

By: Representatives Watson, Reynolds

To: Ways and Means

HOUSE BILL NO. 1051

1 AN ACT TO AMEND SECTIONS 27-19-3 AND 27-19-11, MISSISSIPPI  
2 CODE OF 1972, TO CHANGE THE DEFINITION OF PRIVATE COMMERCIAL  
3 CARRIER OF PROPERTY TO PRIVATE COMMERCIAL OR NONCOMMERCIAL CARRIER  
4 OF PROPERTY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-19-3, Mississippi Code of 1972, is  
7 amended as follows:

8 27-19-3. The following words and phrases when used in this  
9 article for the purpose of this article have the meanings  
10 respectively ascribed to them in this section, except in those  
11 instances where the context clearly describes and indicates a  
12 different meaning:

13 (1) "Vehicle" shall mean every device in, upon or by  
14 which any person or property is or may be transported or drawn  
15 upon a public highway, except devices moved by muscular power or  
16 used exclusively upon stationary rails or tracks.

17 (2) "Commercial vehicle" shall mean every vehicle used  
18 or operated upon the public roads, highways or bridges in  
19 connection with any business function.

20 (3) "Motor vehicle" shall mean every vehicle as herein  
21 defined which is self-propelled, including trackless street or  
22 trolley cars. The term "motor vehicle" shall not include electric  
23 personal assistive mobility devices as defined in Section  
24 63-3-103.

25 (4) "Tractor" shall mean every vehicle designed,  
26 constructed or used for drawing other vehicles.

27 (5) "Motorcycle" shall mean every vehicle designed to  
28 travel on not more than three (3) wheels in contact with the

29 ground, except such vehicle as may be included within the term  
30 "tractor" as herein classified and defined.

31 (6) "Truck tractor" shall mean every motor vehicle  
32 designed and used for drawing other vehicles and so constructed as  
33 to carry a load other than a part of the weight of the vehicle and  
34 load so drawn and has a gross vehicle weight (GVW) in excess of  
35 ten thousand (10,000) pounds.

36 (7) "Trailer" shall mean every vehicle without motive  
37 power, designed to carry property or passengers wholly on its  
38 structure and which is drawn by a motor vehicle.

39 (8) "Semitrailer" shall mean every vehicle (of the  
40 trailer type) so designed and used in conjunction with a truck  
41 tractor.

42 (9) "Foreign vehicle" shall mean every motor vehicle,  
43 trailer or semitrailer, which shall be brought into the state  
44 otherwise than by or through a manufacturer or dealer for resale  
45 and which has not been registered in this state.

46 (10) "Pneumatic tires" shall mean all tires inflated  
47 with compressed air.

48 (11) "Solid rubber tires" shall mean every tire made of  
49 rubber other than pneumatic tires.

50 (12) "Solid tires" shall mean all tires, the surface of  
51 which in contact with the highway is wholly or partly of metal or  
52 other hard, nonresilient material.

53 (13) "Person" shall mean every natural person, firm,  
54 copartnership, corporation, joint-stock or other association or  
55 organization.

56 (14) "Owner" shall mean a person who holds the legal  
57 title of a vehicle or in the event a vehicle is the subject of an  
58 agreement for the conditional sale, lease or transfer of the  
59 possession, howsoever thereof, with the right of purchase upon  
60 performance of conditions stated in the agreement, and with an  
61 immediate right of possession vested in the conditional vendee,

62 lessee, possessor or in the event such or similar transaction is  
63 had by means of a mortgage, and the mortgagor of a vehicle is  
64 entitled to possession, then such conditional vendee, lessee,  
65 possessor or mortgagor shall be deemed the owner for the purposes  
66 of this article.

67 (15) "School bus" shall mean every motor vehicle  
68 engaged solely in transporting school children or school children  
69 and teachers to and from schools; provided, however, that such  
70 vehicles may transport passengers on weekends and legal holidays  
71 and during summer months between the terms of school for  
72 compensation when the transportation of such passengers is over a  
73 route of which not more than fifty percent (50%) traverses the  
74 route of a common carrier of passengers by motor vehicle and when  
75 no passengers are picked up on the route of any such carrier.

76 (16) "Dealer" shall mean every person engaged regularly  
77 in the business of buying, selling or exchanging motor vehicles,  
78 trailers, semitrailers, trucks, tractors or other character of  
79 commercial or industrial motor vehicles in this state, and having  
80 an established place of business in this state.

81 (17) "Highway" shall mean and include every way or  
82 place of whatever nature, including public roads, streets and  
83 alleys of this state generally open to the use of the public or to  
84 be opened or reopened to the use of the public for the purpose of  
85 vehicular travel, and notwithstanding that the same may be  
86 temporarily closed for the purpose of construction,  
87 reconstruction, maintenance or repair.

