

By: Senator(s) Hewes

To: Highways and  
Transportation

SENATE BILL NO. 3013

1 AN ACT TO AMEND SECTION 27-19-89, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE AN EXCEPTION TO PENALTIES FOR EXCESS WEIGHT IF VEHICLE  
3 IS HAULING SOLID WASTES; AND FOR RELATED PURPOSES.

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

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

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

8 27-19-89. (a) If any nonresident owner or operator or other  
9 nonresident person eligible for a temporary permit as provided in  
10 Section 27-19-79, who has not elected to register and pay the  
11 annual privilege taxes prescribed, shall enter or go upon the  
12 public highways of the state and shall fail or refuse to obtain  
13 the permit required by Section 27-19-79, such person shall be  
14 liable, for the first such offense, for the full amount of the  
15 permit fee required, plus a penalty thereon of five hundred  
16 percent (500%). For the second and all subsequent offenses, such  
17 person who fails or refuses to obtain such permits shall be liable  
18 for the pro rata part of the annual tax for the balance of the tag  
19 year for the maximum legal gross weight of the vehicle plus a  
20 penalty thereon of twenty-five percent (25%). Any weight in  
21 excess of the maximum legal gross weight of the vehicle, or in  
22 excess of the maximum highway weight limit, shall be penalized  
23 according to subsection (c) of this section. In either case the  
24 excess weight shall be removed by the operator before the vehicle  
25 can be allowed to proceed. In order to constitute a "second or  
26 subsequent offense" under the provisions hereof, it shall not be  
27 necessary that the same or identical vehicle be involved, it being

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

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

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

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

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

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

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

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

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

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

102 Notwithstanding any provision of this subsection (c) to the  
103 contrary, any truck fitted with a compactor body which is engaged  
104 in the collecting and hauling of solid waste including municipal  
105 solid waste, residential solid waste, agricultural waste,  
106 commercial solid waste, rubbish, construction or demolition  
107 debris, garbage, industrial solid waste, trash, white goods, wood  
108 waste and yard waste as defined in the rules and regulations of  
109 the Commission on Environmental Quality, shall not be assessed a  
110 penalty for weight which exceeds the maximum allowable axle weight  
111 if such truck does not also exceed the maximum permissible total  
112 combined weight provided in the Uniform Highway Traffic Law-Size  
113 Weight, and Load Regulations, Sections 63-5-1 et seq. The truck  
114 shall not be assessed a penalty for exceeding the maximum  
115 permissible gross weight if the waste is wet and the location from  
116 which the waste was collected had received measurable  
117 precipitation, as recorded by the National Weather Service  
118 recognized observation stations, within twenty-four (24) hours  
119 prior to collection.

120 Notwithstanding any other provision of this subsection (c) to  
121 the contrary, upon an appeal to the Appeals Board of the  
122 Mississippi Transportation Commission by an owner or operator of a  
123 vehicle hauling without a harvest permit any of the products or  
124 materials described in subsection (3) of Section 63-5-33 and upon  
125 whom a penalty has been assessed under this subsection (c) for  
126 exceeding the legal weight limit(s) on a highway having a legal

127 weight limit of eighty thousand (80,000) pounds or less, the  
128 appeals board shall reduce the penalty assessed against such  
129 owner/operator to an amount not to exceed ten percent (10%) of the  
130 amount which would otherwise be due without the reduction  
131 authorized under this paragraph. A reduction shall not be  
132 authorized under this paragraph if the gross weight of the vehicle  
133 for which an owner/operator has been charged with a violation of  
134 this section exceeds eighty-four thousand (84,000) pounds; and, in  
135 any event, no reduction shall be authorized under this paragraph  
136 unless a penalty assessed under this section is appealed to the  
137 appeals board and unless the board determines, based upon its  
138 records, that such owner/operator has not been granted a penalty  
139 reduction under this paragraph within a period of twelve (12)  
140 months immediately preceding the date of filing an appeal with the  
141 board for a penalty reduction under this paragraph.

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

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

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

174 27-19-89. (a) If any nonresident owner or operator or other  
175 nonresident person eligible for a temporary permit as provided in  
176 Section 27-19-79, who has not elected to register and pay the  
177 annual privilege taxes prescribed, shall enter or go upon the  
178 public highways of the state and shall fail or refuse to obtain  
179 the permit required by Section 27-19-79, such person shall be  
180 liable, for the first such offense, for the full amount of the  
181 permit fee required, plus a penalty thereon of five hundred  
182 percent (500%). For the second and all subsequent offenses, such  
183 person who fails or refuses to obtain such permits shall be liable  
184 for the pro rata part of the annual tax for the balance of the tag  
185 year for the maximum legal gross weight of the vehicle plus a  
186 penalty thereon of twenty-five percent (25%). Any weight in  
187 excess of the maximum legal gross weight of the vehicle, or in  
188 excess of the maximum highway weight limit, shall be penalized  
189 according to subsection (c) of this section. In either case the  
190 excess weight shall be removed by the operator before the vehicle  
191 can be allowed to proceed. In order to constitute a "second or

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

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203 Mississippi shall operate such vehicle upon the public highways,  
204 having a gross weight greater than the licensed gross weight of  
205 such vehicle, and shall fail or refuse to obtain a permit therefor  
206 as required by Section 27-19-79, or if any person shall operate  
207 any such registered vehicle upon the public highways in a higher  
208 classification than that for which it is registered, and shall  
209 fail or refuse to obtain a permit therefor as required by Section  
210 27-19-79, then such person shall be liable for the pro rata part  
211 of the annual tax for the balance of the tag year for the legal  
212 gross weight of such vehicle and in the classification in which  
213 same is being operated, plus a penalty thereon of twenty-five  
214 percent (25%), after having been given credit for the unexpired  
215 part of the privilege tax paid, as provided in Section 27-19-75.  
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268 the contrary, upon an appeal to the Appeals Board of the  
269 Mississippi Transportation Commission by an owner or operator of a  
270 vehicle hauling without a harvest permit any of the products or  
271 materials described in subsection (3) of Section 63-5-33 and upon  
272 whom a penalty has been assessed under this subsection (c) for  
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274 weight limit of eighty thousand (80,000) pounds or less, the  
275 appeals board shall reduce the penalty assessed against such  
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277 amount which would otherwise be due without the reduction  
278 authorized under this paragraph. A reduction shall not be  
279 authorized under this paragraph if the gross weight of the vehicle  
280 for which an owner/operator has been charged with a violation of  
281 this section exceeds eighty-four thousand (84,000) pounds; and, in  
282 any event, no reduction shall be authorized under this paragraph  
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306 (e) All fines and penalties imposed and collected by the  
307 Mississippi Department of Transportation for violations of the  
308 maximum legal vehicle weight limits authorized on the highways of  
309 this state shall be deposited into a special fund that is created  
310 in the State Treasury. Monies in the fund shall be allocated and  
311 distributed quarterly, beginning September 30, 1994, to each  
312 county of the state based on the amount of such fines and  
313 penalties imposed and collected in the county during the  
314 immediately preceding three (3) months. Monies distributed to the  
315 counties under this subsection shall be deposited in each county's  
316 road and bridge fund and may be expended, upon approval of the  
317 board of supervisors, for any purpose for which county road and  
318 bridge fund monies lawfully may be expended.

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