

By: Senator(s) Kirby

To: Highways and  
Transportation

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2688

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

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

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

15 27-19-89. (1) If any nonresident owner or operator or other  
16 nonresident person eligible for a temporary permit as provided in  
17 Section 27-19-79, who has not elected to register and pay the  
18 annual privilege taxes prescribed, shall enter or go upon the  
19 public highways of the state and shall fail or refuse to obtain  
20 the permit required by Section 27-19-79, such person shall be  
21 liable, for the first such offense, for the full amount of the  
22 permit fee required, plus a penalty thereon of five hundred  
23 percent (500%). For the second and all subsequent offenses, such  
24 person who fails or refuses to obtain such permits shall be liable  
25 for the pro rata part of the annual tax for the balance of the tag  
26 year for the maximum legal gross weight of the vehicle plus a  
27 penalty thereon of twenty-five percent (25%). Any weight in  
28 excess of the maximum legal gross weight of the vehicle, or in  
29 excess of the maximum highway weight limit, shall be penalized  
30 according to subsection (3) of this section. In either case the  
31 excess weight shall be removed by the operator before the vehicle



32 can be allowed to proceed. In order to constitute a "second or  
33 subsequent offense" under the provisions hereof, it shall not be  
34 necessary that the same or identical vehicle be involved, it being  
35 the declared purpose hereof to provide that such penalties shall  
36 run against the owner or operator rather than against the  
37 specified vehicle. It is further provided that, in order for such  
38 owner or operator to become liable for the penalties herein  
39 provided, it shall not be necessary to show that such owner or  
40 operator was guilty of willfulness, gross negligence or  
41 wantonness, but the offense shall be complete upon the failure or  
42 refusal to obtain the required permit.

43 (2) If any person who has registered his vehicle in  
44 Mississippi shall operate such vehicle upon the public highways,  
45 having a gross weight greater than the licensed gross weight of  
46 such vehicle, and shall fail or refuse to obtain a permit therefor  
47 as required by Section 27-19-79, or if any person shall operate  
48 any such registered vehicle upon the public highways in a higher  
49 classification than that for which it is registered, and shall  
50 fail or refuse to obtain a permit therefor as required by Section  
51 27-19-79, then such person shall be liable for the pro rata part  
52 of the annual tax for the balance of the tag year for the legal  
53 gross weight of such vehicle and in the classification in which  
54 same is being operated, plus a penalty thereon of twenty-five  
55 percent (25%), after having been given credit for the unexpired  
56 part of the privilege tax paid, as provided in Section 27-19-75.  
57 In order that such owner or operator shall become liable for the  
58 penalties herein provided, it shall not be necessary to show that  
59 such owner or operator was guilty of willfulness, gross negligence  
60 or wantonness, but the offense shall be complete upon the failure  
61 or refusal to obtain the required permit.

62 (3) If any person shall operate upon a highway of this state  
63 a vehicle which has a greater vehicle gross weight than the  
64 maximum gross weight limit established by law for that highway and



65 shall have failed to obtain an overload permit as required by  
66 Section 27-19-81, or if any person shall operate a vehicle with a  
67 greater load on any axle or axle grouping than allowed by law,  
68 then such person, owner or operator shall be assessed a penalty on  
69 such axle load weight or vehicle gross weight as exceeds the legal  
70 limit in accordance with the following schedule:

71 AMOUNT IN EXCESS OF

72 LEGAL HIGHWAY WEIGHT

73 LIMITS IN POUNDS

PENALTY

74 1 to 999	\$10.00 minimum penalty
75 1,000 to 1,999	1¢ per pound in excess of legal limit
76 2,000 to 2,999	2¢ per pound in excess of legal limit
77 3,000 to 3,999	3¢ per pound in excess of legal limit
78 4,000 to 4,999	4¢ per pound in excess of legal limit
79 5,000 to 5,999	5¢ per pound in excess of legal limit
80 6,000 to 6,999	6¢ per pound in excess of legal limit
81 7,000 to 7,999	7¢ per pound in excess of legal limit
82 8,000 to 8,999	8¢ per pound in excess of legal limit
83 9,000 to 9,999	9¢ per pound in excess of legal limit
84 10,000 to 10,999	10¢ per pound in excess of legal limit
85 11,000 or more	11¢ per pound in excess of legal limit

