

By: Senator(s) Williamson

To: Highways and
Transportation;
Appropriations

SENATE BILL NO. 2968

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
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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.

270 (d) If any nonresident owner or operator who has not
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
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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
283 shall not be necessary that the same or identical vehicle be
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.

287 (e) All fines and penalties imposed and collected by the
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, 2005.