

By: Representative Ellzey

To: Transportation

HOUSE BILL NO. 229

1 AN ACT TO AMEND SECTIONS 27-19-81 AND 27-19-89, MISSISSIPPI
 2 CODE OF 1972, TO PROVIDE THAT THE FEES COLLECTED BY THE
 3 MISSISSIPPI DEPARTMENT OF TRANSPORTATION FOR THE ISSUANCE OF
 4 HARVEST PERMITS TO OPERATORS OF VEHICLES HAULING CERTAIN PRODUCTS,
 5 AND THE FINES AND PENALTIES COLLECTED BY THE MISSISSIPPI
 6 DEPARTMENT OF TRANSPORTATION FOR VIOLATIONS OF THE VEHICLE WEIGHT
 7 LIMITS AUTHORIZED ON STATE HIGHWAYS, SHALL BE DEPOSITED INTO A
 8 SPECIAL FUND CREATED IN THE STATE TREASURY; TO PROVIDE THAT MONIES
 9 IN THE SPECIAL FUND SHALL BE ALLOCATED AND DISTRIBUTED TO EACH OF
 10 THE COUNTIES IN THE STATE IN ACCORDANCE WITH THE STATE AID ROAD
 11 FORMULA AND MAY BE EXPENDED BY THE COUNTIES FOR COUNTY ROAD AND
 12 BRIDGE CONSTRUCTION AND REPAIR; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-19-81, Mississippi Code of 1972, is
 15 amended as follows:

16 27-19-81. (1) No vehicle shall be registered by the State
 17 Tax Commission or by a tax collector, and no license tag
 18 whatsoever shall be issued therefor, where the gross weight of
 19 such vehicle exceeds the limits provided by law. In the event of
 20 an emergency requiring the hauling of a greater gross weight than
 21 permitted by law, the owner or operator of such vehicle shall
 22 obtain an excess weight authorization from the Mississippi
 23 Department of Transportation or local authority having
 24 jurisdiction of the particular road, street or highway before
 25 operating such vehicle on the highways of this state to haul such
 26 a gross weight over a route to be designated by the aforesaid
 27 department. It shall then be necessary for the owner or operator
 28 of the vehicle to obtain a permit from the Transportation
 29 Department, which shall be issued by the department under the same
 30 provisions as are provided for the issuance of trip permits under
 31 Section 27-19-79, but which permit shall likewise be obtained
 32 prior to the operation of such vehicle on the highways. No



33 persons or agencies other than the Mississippi Department of
34 Transportation shall have authority to issue the permits provided
35 for in this section. The fee to be charged for such permits shall
36 be computed in the same manner provided in Section 27-19-79 for
37 each one thousand (1,000) pounds, or fractional part thereof, of
38 gross weight above the licensed capacity of the vehicle, up to the
39 maximum legal weights provided by this article on the roads to be
40 traveled.

41 This subsection shall apply, but not be limited to, any
42 tractor, road roller or road machinery used solely and
43 specifically in road building or other highway construction or
44 maintenance work.

45 For each one thousand (1,000) pounds, or fractional part
46 thereof, in excess of the weight authorized by Sections 63-5-29
47 and 63-5-33 for any such vehicle or in excess of the limits set by
48 the Transportation Department for specified roads and bridges, the
49 fee shall be Five Cents (5¢) per one thousand (1,000) pounds, or
50 fractional part thereof, for each mile traveled upon the highways
51 of the state, except that the fee for manufactured housing modular
52 units, residential or commercial, shall be Two Cents (2¢) per one
53 thousand (1,000) pounds, or fractional part thereof, for each mile
54 traveled upon the highways of the state. Provided, however, no
55 permit shall be issued for a fee of less than Ten Dollars
56 (\$10.00).

