALTY FOR EXCEEDING THE LEGAL HIGHWAY GROSS WEIGHT LIMIT IF THE WEIGHT IT IS HAULING IS WET AND THE LOCATION FROM WHICH THE WASTE WAS COLLECTED BY OR TRANSFERRED TO SUCH VEHICLE RECEIVED PRECIPITATION IN THE AMOUNT OF ONE INCH OR MORE WITHIN 24 HOURS PRIOR TO THE COLLECTION OR TRANSFER; AND FOR RELATED PURPOSES.

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

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

27-19-89. (1) If any nonresident owner or operator or other nonresident person eligible for a temporary permit as provided in Section 27-19-79, who has not elected to register and pay the annual privilege taxes prescribed, shall enter or go upon the public highways of the state and shall fail or refuse to obtain the permit required by Section 27-19-79, such person shall be liable, for the first such offense, for the full amount of the permit fee required, plus a penalty thereon of five hundred percent (500%). For the second and all subsequent offenses, such person who fails or refuses to obtain such permits shall be liable for the pro rata part of the annual tax for the balance of the tag year for the maximum legal gross weight of the vehicle plus a penalty thereon of twenty-five percent (25%). Any weight in excess of the maximum legal gross weight of the vehicle, or in excess of the maximum highway weight limit, shall be penalized according to subsection (3) of this section. In either case the excess weight shall be removed by the operator before the vehicle leaves the state.
can be allowed to proceed. In order to constitute a "second or
subsequent offense" under the provisions hereof, it shall not be
necessary that the same or identical vehicle be involved, it being
the declared purpose hereof to provide that such penalties shall
run against the owner or operator rather than against the
specified vehicle. It is further provided that, in order for such
owner or operator to become liable for the penalties herein
provided, it shall not be necessary to show that such owner or
operator was guilty of willfulness, gross negligence or
wantonness, but the offense shall be complete upon the failure or
refusal to obtain the required permit.

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

(3) If any person shall operate upon a highway of this state
a vehicle which has a greater vehicle gross weight than the
maximum gross weight limit established by law for that highway and
shall have failed to obtain an overload permit as required by Section 27-19-81, or if any person shall operate a vehicle with a greater load on any axle or axle grouping than allowed by law, then such person, owner or operator shall be assessed a penalty on such axle load weight or vehicle gross weight as exceeds the legal limit in accordance with the following schedule:

<table>
<thead>
<tr>
<th>AMOUNT IN EXCESS OF</th>
<th>LEGAL HIGHWAY WEIGHT</th>
<th>PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 999</td>
<td>$10.00 minimum penalty</td>
<td></td>
</tr>
<tr>
<td>1,000 to 1,999</td>
<td>1¢ per pound in excess of legal limit</td>
<td></td>
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<tr>
<td>2,000 to 2,999</td>
<td>2¢ per pound in excess of legal limit</td>
<td></td>
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<tr>
<td>3,000 to 3,999</td>
<td>3¢ per pound in excess of legal limit</td>
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<tr>
<td>4,000 to 4,999</td>
<td>4¢ per pound in excess of legal limit</td>
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<td>5,000 to 5,999</td>
<td>5¢ per pound in excess of legal limit</td>
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<td>6,000 to 6,999</td>
<td>6¢ per pound in excess of legal limit</td>
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<tr>
<td>7,000 to 7,999</td>
<td>7¢ per pound in excess of legal limit</td>
<td></td>
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<tr>
<td>8,000 to 8,999</td>
<td>8¢ per pound in excess of legal limit</td>
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<tr>
<td>9,000 to 9,999</td>
<td>9¢ per pound in excess of legal limit</td>
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<tr>
<td>10,000 to 10,999</td>
<td>10¢ per pound in excess of legal limit</td>
<td></td>
</tr>
<tr>
<td>11,000 or more</td>
<td>11¢ per pound in excess of legal limit</td>
<td></td>
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</tbody>
</table>

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

The penalty to be assessed for operations of a vehicle with a greater load on any axle or axle grouping than the legal axle load weight limits shall be one-half (1/2) the penalty for operation in excess of the legal gross weight limit.
In instances where both the legal highway gross weight limit and the legal axle load weight limit(s) are exceeded, the fine that shall be levied shall be either the penalty amount for the excess vehicle gross weight or the total of the penalty amounts of all overloaded axles, whichever is the larger amount.

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

Notwithstanding any other provision of this subsection (3) to the contrary, upon an appeal to the Appeals Board of the Mississippi Transportation Commission by an owner or operator of a vehicle hauling without a harvest permit any of the products or materials described in subsection (3) of Section 63-5-33 and upon whom a penalty has been assessed under this subsection (3) for exceeding the legal weight limit(s) on a highway having a legal weight limit of eighty thousand (80,000) pounds or less, the appeals board shall reduce the penalty assessed against such owner/operator to an amount not to exceed ten percent (10%) of the amount which would otherwise be due without the reduction authorized under this paragraph. A reduction shall not be authorized under this paragraph if the gross weight of the vehicle for which an owner/operator has been charged with a violation of this section exceeds eighty-four thousand (84,000) pounds; and, in any event, no reduction shall be authorized under this paragraph unless a penalty assessed under this section is appealed to the appeals board and unless the board determines, based upon its records, that such owner/operator has not been granted a penalty reduction under this paragraph within a period of twelve (12) months immediately preceding the date of filing an appeal with the board for a penalty reduction under this paragraph.
(4) Notwithstanding the provisions of this section to the contrary, any vehicle engaged in the collecting or hauling of solid waste as defined in Section 17-17-3:

(a) Shall not be assessed a penalty for exceeding the legal axle load weight limits if such vehicle does not also exceed the legal highway gross weight; and

(b) Shall not be assessed a penalty for exceeding the legal highway gross weight limit if the weight it is hauling is wet and the location from which the waste was collected by or transferred to such vehicle received precipitation in the amount of one (1) inch or more as recorded by a National Weather Service recognized observation station within twenty-four (24) hours prior to the collection or transfer.

(5) If any nonresident owner or operator who has not registered his vehicle and paid the annual privilege taxes prescribed shall operate his vehicle upon the highways of this state when such vehicle has a greater gross weight than permitted by law for the highway traveled upon, and for which such excess gross weight a permit was not or could not be procured from the transportation department as required by Section 27-19-81, such person shall be liable upon his second and all subsequent offenses for the pro rata part of the annual tax for the balance of the tag year for the legal gross weight of the vehicle, and in addition thereto the penalty fee on the excess weight as specified in subsection (3) of this section. In order that such owner or operator shall become liable for the penalties herein provided, it shall not be necessary that the same or identical vehicle be involved, it being the declared purpose hereof to provide that such penalties shall run against the owner or operator rather than against the specific vehicle.

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

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