

By: Senator(s) Hewes

To: Highways and  
Transportation

SENATE BILL NO. 2604

1 AN ACT TO AMEND SECTION 77-9-249, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE CIRCUMSTANCES UNDER WHICH A PERSON DRIVING A MOTOR  
3 VEHICLE IS REQUIRED TO STOP AT A RAILROAD CROSSING; AND FOR  
4 RELATED PURPOSES.

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

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

8 77-9-249. (1) Whenever any person driving a vehicle  
9 approaches a railroad grade crossing under any one or more of the  
10 circumstances stated in this subsection, the driver of such  
11 vehicle shall stop within fifty (50) feet but not less than  
12 fifteen (15) feet from the nearest rail of such railroad, and  
13 shall not proceed until he can do so safely. The foregoing  
14 requirements shall apply when one or more of the following  
15 circumstances occur:

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

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

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

27 (d) An approaching railroad train is plainly visible  
28 and is in hazardous proximity to such crossing.

29           (2) No person shall drive any vehicle through, around or  
30 under any crossing gate or barrier at a railroad crossing while  
31 such gate or barrier is closed or is being opened or closed.

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

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

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

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