

By: Senator(s) Williamson

To: Highways and  
Transportation

SENATE BILL NO. 2584

1 AN ACT TO AMEND SECTION 27-19-89, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT CERTAIN FINES COLLECTED BY THE MISSISSIPPI  
3 DEPARTMENT OF TRANSPORTATION BE ALLOCATED TO THE LOCAL SYSTEM ROAD  
4 PROGRAM; 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, upon an appeal to the Appeals Board of the  
105 Mississippi Transportation Commission by an owner or operator of a  
106 vehicle hauling without a harvest permit any of the products or  
107 materials described in subsection (3) of Section 63-5-33 and upon  
108 whom a penalty has been assessed under this subsection (c) for  
109 exceeding the legal weight limit(s) on a highway having a legal  
110 weight limit of eighty thousand (80,000) pounds or less, the  
111 appeals board shall reduce the penalty assessed against such  
112 owner/operator to an amount not to exceed ten percent (10%) of the  
113 amount which would otherwise be due without the reduction  
114 authorized under this paragraph. A reduction shall not be  
115 authorized under this paragraph if the gross weight of the vehicle  
116 for which an owner/operator has been charged with a violation of  
117 this section exceeds eighty-four thousand (84,000) pounds; and, in  
118 any event, no reduction shall be authorized under this paragraph  
119 unless a penalty assessed under this section is appealed to the  
120 appeals board and unless the board determines, based upon its  
121 records, that such owner/operator has not been granted a penalty  
122 reduction under this paragraph within a period of twelve (12)  
123 months immediately preceding the date of filing an appeal with the  
124 board for a penalty reduction under this paragraph.

125 (d) If any nonresident owner or operator who has not  
126 registered his vehicle and paid the annual privilege taxes  
127 prescribed shall operate his vehicle upon the highways of this

128 state when such vehicle has a greater gross weight than permitted  
129 by law for the highway traveled upon, and for which such excess  
130 gross weight a permit was not or could not be procured from the  
131 transportation department as required by Section 27-19-81, such  
132 person shall be liable upon his second and all subsequent offenses  
133 for the pro rata part of the annual tax for the balance of the tag  
134 year for the legal gross weight of the vehicle, and in addition  
135 thereto the penalty fee on the excess weight as specified in  
136 subsection (c) of this section. In order that such owner or  
137 operator shall become liable for the penalties herein provided, it  
138 shall not be necessary that the same or identical vehicle be  
139 involved, it being the declared purpose hereof to provide that  
140 such penalties shall run against the owner or operator rather than  
141 against the specific vehicle.

142 (e) All fines and penalties imposed and collected by the  
143 Mississippi Department of Transportation for violations of the  
144 maximum legal vehicle weight limits authorized on the highways of  
145 this state shall be deposited into a special fund that is created  
146 in the State Treasury. Monies in the fund shall be allocated and  
147 distributed for use by counties under the Local System Road  
148 Program. Monies distributed to the counties under this subsection  
149 shall be deposited in each county's road and bridge fund and may  
150 be expended, upon approval of the board of supervisors, for any  
151 purpose for which local system road fund monies lawfully may be  
152 expended.

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

155 27-19-89. (a) If any nonresident owner or operator or other  
156 nonresident person eligible for a temporary permit as provided in  
157 Section 27-19-79, who has not elected to register and pay the  
158 annual privilege taxes prescribed, shall enter or go upon the  
159 public highways of the state and shall fail or refuse to obtain  
160 the permit required by Section 27-19-79, such person shall be

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

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

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

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

211	AMOUNT IN EXCESS OF	
212	LEGAL HIGHWAY WEIGHT	
213	LIMITS IN POUNDS	PENALTY
214	1 to 999	\$10.00 minimum penalty
215	1,000 to 1,999	1¢ per pound in excess of legal limit
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220	6,000 to 6,999	6¢ per pound in excess of legal limit
221	7,000 to 7,999	7¢ per pound in excess of legal limit
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227 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)  
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230 legal tandem axle load weight limit of forty thousand (40,000)  
231 pounds and the legal single axle load limit of twenty thousand  
232 (20,000) pounds, whichever the case may be.

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

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

242 Notwithstanding any other provisions of this section to the  
243 contrary, the fine assessed against the holder of a harvest permit  
244 for exceeding a gross vehicle weight of eighty-four thousand  
245 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen  
246 Cents (15¢) per pound for exceeding a gross vehicle weight of one  
247 hundred thousand (100,000) pounds.

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

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

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

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288 Mississippi Department of Transportation for violations of the  
289 maximum legal vehicle weight limits authorized on the highways of  
290 this state shall be deposited into a special fund that is created  
291 in the State Treasury. Monies in the fund shall be allocated and

292 distributed for use by counties under the Local System Road  
293 Program. Monies distributed to the counties under this subsection  
294 shall be deposited in each county's road and bridge fund and may  
295 be expended, upon approval of the board of supervisors, for any  
296 purpose for which local system road fund monies lawfully may be  
297 expended.

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