

By: Representative Zuber (By Request)

To: Transportation

HOUSE BILL NO. 1360

1 AN ACT TO AMEND SECTION 27-19-89, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE EXCEPTIONS FROM THE ASSESSMENT OF PENALTIES FOR CERTAIN
3 VEHICLES HAULING SOLID WASTE THAT EXCEED THE MAXIMUM ALLOWABLE
4 WEIGHT; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-19-89, Mississippi Code of 1972, is
7 amended as follows:

8 [Through June 30, 2006, this section shall read as follows:]

9 27-19-89. (a) If any nonresident owner or operator or other
10 nonresident person eligible for a temporary permit as provided in
11 Section 27-19-79, who has not elected to register and pay the
12 annual privilege taxes prescribed, shall enter or go upon the
13 public highways of the state and shall fail or refuse to obtain
14 the permit required by Section 27-19-79, such person shall be
15 liable, for the first such offense, for the full amount of the
16 permit fee required, plus a penalty thereon of five hundred
17 percent (500%). For the second and all subsequent offenses, such
18 person who fails or refuses to obtain such permits shall be liable
19 for the pro rata part of the annual tax for the balance of the tag
20 year for the maximum legal gross weight of the vehicle plus a
21 penalty thereon of twenty-five percent (25%). Any weight in
22 excess of the maximum legal gross weight of the vehicle, or in
23 excess of the maximum highway weight limit, shall be penalized
24 according to subsection (c) of this section. In either case the
25 excess weight shall be removed by the operator before the vehicle
26 can be allowed to proceed. In order to constitute a "second or
27 subsequent offense" under the provisions hereof, it shall not be
28 necessary that the same or identical vehicle be involved, it being

29 the declared purpose hereof to provide that such penalties shall
30 run against the owner or operator rather than against the
31 specified vehicle. It is further provided that, in order for such
32 owner or operator to become liable for the penalties herein
33 provided, it shall not be necessary to show that such owner or
34 operator was guilty of willfulness, gross negligence or
35 wantonness, but the offense shall be complete upon the failure or
36 refusal to obtain the required permit.

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

56 (c) If any person shall operate upon a highway of this state
57 a vehicle which has a greater vehicle gross weight than the
58 maximum gross weight limit established by law for that highway and
59 shall have failed to obtain an overload permit as required by
60 Section 27-19-81 or Section 63-5-52, or if any person shall
61 operate a vehicle with a greater load on any axle or axle grouping

62 than allowed by law, then such person, owner or operator shall be
63 assessed a penalty on such axle load weight or vehicle gross
64 weight as exceeds the legal limit in accordance with the following
65 schedule:

66	AMOUNT IN EXCESS OF	
67	LEGAL HIGHWAY WEIGHT	
68	LIMITS IN POUNDS	PENALTY
69	1 to 999	\$10.00 minimum penalty
70	1,000 to 1,999	1¢ per pound in excess of legal limit
71	2,000 to 2,999	2¢ per pound in excess of legal limit
72	3,000 to 3,999	3¢ per pound in excess of legal limit
73	4,000 to 4,999	4¢ per pound in excess of legal limit
74	5,000 to 5,999	5¢ per pound in excess of legal limit
75	6,000 to 6,999	6¢ per pound in excess of legal limit
76	7,000 to 7,999	7¢ per pound in excess of legal limit
77	8,000 to 8,999	8¢ per pound in excess of legal limit
78	9,000 to 9,999	9¢ per pound in excess of legal limit
79	10,000 to 10,999	10¢ per pound in excess of legal limit
80	11,000 or more	11¢ per pound in excess of legal limit

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

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

92 In instances where both the legal highway gross weight limit
93 and the legal axle load weight limit(s) are exceeded, the fine
94 that shall be levied shall be either the penalty amount for the

95 excess vehicle gross weight or the total of the penalty amounts of
96 all overloaded axles, whichever is the larger amount.