88 (18) "State Tax Commission" shall mean the Chairman of  
89 the State Tax Commission of this state, acting directly or through  
90 his duly authorized officers, agents, representatives and  
91 employees.

92 (19) "Common carrier by motor vehicle" shall mean any  
93 person who or which undertakes, whether directly or by a lease or  
94 any other arrangement, to transport passengers or property or any

95 class or classes of property for the general public in interstate  
96 or intrastate commerce on the public highways of this state by  
97 motor vehicles for compensation, whether over regular or irregular  
98 routes. Not including, however, passenger buses operating within  
99 the corporate limits of a municipality in this state or not  
100 exceeding five (5) miles beyond the corporate limits of said  
101 municipality, and hearses, ambulances, school buses as such. In  
102 addition, this definition shall not include taxicabs.

103           (20) "Contract carrier by motor vehicle" shall mean any  
104 person who or which under the special and individual contract or  
105 agreements, and whether directly or by a lease or any other  
106 arrangement, transports passengers or property in interstate or  
107 intrastate commerce on the public highways of this state by motor  
108 vehicle for compensation. Not including, however, passenger buses  
109 operating wholly within the corporate limits of a municipality in  
110 this state or not exceeding five (5) miles beyond the corporate  
111 limits of said municipality, and hearses, ambulances, school buses  
112 as such. In addition, this definition shall not include taxicabs.

113           (21) "Private commercial or noncommercial carrier of  
114 property by motor vehicle" shall mean any person not included in  
115 the terms "common carrier by motor vehicle" or "contract carrier  
116 by motor vehicle," who or which transports in interstate or  
117 intrastate commerce on the public highways of this state by motor  
118 vehicle, property of which such person is the owner, lessee, or  
119 bailee, other than for hire \* \* \*. Not including, however,  
120 passenger buses operated wholly within the corporate limits of a  
121 municipality of this state, or not exceeding five (5) miles beyond  
122 the corporate limits of said municipality, and hearses,  
123 ambulances, school buses as such. In addition, this definition  
124 shall not include taxicabs.

125           Haulers of fertilizer shall be classified as private  
126 commercial carriers of property by motor vehicle.

127           (22) "Private carrier of passengers" shall mean all  
128 other passenger motor vehicle carriers not included in the above  
129 definitions. Not including, however, passenger buses operating  
130 wholly within the corporate limits of a municipality in this  
131 state, or not exceeding five (5) miles beyond the corporate limits  
132 of said municipality, and hearses, ambulances, and school buses as  
133 such. In addition, this definition shall not include taxicabs.

134           (23) "Operator" shall mean any person, partnership,  
135 joint-stock company or corporation operating on the public  
136 highways of the state one or more motor vehicles as the beneficial  
137 owner or lessee.

138           (24) "Driver" shall mean the person actually driving or  
139 operating such motor vehicle at any given time.

140           (25) "Private carrier of property" shall mean any  
141 person transporting property on the highways of this state as  
142 defined below:

143           (a) Any person transporting farm products produced  
144 on his own farm and also farm supplies, materials and equipment  
145 used in the growing or production of his agricultural products in  
146 his own truck.

147           (b) Any person transporting his own fish,  
148 including shellfish, in his own truck.

149           (c) Any person transporting unprocessed forest  
150 products, wherein ownership remains the same, in his own truck.

151           (26) "Taxicab" shall mean any passenger motor vehicle  
152 for hire with a seating capacity not greater than ten (10)  
153 passengers. For purposes of this paragraph (26), seating capacity  
154 shall be determined according to the manufacturer's suggested  
155 seating capacity for a vehicle. If there is no manufacturer's  
156 suggested seating capacity for a vehicle, the seating capacity for  
157 the vehicle shall be determined according to regulations  
158 established by the State Tax Commission.

159           (27) "Passenger coach" shall mean any passenger motor  
160 vehicle with a seating capacity greater than ten (10) passengers,  
161 operating wholly within the corporate limits of a municipality of  
162 this state or within five (5) miles of the corporate limits of  
163 said municipality, or motor vehicles substituted for abandoned  
164 electric railway systems in or between municipalities. For  
165 purposes of this paragraph (27), seating capacity shall be  
166 determined according to the manufacturer's suggested seating  
167 capacity for a vehicle. If there is no manufacturer's suggested  
168 seating capacity for a vehicle, the seating capacity for the  
169 vehicle shall be determined according to regulations established  
170 by the State Tax Commission.

171           (28) "Empty weight" shall mean the actual weight of a  
172 vehicle including fixtures and equipment necessary for the  
173 transportation of load hauled or to be hauled.

174           (29) "Gross weight" shall mean the empty weight of the  
175 vehicle, as defined herein, plus any load being transported or to  
176 be transported.

