

By: Senator(s) Kirby

To: Highways and
Transportation

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 MEASURABLE PRECIPITATION WITHIN 24 HOURS
10 PRIOR TO THE COLLECTION OR TRANSFER; AND FOR RELATED PURPOSES.

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

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

14 27-19-89. (1) If any nonresident owner or operator or other
15 nonresident person eligible for a temporary permit as provided in
16 Section 27-19-79, who has not elected to register and pay the
17 annual privilege taxes prescribed, shall enter or go upon the
18 public highways of the state and shall fail or refuse to obtain
19 the permit required by Section 27-19-79, such person shall be
20 liable, for the first such offense, for the full amount of the
21 permit fee required, plus a penalty thereon of five hundred
22 percent (500%). For the second and all subsequent offenses, such
23 person who fails or refuses to obtain such permits shall be liable
24 for the pro rata part of the annual tax for the balance of the tag
25 year for the maximum legal gross weight of the vehicle plus a
26 penalty thereon of twenty-five percent (25%). Any weight in
27 excess of the maximum legal gross weight of the vehicle, or in
28 excess of the maximum highway weight limit, shall be penalized
29 according to subsection (3) of this section. In either case the
30 excess weight shall be removed by the operator before the vehicle
31 can be allowed to proceed. In order to constitute a "second or



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

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

61 (3) If any person shall operate upon a highway of this state
62 a vehicle which has a greater vehicle gross weight than the
63 maximum gross weight limit established by law for that highway and
64 shall have failed to obtain an overload permit as required by



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

70 AMOUNT IN EXCESS OF
71 LEGAL HIGHWAY WEIGHT

72 LIMITS IN POUNDS	PENALTY
73 1 to 999	\$10.00 minimum penalty
74 1,000 to 1,999	1¢ per pound in excess of legal limit
75 2,000 to 2,999	2¢ per pound in excess of legal limit
76 3,000 to 3,999	3¢ per pound in excess of legal limit
77 4,000 to 4,999	4¢ per pound in excess of legal limit
78 5,000 to 5,999	5¢ per pound in excess of legal limit
79 6,000 to 6,999	6¢ per pound in excess of legal limit
80 7,000 to 7,999	7¢ per pound in excess of legal limit
81 8,000 to 8,999	8¢ per pound in excess of legal limit
82 9,000 to 9,999	9¢ per pound in excess of legal limit
83 10,000 to 10,999	10¢ per pound in excess of legal limit
84 11,000 or more	11¢ per pound in excess of legal limit

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

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

96 In instances where both the legal highway gross weight limit
97 and the legal axle load weight limit(s) are exceeded, the fine



98 that shall be levied shall be either the penalty amount for the
99 excess vehicle gross weight or the total of the penalty amounts of
100 all overloaded axles, whichever is the larger amount.

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

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



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

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

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

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

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



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

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