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

103 Notwithstanding any other provision of this subsection (c) to
104 the contrary, any truck fitted with a compactor body which is
105 engaged in the collecting and hauling of solid waste, including
106 municipal solid waste, residential solid waste, agricultural
107 waste, commercial solid waste, rubbish, construction or demolition
108 debris, garbage, industrial solid waste, trash, white goods,
109 woodwaste and yard waste as defined in the rules and regulations
110 of the Commission on Environmental Quality, shall not be assessed
111 a penalty for weight which exceeds the maximum allowable axle
112 weight if such truck does not also exceed the maximum permissible
113 total combined weight as provided in the Uniform Highway Traffic
114 Regulation Law - Size, Weight, and Load Regulations, Section
115 63-5-1 et seq. Such truck shall not be assessed a penalty for
116 exceeding the maximum permissible gross weight if the waste is wet
117 and the location from which the waste was collected had received
118 measurable precipitation, as recorded by National Weather Service
119 recognized observation stations, within twenty-four (24) hours
120 before collection. Notwithstanding any other provision of this
121 subsection (c) to the contrary, upon an appeal to the Appeals
122 Board of the Mississippi Transportation Commission by an owner or
123 operator of a vehicle hauling without a harvest permit any of the
124 products or materials described in subsection (3) of Section
125 63-5-33 and upon whom a penalty has been assessed under this
126 subsection (c) for exceeding the legal weight limit(s) on a
127 highway having a legal weight limit of eighty thousand (80,000)

128 pounds or less, the appeals board shall reduce the penalty
129 assessed against such owner/operator to an amount not to exceed
130 ten percent (10%) of the amount which would otherwise be due
131 without the reduction authorized under this paragraph. A
132 reduction shall not be authorized under this paragraph if the
133 gross weight of the vehicle for which an owner/operator has been
134 charged with a violation of this section exceeds eighty-four
135 thousand (84,000) pounds; and, in any event, no reduction shall be
136 authorized under this paragraph unless a penalty assessed under
137 this section is appealed to the appeals board and unless the board
138 determines, based upon its records, that such owner/operator has
139 not been granted a penalty reduction under this paragraph within a
140 period of twelve (12) months immediately preceding the date of
141 filing an appeal with the board for a penalty reduction under this
142 paragraph.

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

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

173 **[From and after July 1, 2006, this section shall read as**
174 **follows:]**

175 27-19-89. (a) If any nonresident owner or operator or other
176 nonresident person eligible for a temporary permit as provided in
177 Section 27-19-79, who has not elected to register and pay the
178 annual privilege taxes prescribed, shall enter or go upon the
179 public highways of the state and shall fail or refuse to obtain
180 the permit required by Section 27-19-79, such person shall be
181 liable, for the first such offense, for the full amount of the
182 permit fee required, plus a penalty thereon of five hundred
183 percent (500%). For the second and all subsequent offenses, such
184 person who fails or refuses to obtain such permits shall be liable
185 for the pro rata part of the annual tax for the balance of the tag
186 year for the maximum legal gross weight of the vehicle plus a
187 penalty thereon of twenty-five percent (25%). Any weight in
188 excess of the maximum legal gross weight of the vehicle, or in
189 excess of the maximum highway weight limit, shall be penalized
190 according to subsection (c) of this section. In either case the
191 excess weight shall be removed by the operator before the vehicle
192 can be allowed to proceed. In order to constitute a "second or

193 subsequent offense" under the provisions hereof, it shall not be
194 necessary that the same or identical vehicle be involved, it being
195 the declared purpose hereof to provide that such penalties shall
196 run against the owner or operator rather than against the
197 specified vehicle. It is further provided that, in order for such
198 owner or operator to become liable for the penalties herein
199 provided, it shall not be necessary to show that such owner or
200 operator was guilty of willfulness, gross negligence or
201 wantonness, but the offense shall be complete upon the failure or
202 refusal to obtain the required permit.