86 Any vehicle in violation of the tolerance allowed pursuant to  
87 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)  
88 for all weight in excess of the legal highway gross weight limit  
89 authorized for such vehicle or for all weight in excess of the  
90 legal tandem axle load weight limit of forty thousand (40,000)  
91 pounds and the legal single axle load limit of twenty thousand  
92 (20,000) pounds, whichever the case may be.

93 The penalty to be assessed for operations of a vehicle with a  
94 greater load on any axle or axle grouping than the legal axle load  
95 weight limits shall be one-half (1/2) the penalty for operation in  
96 excess of the legal gross weight limit.



97 In instances where both the legal highway gross weight limit  
98 and the legal axle load weight limit(s) are exceeded, the fine  
99 that shall be levied shall be either the penalty amount for the  
100 excess vehicle gross weight or the total of the penalty amounts of  
101 all overloaded axles, whichever is the larger amount.

102 Notwithstanding any other provisions of this section to the  
103 contrary, the fine assessed against the holder of a harvest permit  
104 for exceeding a gross vehicle weight of eighty-four thousand  
105 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen  
106 Cents (15¢) per pound for exceeding a gross vehicle weight of one  
107 hundred thousand (100,000) pounds.

108 Notwithstanding any other provision of this subsection (3) to  
109 the contrary, upon an appeal to the Appeals Board of the  
110 Mississippi Transportation Commission by an owner or operator of a  
111 vehicle hauling without a harvest permit any of the products or  
112 materials described in subsection (3) of Section 63-5-33 and upon  
113 whom a penalty has been assessed under this subsection (3) for  
114 exceeding the legal weight limit(s) on a highway having a legal  
115 weight limit of eighty thousand (80,000) pounds or less, the  
116 appeals board shall reduce the penalty assessed against such  
117 owner/operator to an amount not to exceed ten percent (10%) of the  
118 amount which would otherwise be due without the reduction  
119 authorized under this paragraph. A reduction shall not be  
120 authorized under this paragraph if the gross weight of the vehicle  
121 for which an owner/operator has been charged with a violation of  
122 this section exceeds eighty-four thousand (84,000) pounds; and, in  
123 any event, no reduction shall be authorized under this paragraph  
124 unless a penalty assessed under this section is appealed to the  
125 appeals board and unless the board determines, based upon its  
126 records, that such owner/operator has not been granted a penalty  
127 reduction under this paragraph within a period of twelve (12)  
128 months immediately preceding the date of filing an appeal with the  
129 board for a penalty reduction under this paragraph.



130       (4) Notwithstanding the provisions of this section to the  
131 contrary, any vehicle engaged in the collecting or hauling of  
132 solid waste as defined in Section 17-17-3:

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

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

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

160       (6) All fines and penalties imposed and collected by the  
161 Mississippi Department of Transportation for violations of the  
162 maximum legal vehicle weight limits authorized on the highways of



163 this state shall be deposited into a special fund that is created  
164 in the State Treasury. Monies in the fund shall be allocated and  
165 distributed quarterly, beginning September 30, 1994, to each  
166 county of the state based on the amount of such fines and  
167 penalties imposed and collected in the county during the  
168 immediately preceding three (3) months. Monies distributed to the  
169 counties under this subsection shall be deposited in each county's  
170 road and bridge fund and may be expended, upon approval of the  
171 board of supervisors, for any purpose for which county road and  
172 bridge fund monies lawfully may be expended.

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

