

By: Representatives Watson, Reynolds

To: Ways and Means

HOUSE BILL NO. 1051
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 27-19-3 AND 27-19-11, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT PRIVATE COMMERCIAL CARRIERS OF
3 PROPERTY AND PRIVATE NONCOMMERCIAL CARRIERS OF PROPERTY SHALL BE
4 TREATED THE SAME FOR PURPOSES OF THE MOTOR VEHICLE PRIVILEGE TAX
5 LAW; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

26 (4) "Tractor" means every vehicle designed, constructed
27 or used for drawing other vehicles.

28 (5) "Motorcycle" means every vehicle designed to travel
29 on not more than three (3) wheels in contact with the ground,
30 except vehicles * * * included within the term "tractor" as herein
31 classified and defined.

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

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

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

42 (9) "Foreign vehicle" means 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" means all tires inflated with
47 compressed air.

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

50 (12) "Solid tires" means 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" means every natural person, firm,
54 copartnership, corporation, joint-stock or other association or
55 organization.

56 (14) "Owner" means a person who holds the legal title
57 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, * * * the person 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" means every motor vehicle engaged
68 solely in transporting school children or school children and
69 teachers to and from schools; * * * however, * * * such vehicles
70 may transport passengers on weekends and legal holidays and during
71 summer months between the terms of school for compensation when
72 the transportation of * * * passengers is over a route of which
73 not more than fifty percent (50%) traverses the route of a common
74 carrier of passengers by motor vehicle and when no passengers are
75 picked up on the route of any such carrier.

76 (16) "Dealer" means every person engaged regularly in
77 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" means and includes every way or place of
82 whatever nature, including public roads, streets and alleys of
83 this state generally open to the use of the public or to be opened
84 or reopened to the use of the public for the purpose of vehicular
85 travel, and notwithstanding that the same may be temporarily
86 closed for the purpose of construction, reconstruction,
87 maintenance or repair.

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

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

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

103 (20) "Contract carrier by motor vehicle" means 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. The term "contract carrier by motor
109 vehicle" shall not include passenger buses operating wholly within
110 the corporate limits of a municipality in this state or not
111 exceeding five (5) miles beyond the corporate limits of the
112 municipality, and hearses, ambulances, school buses as such. In
113 addition, this definition shall not include taxicabs.

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

127 Haulers of fertilizer shall be classified as private
128 commercial carriers of property by motor vehicle.

129 (22) "Private carrier of passengers" means all other
130 passenger motor vehicle carriers not included in the above
131 definitions. The term "private carrier of passengers" shall not
132 include passenger buses operating wholly within the corporate
133 limits of a municipality in this state, or not exceeding five (5)
134 miles beyond the corporate limits of the municipality, and
135 hearses, ambulances, and school buses as such. In addition, this
136 definition shall not include taxicabs.

137 (23) "Operator" means any person, partnership,
138 joint-stock company or corporation operating on the public
139 highways of the state one or more motor vehicles as the beneficial
140 owner or lessee.

141 (24) "Driver" means the person actually driving or
142 operating such motor vehicle at any given time.

143 (25) "Private carrier of property" means any person
144 transporting property on the highways of this state as defined
145 below:

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

150 (b) Any person transporting his own fish,
151 including shellfish, in his own truck.

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

154 (26) "Taxicab" means any passenger motor vehicle for
155 hire with a seating capacity not greater than ten (10) passengers.
156 For purposes of this paragraph (26), seating capacity shall be
157 determined according to the manufacturer's suggested seating
158 capacity for a vehicle. If there is no manufacturer's suggested
159 seating capacity for a vehicle, the seating capacity for the

160 vehicle shall be determined according to regulations established
161 by the State Tax Commission.

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

174 (28) "Empty weight" means the actual weight of a
175 vehicle including fixtures and equipment necessary for the
176 transportation of load hauled or to be hauled.

177 (29) "Gross weight" means the empty weight of the
178 vehicle, as defined herein, plus any load being transported or to
179 be transported.

180 (30) "Ambulance and hearse" * * * shall have the
181 meaning generally ascribed to them. A hearse or funeral coach
182 shall be classified as a light carrier of property, as defined in
183 Section 27-51-101.

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

192 rear seat of such automobile and one (1) seat shall be counted for
193 the front seat of such automobile.

194 (32) "Ton" means two thousand (2,000) pounds
195 avoirdupois.

196 * * *

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

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

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

221 (b) (1) No lease shall be recognized under the provisions
222 of this article unless it shall be in writing and shall fully
223 define a bona fide relationship of lessor and lessee, signed by

224 both parties, dated and be in the possession of the driver of the
225 leased vehicle at all times.

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

233 **SECTION 2.** Section 27-19-11, Mississippi Code of 1972, as
234 amended by Senate Bill No. 2631, 2004 Regular Session, is amended
235 as follows:

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

242 RATE OF TAX

243 GROSS WEIGHT	244 COMMON AND	245 PRIVATE	246 PRIVATE
247 OF VEHICLE	248 CONTRACT	249 COMMERCIAL	250 CARRIERS
251 NOT TO EXCEED	252 CARRIERS OF	253 <u>AND</u>	254 OF
255 IN POUNDS	256 PROPERTY	257 <u>NONCOMMERCIAL</u>	258 PROPERTY
		259 CARRIERS OF	
		260 PROPERTY	
249 0000 - 6000	\$ 7.20	\$ 7.20	\$ 7.20
250 6001 - 10000	33.60	25.20	16.80
251 10001 - 16000	78.40	70.70	39.20
252 16001 - 20000	156.00	129.00	78.00
253 20001 - 26000	228.00	192.00	114.00
254 26001 - 30000	300.00	247.00	150.00
255 30001 - 36000	384.00	318.00	192.00
256 36001 - 40000	456.00	378.00	228.00

257	40001 - 42000	504.00	420.00	264.00
258	42001 - 44000	528.00	444.00	276.00
259	44001 - 46000	552.00	456.00	282.00
260	46001 - 48000	588.00	492.00	300.00
261	48001 - 50000	612.00	507.00	312.00
262	50001 - 52000	660.00	540.00	336.00
263	52001 - 54000	684.00	564.00	348.00
264	54001 - 56000	708.00	588.00	360.00
265	56001 - 58000	756.00	624.00	384.00
266	58001 - 60000	780.00	642.00	396.00
267	60001 - 62000	828.00	828.00	420.00
268	62001 - 64000	852.00	852.00	432.00
269	64001 - 66000	900.00	900.00	482.00
270	66001 - 68000	936.00	936.00	504.00
271	68001 - 70000	972.00	972.00	516.00
272	70001 - 72000	996.00	996.00	528.00
273	72001 - 74000	1,128.00	1,128.00	576.00
274	74001 - 76000	1,248.00	1,248.00	612.00
275	76001 - 78000	1,380.00	1,380.00	720.00
276	78001 - 80000	1,512.00	1,512.00	864.00

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

290 the ratio of the last year of annual ad valorem taxes collected by
291 such counties on such vehicles to the total ad valorem taxes
292 collected by all counties on such vehicles in the same year. In
293 all subsequent years, the distribution to the counties shall be
294 made on the basis of the ratio of the number of motor vehicles
295 registered in excess of ten thousand (10,000) pounds, in each
296 taxing district in each county, to the total number of such
297 vehicles registered statewide. The counties shall then distribute
298 these proceeds as they would if these collections were ad valorem
299 taxes. * * *

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

311 * * * No privilege license shall be issued for any period of
312 time for less than One Dollar (\$1.00).

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

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

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

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

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