57 The Transportation Department may provide for an annual
58 permit which will allow pre-approved vehicles and loads to travel
59 predesignated routes with self-issued permits. Under such
60 self-issuance authority, the owner of the vehicle shall complete
61 the permit in a format designated by the department,
62 electronically transmit a copy to the department prior to the
63 move, and ensure that a copy is in the possession of the operator.
64 Vehicles having a gross weight exceeding the limits provided by
65 law that have a nondivisible gross vehicle weight of ninety-five



66 thousand (95,000) pounds or less, which are otherwise legal, shall
67 not be restricted as to the hours of the day such vehicles may be
68 operated on predesignated routes. The department shall bill the
69 vehicle owner according to the provisions of the preceding
70 paragraph. The department is authorized to modify predesignated
71 routes at any time for cause, such as highway construction or
72 hazardous highway conditions. The annual fee for the
73 self-issuance permit authority obtained pursuant to this paragraph
74 shall be Five Hundred Dollars (\$500.00) per owner, regardless of
75 the number of vehicles which he will operate pursuant to such
76 permit, in addition to any other fees required by this section.
77 Any vehicle and load being operated pursuant to this paragraph for
78 which the operator does not have the permit or a copy thereof in
79 his possession, or for which a copy of the permit was not
80 electronically transmitted to the department, shall be deemed not
81 to have a permit and shall be penalized accordingly.

82 (2) Before operating a vehicle where the size of the load
83 being hauled is in excess of that permitted by law, the owner or
84 operator of such vehicle shall obtain excess size authorization
85 from the Transportation Department or proper local authority and
86 an excess size permit from the Transportation Department. Such
87 excess size permit shall be issued by the Mississippi Department
88 of Transportation under the same provisions as are provided for
89 the issuance of trip permits under Section 27-19-79, and it shall
90 be obtained prior to the operation of such vehicle on the
91 highways. The fee to be charged for such excess size permit shall
92 be Ten Dollars (\$10.00) per trip. Such permits may be issued for
93 an extended period of time and must coincide with the expiration
94 date and other provisions of the carrier's permit or authorization
95 issued by the Transportation Department or local authority. The
96 fee for such extended permits shall be based upon an annual fee of
97 One Hundred Dollars (\$100.00) per carrier. No permit shall be
98 issued under this subsection if the issuance of the permit would



99 violate federal law or would cause the State of Mississippi to
100 lose federal aid funds. This subsection shall not apply to any
101 tractor, road roller or road machinery used solely and
102 specifically in road building or other highway construction or
103 maintenance work or to any machinery or equipment operated on the
104 highways or transported thereon in the course of normal farming
105 activities, including cotton module transporters.

106 (3) The Executive Director of the Mississippi Department of
107 Transportation may authorize certain carriers of property to issue
108 overweight and/or oversize permits for vehicles owned or operated
109 by such carriers, provided such carriers have blanket
110 authorization from the Transportation Commission and also meet
111 other requirements established by the Transportation Commission.

112 (4) The owner or operator of a vehicle hauling sand, gravel,
113 wood chips, wood shavings, sawdust, fill dirt, agricultural
114 products or unprocessed forestry products may apply to the
115 Mississippi Department of Transportation for a harvest permit for
116 the purpose of authorizing any such vehicles to operate on the
117 highways in this state (other than the federal interstate system
118 or those highways designated by the Mississippi Department of
119 Transportation as not capable of carrying more than fifty-seven
120 thousand six hundred fifty (57,650) pounds at the maximum gross
121 weight specified in Section 63-5-33). Harvest permits may be
122 issued and are valid to permit any such vehicle to be operated on
123 a highway in this state that has been designated by the
124 Mississippi Department of Transportation as not capable of
125 carrying more than fifty-seven thousand six hundred fifty (57,650)
126 pounds only if such vehicle operates in compliance with the
127 provisions of Section 63-5-29(3)(b). A fee of Twenty-five Dollars
128 (\$25.00) shall be charged for each permit issued. The permit
129 shall be in the form of a decal which shall be affixed to each
130 permitted vehicle on the upper left corner of the windshield on
131 the driver's side. Each permit shall expire one (1) year from its



132 date of issue. The fees collected under this subsection shall be
133 deposited into the special fund that is created under Section 3 of
134 House Bill No. _____, 2003 Regular Session. This subsection (4)
135 shall stand repealed from and after July 1, 2005.