203 (b) If any person who has registered his vehicle in
204 Mississippi shall operate such vehicle upon the public highways,
205 having a gross weight greater than the licensed gross weight of
206 such vehicle, and shall fail or refuse to obtain a permit therefor
207 as required by Section 27-19-79, or if any person shall operate
208 any such registered vehicle upon the public highways in a higher
209 classification than that for which it is registered, and shall
210 fail or refuse to obtain a permit therefor as required by Section
211 27-19-79, then such person shall be liable for the pro rata part
212 of the annual tax for the balance of the tag year for the legal
213 gross weight of such vehicle and in the classification in which
214 same is being operated, plus a penalty thereon of twenty-five
215 percent (25%), after having been given credit for the unexpired
216 part of the privilege tax paid, as provided in Section 27-19-75.
217 In order that such owner or operator shall become liable for the
218 penalties herein provided, it shall not be necessary to show that
219 such owner or operator was guilty of willfulness, gross negligence
220 or wantonness, but the offense shall be complete upon the failure
221 or refusal to obtain the required permit.

222 (c) If any person shall operate upon a highway of this state
223 a vehicle which has a greater vehicle gross weight than the
224 maximum gross weight limit established by law for that highway and
225 shall have failed to obtain an overload permit as required by

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

231	AMOUNT IN EXCESS OF	
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251 pounds and the legal single axle load limit of twenty thousand
252 (20,000) pounds, whichever the case may be.

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254 greater load on any axle or axle grouping than the legal axle load
255 weight limits shall be one-half (1/2) the penalty for operation in
256 excess of the legal gross weight limit.

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

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260 excess vehicle gross weight or the total of the penalty amounts of
261 all overloaded axles, whichever is the larger amount.

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263 contrary, the fine assessed against the holder of a harvest permit
264 for exceeding a gross vehicle weight of eighty-four thousand
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271 municipal solid waste, residential solid waste, agricultural
272 waste, commercial solid waste, rubbish, construction or demolition
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280 63-5-1 et seq. Such truck shall not be assessed a penalty for
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283 measurable precipitation, as recorded by National Weather Service
284 recognized observation stations, within twenty-four (24) hours
285 before collection.

286 Notwithstanding any other provision of this subsection (c) to
287 the contrary, upon an appeal to the Appeals Board of the
288 Mississippi Transportation Commission by an owner or operator of a
289 vehicle hauling without a harvest permit any of the products or
290 materials described in subsection (3) of Section 63-5-33 and upon
291 whom a penalty has been assessed under this subsection (c) for

292 exceeding the legal weight limit(s) on a highway having a legal
293 weight limit of eighty thousand (80,000) pounds or less, the
294 appeals board shall reduce the penalty assessed against such
295 owner/operator to an amount not to exceed ten percent (10%) of the
296 amount which would otherwise be due without the reduction
297 authorized under this paragraph. A reduction shall not be
298 authorized under this paragraph if the gross weight of the vehicle
299 for which an owner/operator has been charged with a violation of
300 this section exceeds eighty-four thousand (84,000) pounds; and, in
301 any event, no reduction shall be authorized under this paragraph
302 unless a penalty assessed under this section is appealed to the
303 appeals board and unless the board determines, based upon its
304 records, that such owner/operator has not been granted a penalty
305 reduction under this paragraph within a period of twelve (12)
306 months immediately preceding the date of filing an appeal with the
307 board for a penalty reduction under this paragraph.

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318 thereto the penalty fee on the excess weight as specified in
319 subsection (c) of this section. In order that such owner or
320 operator shall become liable for the penalties herein provided, it
321 shall not be necessary that the same or identical vehicle be
322 involved, it being the declared purpose hereof to provide that
323 such penalties shall run against the owner or operator rather than
324 against the specific vehicle.

325 (e) All fines and penalties imposed and collected by the
326 Mississippi Department of Transportation for violations of the
327 maximum legal vehicle weight limits authorized on the highways of
328 this state shall be deposited into a special fund that is created
329 in the State Treasury. Monies in the fund shall be allocated and
330 distributed quarterly, beginning September 30, 1994, to each
331 county of the state based on the amount of such fines and
332 penalties imposed and collected in the county during the
333 immediately preceding three (3) months. Monies distributed to the
334 counties under this subsection shall be deposited in each county's
335 road and bridge fund and may be expended, upon approval of the
336 board of supervisors, for any purpose for which county road and
337 bridge fund monies lawfully may be expended.

338 **SECTION 2.** This act shall take effect and be in force from
339 and after July 1, 2004.