177           (30) "Ambulance and hearse." The terms "ambulance" and  
178 "hearse" shall have the meaning generally ascribed to them. A  
179 hearse or funeral coach shall be classified as a light carrier of  
180 property, as defined in Section 27-51-101.

181           (31) "Regular seats" shall mean each seat ordinarily  
182 and customarily used by one (1) passenger, including all  
183 temporary, emergency, and collapsible seats. Where any seats are  
184 not distinguished or separated by separate cushions and backs, a  
185 seat shall be counted for each eighteen (18) inches of space on  
186 such seats or major fraction thereof. In the case of a regular  
187 passenger-type automobile which is used as a common or contract  
188 carrier of passengers, three (3) seats shall be counted for the  
189 rear seat of such automobile and one (1) seat shall be counted for  
190 the front seat of such automobile.

191           (32) "Ton" shall mean two thousand (2,000) pounds  
192 avoirdupois.

193           (33) "Leases." No lease shall be recognized under the  
194 provisions of this article unless same shall be in writing and  
195 shall fully define a bona fide relationship of lessor and lessee,  
196 signed by both parties, dated and be in the possession of the  
197 driver of the leased vehicle at all times.

198           (34) "Bus" shall mean any passenger vehicle with a  
199 seating capacity of more than ten (10) but shall not include  
200 "private carrier of passengers" and "school bus" as defined in  
201 paragraphs (15) and (22) of this section. For purposes of this  
202 paragraph (34), seating capacity shall be determined according to  
203 the manufacturer's suggested seating capacity for a vehicle. If  
204 there is no manufacturer's suggested seating capacity for a  
205 vehicle, the seating capacity for the vehicle shall be determined  
206 according to regulations established by the State Tax Commission.

207           (35) "Corporate fleet" shall mean a group of two  
208 hundred (200) or more marked private carriers of passengers or  
209 light carriers of property, as defined in Section 27-51-101,  
210 trailers, semitrailers, or motor vehicles in excess of ten  
211 thousand (10,000) pounds gross vehicle weight, except for those  
212 vehicles registered for interstate travel, owned or leased on a  
213 long-term basis by a corporation or other legal entity. In order  
214 to be considered marked, the motor vehicle must have a name,  
215 trademark or logo located either on the sides or the rear of the  
216 vehicle in sharp contrast to the background, and of a size, shape  
217 and color that is legible during daylight hours from a distance of  
218 fifty (50) feet.

219           (36) "Individual fleet" means a group of five (5) or  
220 more private carriers of passengers or light carriers of property,  
221 as defined in Section 27-51-101, owned or leased by the same  
222 person and principally garaged in the same county.

223 Leased vehicles shall be considered as domiciled at the place  
 224 in the State of Mississippi from which they operate in interstate  
 225 or intrastate commerce, and for the purposes of this article shall  
 226 be considered as owned by the lessee, who shall furnish all  
 227 insurance on the vehicles and the driver of the vehicles shall be  
 228 considered as an agent of the lessee for all purposes of this  
 229 article.

230 **SECTION 2.** Section 27-19-11, Mississippi Code of 1972, is  
 231 amended as follows:

232 27-19-11. On each carrier of property, \* \* \* truck-tractor  
 233 or road tractor \* \* \*, and on each bus, there is hereby levied an  
 234 annual highway privilege tax in accordance with the following  
 235 schedule, except that the gross vehicle weight of buses shall be  
 236 the gross weight of the vehicle plus one hundred fifty (150)  
 237 pounds per each regular seat.

238 RATE OF TAX			
239 GROSS WEIGHT	COMMON AND	PRIVATE	PRIVATE
240 OF VEHICLE	CONTRACT	COMMERCIAL <u>OR</u>	CARRIERS
241 NOT TO EXCEED	CARRIERS OF	<u>NONCOMMERCIAL</u>	OF
242 IN POUNDS	PROPERTY	CARRIERS OF	PROPERTY
243		PROPERTY	
244 0000 - 6000	\$ 7.20	\$ 7.20	\$ 7.20
245 6001 - 10000	33.60	25.20	16.80
246 10001 - 16000	78.40	70.70	39.20
247 16001 - 20000	156.00	129.00	78.00
248 20001 - 26000	228.00	192.00	114.00
249 26001 - 30000	300.00	247.00	150.00
250 30001 - 36000	384.00	318.00	192.00
251 36001 - 40000	456.00	378.00	228.00
252 40001 - 42000	504.00	420.00	264.00
253 42001 - 44000	528.00	444.00	276.00
254 44001 - 46000	552.00	456.00	282.00
255 46001 - 48000	588.00	492.00	300.00