136 (5) Any owner or operator who has met the requirements set
137 by the Mississippi Transportation Commission may defer payment of
138 permits issued by the department until the end of the current
139 month. If full payment is not received by the twentieth of the
140 following month, there may be added as damages to the total amount
141 of the delinquency or deficiency the following percentages: ten
142 percent (10%) for the first offense; fifteen percent (15%) for the
143 second offense and twenty-five percent (25%) for the third and any
144 subsequent offense. Upon the third offense, the department may
145 suspend the privilege to defer payment. The balance due shall
146 become payable upon notice and demand by the department.

147 (6) The permit fee monies collected under this section,
148 except as provided for in subsection (4) of this section, shall be
149 deposited into the State Highway Fund for the construction,
150 maintenance and reconstruction of highways and roads of the State
151 of Mississippi or the payment of interest and principal on bonds
152 authorized by the Legislature for construction and reconstruction
153 of highways.

154 (7) The department may waive the permits, taxes and fees set
155 forth in this section whenever a motor vehicle is operated upon
156 the public highways in this state in response to an emergency, a
157 major disaster or the threat of a major disaster.

158 **SECTION 2.** Section 27-19-89, Mississippi Code of 1972, is
159 amended as follows:

160 27-19-89. (a) If any nonresident owner or operator or other
161 nonresident person eligible for a temporary permit as provided in
162 Section 27-19-79, who has not elected to register and pay the
163 annual privilege taxes prescribed, shall enter or go upon the
164 public highways of the state and shall fail or refuse to obtain



165 the permit required by Section 27-19-79, such person shall be
166 liable, for the first such offense, for the full amount of the
167 permit fee required, plus a penalty thereon of five hundred
168 percent (500%). For the second and all subsequent offenses, such
169 person who fails or refuses to obtain such permits shall be liable
170 for the pro rata part of the annual tax for the balance of the tag
171 year for the maximum legal gross weight of the vehicle plus a
172 penalty thereon of twenty-five percent (25%). Any weight in
173 excess of the maximum legal gross weight of the vehicle, or in
174 excess of the maximum highway weight limit, shall be penalized
175 according to subsection (c) of this section. In either case the
176 excess weight shall be removed by the operator before the vehicle
177 can be allowed to proceed. In order to constitute a "second or
178 subsequent offense" under the provisions hereof, it shall not be
179 necessary that the same or identical vehicle be involved, it being
180 the declared purpose hereof to provide that such penalties shall
181 run against the owner or operator rather than against the
182 specified vehicle. It is further provided that, in order for such
183 owner or operator to become liable for the penalties herein
184 provided, it shall not be necessary to show that such owner or
185 operator was guilty of willfulness, gross negligence or
186 wantonness, but the offense shall be complete upon the failure or
187 refusal to obtain the required permit.

188 (b) If any person who has registered his vehicle in
189 Mississippi shall operate such vehicle upon the public highways,
190 having a gross weight greater than the licensed gross weight of
191 such vehicle, and shall fail or refuse to obtain a permit therefor
192 as required by Section 27-19-79, or if any person shall operate
193 any such registered vehicle upon the public highways in a higher
194 classification than that for which it is registered, and shall
195 fail or refuse to obtain a permit therefor as required by Section
196 27-19-79, then such person shall be liable for the pro rata part
197 of the annual tax for the balance of the tag year for the legal



198 gross weight of such vehicle and in the classification in which
199 same is being operated, plus a penalty thereon of twenty-five
200 percent (25%), after having been given credit for the unexpired
201 part of the privilege tax paid, as provided in Section 27-19-75.
202 In order that such owner or operator shall become liable for the
203 penalties herein provided, it shall not be necessary to show that
204 such owner or operator was guilty of willfulness, gross negligence
205 or wantonness, but the offense shall be complete upon the failure
206 or refusal to obtain the required permit.

