HOUSE BILL NO. 1079

AN ACT TO AMEND SECTION 77-9-249, MISSISSIPPI CODE OF 1972, TO CLARIFY THE SAFETY REQUIREMENTS FOR MOTORISTS TO FOLLOW WHEN APPROACHING A RAILROAD GRADE CROSSING; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 77-9-249, Mississippi Code of 1972, is amended as follows:

77-9-249. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this subsection, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when one or more of the following circumstances exists:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train; or

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train; or

(c) A railroad train approaching within approximately nine hundred (900) feet of the highway crossing emits a signal in accordance with Section 77-9-225, and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(3) In the trial of all actions to recover personal injury or property damages, sustained by any driver of such vehicles for collision of said vehicle and train in which action it may appear that the said driver may have violated any of the provisions hereof, the question of whether or not the said violation was the sole or approximate cause of the accident and injury shall be for the jury to determine. The violation of this section shall not of itself defeat recovery, and the question of negligence or the violation aforesaid shall be left to the jury; and the comparative negligence statutes and prima facie statute of this state shall apply in these cases as in other cases of negligence.

(4) At any railroad grade crossing provided with visible railroad crossbuck signs without automatic electric or mechanical signal devices, crossing gates or a human flagman giving a signal of the approach or passage of a train, the driver of a vehicle shall, in obedience to such railroad crossbuck sign, yield the right-of-way and slow to a speed reasonable for the existing conditions, and shall stop if required for safety at a clearly marked stop line, or if no stop line, within fifty (50) feet, but not less than fifteen (15) feet, from the nearest rail of the railroad, and shall not proceed until he can do so safely.

(5) Every person, company or corporation violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Two Hundred Fifty Dollars ($250.00) nor more than Five Hundred Dollars ($500.00), or imprisoned not more than thirty (30) days, or both such fine and imprisonment, in the discretion of the court.

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.