256	48001 - 50000	612.00	507.00	312.00
257	50001 - 52000	660.00	540.00	336.00
258	52001 - 54000	684.00	564.00	348.00
259	54001 - 56000	708.00	588.00	360.00
260	56001 - 58000	756.00	624.00	384.00
261	58001 - 60000	780.00	642.00	396.00
262	60001 - 62000	828.00	828.00	420.00
263	62001 - 64000	852.00	852.00	432.00
264	64001 - 66000	900.00	900.00	482.00
265	66001 - 68000	936.00	936.00	504.00
266	68001 - 70000	972.00	972.00	516.00
267	70001 - 72000	996.00	996.00	528.00
268	72001 - 74000	1,128.00	1,128.00	576.00
269	74001 - 76000	1,248.00	1,248.00	612.00
270	76001 - 78000	1,380.00	1,380.00	720.00
271	78001 - 80000	1,512.00	1,512.00	864.00

272           In addition to the above levied annual highway privilege tax  
273 on vehicles with a gross weight exceeding ten thousand (10,000)  
274 pounds, there is levied and shall be collected an additional  
275 privilege tax in the amount of One Thousand Three Hundred Fifty  
276 Dollars (\$1,350.00) for each current or later year model vehicle  
277 based upon a licensed weight of eighty thousand (80,000) pounds.  
278 This additional privilege tax shall be reduced by the amount of  
279 One Hundred Seventy-five Dollars (\$175.00) for each year of age to  
280 a minimum of Fifty Dollars (\$50.00) and further reduced by the  
281 ratio of licensed weight to the maximum weight of eighty thousand  
282 (80,000) pounds. During the first year only, the privilege tax  
283 monies collected under the provisions of this paragraph shall be  
284 distributed to the various counties of the state on the basis of  
285 the ratio of the last year of annual ad valorem taxes collected by  
286 such counties on such vehicles to the total ad valorem taxes  
287 collected by all counties on such vehicles in the same year. In  
288 all subsequent years, such distribution to the counties shall be

289 made on the basis of the ratio of the number of motor vehicles  
290 registered in excess of ten thousand (10,000) pounds, in each  
291 taxing district in each county, to the total number of such  
292 vehicles registered statewide. The counties should then  
293 distribute these proceeds as they would if these collections were  
294 ad valorem taxes. Provided, however, until July 1, 1993, vehicles  
295 which are subject to the provisions of this section and were  
296 licensed in another state shall not be subject to any other taxes  
297 when registered in this state.

298 From the privilege tax monies collected under this section,  
299 Three Million Seven Hundred Thirty-two Thousand Four Hundred Three  
300 Dollars and Eleven Cents (\$3,732,403.11) shall be earmarked and  
301 set aside to be apportioned and paid to the counties of the state  
302 in the manner provided by Section 27-19-159, Mississippi Code of  
303 1972. Any excess privilege tax monies collected under this  
304 section shall be deposited into the State Highway Fund for the  
305 construction, maintenance and reconstruction of highways and roads  
306 of the State of Mississippi or the payment of interest and  
307 principal on bonds authorized by the 1972 Regular Session of the  
308 Legislature for construction and reconstruction of highways.

309 Provided that no privilege license shall be issued for any  
310 period of time for less than One Dollar (\$1.00).

311 The annual highway privilege tax imposed on operators engaged  
312 exclusively in the transportation of household goods shall be the  
313 same as the tax imposed upon private commercial carriers by this  
314 section. Provided that in determining the amount of privilege  
315 taxes due under the provisions of this section, there shall be  
316 allowed a maximum tolerance of five hundred (500) pounds on all  
317 classes of carriers except carriers of liquefied compressed gases  
318 and in the case of carriers of liquefied compressed gases there  
319 shall be allowed a maximum tolerance of two thousand (2,000)  
320 pounds.

321            Provided, however, any owner or operator who operates a motor  
322 vehicle on the public highways, with a license tag attached  
323 thereto which was issued for another or different vehicle, shall  
324 be liable for the privilege tax on said vehicle for twelve (12)  
325 months plus a penalty thereon of twenty-five percent (25%).

326            Provided further, that carriers of property duly registered  
327 and licensed in another state and being used to transport farm  
328 harvesting machinery or equipment to and from a particular county  
329 in this state may, upon adoption of a resolution by the board of  
330 supervisors of said county where such machinery or equipment is  
331 being exclusively used in harvesting farm crops within said  
332 county, be exempt from the taxes herein levied when said  
333 resolution is filed with the State Tax Commission. Provided,  
334 however, that said exemption shall not exceed a period of forty  
335 (40) days for any annual period without a second resolution of  
336 approval by the board of supervisors who shall have the authority  
337 to extend said exemption not to exceed an additional period of  
338 twenty (20) days during any annual period.

339            Provided further, a private commercial carrier of property  
340 hauling interstate may purchase a common and contract carrier of  
341 property license plate at the prescribed fee to allow the carrier  
342 to lease on a one-way basis per trip without qualifying with the  
343 Public Service Commission.

344            **SECTION 3.** This act shall take effect and be in force from  
345 and after July 1, 2004.