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

216	AMOUNT IN EXCESS OF	
217	LEGAL HIGHWAY WEIGHT	
218	LIMITS IN POUNDS	PENALTY
219	1 to 999	\$10.00 minimum penalty
220	1,000 to 1,999	1¢ per pound in excess of legal limit
221	2,000 to 2,999	2¢ per pound in excess of legal limit
222	3,000 to 3,999	3¢ per pound in excess of legal limit
223	4,000 to 4,999	4¢ per pound in excess of legal limit
224	5,000 to 5,999	5¢ per pound in excess of legal limit
225	6,000 to 6,999	6¢ per pound in excess of legal limit
226	7,000 to 7,999	7¢ per pound in excess of legal limit
227	8,000 to 8,999	8¢ per pound in excess of legal limit
228	9,000 to 9,999	9¢ per pound in excess of legal limit
229	10,000 to 10,999	10¢ per pound in excess of legal limit
230	11,000 or more	11¢ per pound in excess of legal limit



231 Any vehicle in violation of the tolerance allowed pursuant to
232 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)
233 for all weight in excess of the legal highway gross weight limit
234 authorized for such vehicle or for all weight in excess of the
235 legal tandem axle load weight limit of forty thousand (40,000)
236 pounds and the legal single axle load limit of twenty thousand
237 (20,000) pounds, whichever the case may be.

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

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

247 Notwithstanding any other provisions of this section to the
248 contrary, the fine assessed against the holder of a harvest permit
249 for exceeding a gross vehicle weight of eighty-four thousand
250 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen
251 Cents (15¢) per pound for exceeding a gross vehicle weight of one
252 hundred thousand (100,000) pounds.

253 Notwithstanding any other provision of this subsection (c) to
254 the contrary, upon an appeal to the Appeals Board of the
255 Mississippi Transportation Commission by an owner or operator of a
256 vehicle hauling without a harvest permit any of the products or
257 materials described in subsection (3) of Section 63-5-33 and upon
258 whom a penalty has been assessed under this subsection (c) for
259 exceeding the legal weight limit(s) on a highway having a legal
260 weight limit of eighty thousand (80,000) pounds or less, the
261 appeals board shall reduce the penalty assessed against such
262 owner/operator to an amount not to exceed ten percent (10%) of the
263 amount which would otherwise be due without the reduction



264 authorized under this paragraph. A reduction shall not be
265 authorized under this paragraph if the gross weight of the vehicle
266 for which an owner/operator has been charged with a violation of
267 this section exceeds eighty-four thousand (84,000) pounds; and, in
268 any event, no reduction shall be authorized under this paragraph
269 unless a penalty assessed under this section is appealed to the
270 appeals board and unless the board determines, based upon its
271 records, that such owner/operator has not been granted a penalty
272 reduction under this paragraph within a period of twelve (12)
273 months immediately preceding the date of filing an appeal with the
274 board for a penalty reduction under this paragraph.

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

292 (e) All fines and penalties imposed and collected by the
293 Mississippi Department of Transportation for violations of the
294 maximum legal vehicle weight limits authorized on the highways of
295 this state shall be deposited into the special fund that is



296 created under Section 3 of House Bill No. _____, 2003 Regular
297 Session.

298 **SECTION 3.** (1) There is created in the State Treasury a
299 special fund to be designated as the "2003 Feeder Road Improvement
300 Fund." The fund shall consist of the monies required to be
301 deposited therein under Sections 27-19-81(4) and 27-19-89(e) and
302 such other monies as the Legislature appropriates or otherwise
303 designates for deposit into the fund. Monies in the fund shall be
304 allocated and distributed to each of the counties in the state
305 upon requisition of the State Aid Engineer on October 1 of each
306 year in accordance with the state aid road formula as prescribed
307 in Section 65-9-3. Unexpended amounts remaining in the fund at
308 the end of a fiscal year shall not lapse into the State General
309 Fund, and any interest earned on amounts in the fund shall be
310 deposited to the credit of the fund.

311 (2) A county may expend funds allocated and distributed to
312 it under this section to construct, reconstruct, repair or
313 maintain roads, streets, highways and bridges of the county that
314 are not included on the state highway system or the state aid road
315 system. Monies allocated and distributed to a county under this
316 section may also be used to match any federal funds that may be
317 available for the same or similar purposes.

318 **SECTION 4.** This act shall take effect and be in force from
319 and after July 1, 2003.

