Senate Amendments to House Bill No. 1238

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

| 20 | SECTION 1. Section 63-15-4, Mississippi Code of 1972, is |
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| 21 | amended as follows: |
| 22 | 63-15-4. (1) The following vehicles are exempted from the |
| 23 | requirements of this section: |
| 24 | (a) Vehicles exempted by Section 63-15-5; |
| 25 | (b) Vehicles for which a bond or a certificate of |
| 26 | deposit of money or securities in at least the minimum amounts |
| 27 | required for proof of financial responsibility is on file with the |
| 28 | department; |
| 29 | (c) Vehicles that are self-insured under Section |
| 30 | 63-15-53; and |
| 31 | (d) Implements of husbandry. |
| 32 | (2) (a) Every motor vehicle operated in this state shall |
| 33 | have an insurance card maintained in the vehicle as proof of |
| 34 | liability insurance that is in compliance with the liability |
| 35 | limits required by Section 63-15-3(j). The insured parties shall |
| 36 | be responsible for maintaining the insurance card in each vehicle. |
| 37 | (b) An insurance company issuing a policy of motor |
| 38 | vehicle liability insurance as required by this section shall |
| 39 | furnish to the insured an insurance card for each vehicle at the |
| 40 | time the insurance policy becomes effective. |
| 41 | (3) Upon stopping a motor vehicle at a roadblock where all |
| 42 | passing motorists are checked as a method to enforce traffic laws |
| 43 | or upon stopping a motor vehicle for any other statutory |
| 44 | violation, a law enforcement officer, who is authorized to issue |
| 45 | traffic citations, shall verify that the insurance card required |
| | H. B. 1238 PAGE 1 |

46 by this section is in the motor vehicle. However, no driver shall 47 be stopped or detained solely for the purpose of verifying that an 48 insurance card is in the motor vehicle <u>unless the stop is part of</u> 49 such roadblock.

Failure of the owner or the operator of a motor vehicle 50 (4) 51 to have the insurance card in the motor vehicle is a misdemeanor and, upon conviction, is punishable by a fine of One Thousand 52 Dollars (\$1,000.00) and suspension of driving privilege for a 53 54 period of one (1) year or until the owner of the motor vehicle shows proof of liability insurance that is in compliance with the 55 56 liability limits required by Section 63-15-3(j). Fraudulent use 57 of an insurance card shall be punishable in accordance with Section 97-7-10. The funds from such fines shall be deposited in 58 59 the State General Fund in the State Treasury. However, if such 60 fines are levied in a municipal court, twenty-five percent (25%) 61 of the funds from such fines shall be deposited in the general fund of the municipality. If such fines are levied in any of the 62 courts of the county, twenty-five percent (25%) of the funds from 63 64 such fines shall be deposited in the general fund of the county. If, at the hearing date or the date of payment of the 65 (5) 66 fine, the motor vehicle owner shows proof of motor vehicle 67 liability insurance in the amounts required by Section 63-15-3(j), 68 the fine shall be reduced to Five Hundred Dollars (\$500.00). If 69 the owner shows proof that such insurance was in effect at the 70 time of citation, both the fine of Five Hundred Dollars (\$500.00) and court costs shall be waived. 71

72 **SECTION 2.** Section 63-13-9, Mississippi Code of 1972, is 73 amended as follows:

74 63-13-9. (1) Such inspections shall be made of every such 75 vehicle, and such certificates shall be obtained with respect to 76 the mechanism, lights, tires, brakes and equipment as shall be 77 designated by the motor vehicle inspection department by rules and 78 regulations.

79 <u>(2)</u> No vehicle equipped with a liquefied petroleum or 80 natural gas carburetion system may be issued a certificate under this chapter unless the vehicle shall have first been inspected and approved by an inspector or qualified installer authorized by the State Liquefied Compressed Gas Board to inspect and approve the installation of such systems, and unless such approval is exhibited to the person making the actual inspection under this chapter.

(3) No certificate may be issued on a vehicle under this 87 88 chapter unless the vehicle owner/driver furnishes proof of motor 89 vehicle liability insurance as required by Section 63-15-1 et seq. Proof of motor vehicle liability insurance as required by Section 90 91 63-15-1 et seq. shall be made by presenting the insurance card issued by the insurer for the motor vehicle. The provisions of 92 this subsection shall not apply to any owner/driver of a motor 93 94 vehicle exempted from maintaining an insurance card pursuant to 95 Section 63-15-4(1). No person making an inspection under this chapter shall be liable for any claim arising out of any act or 96 omission in the execution or performance of, or in the failure to 97 execute or perform, the verifying of proof of insurance. 98

99 <u>(4)</u> The Commissioner of Public Safety may suspend the 100 registration of any vehicle which he determines is in such unsafe 101 condition as to constitute a menace to safety and which, after 102 notice and demand, is not equipped as required in this chapter and 103 for which a required certificate has not been obtained.

104 SECTION 3. The following shall be codified as Section 105 63-15-8, Mississippi Code of 1972:

63-15-8. (1) Every owner of a motor vehicle in this state 106 shall furnish proof of motor vehicle liability insurance as 107 108 required by this chapter before the owner may receive a license 109 tag for a motor vehicle or renew a license tag. However, the 110 provisions of this section shall not apply to any owner of a motor vehicle exempted from maintaining an insurance card pursuant to 111 112 Section 63-15-4(1), nor to any owner of a motor vehicle who purchases or renews his license tag by mail or the Internet. 113 114 Proof of motor vehicle liability insurance as required by this

115 chapter shall be made by presenting to the tax collector the 116 insurance card issued by the insurer for the motor vehicle.

(2) Any person who presents or causes to be presented to the 117 118 tax collector or to any court of this state false evidence of motor vehicle liability insurance as required by this chapter, 119 120 upon conviction, shall be guilty of perjury and shall be fined Five Hundred Dollars (\$500.00) and shall be subject to 121 122 imprisonment for a period not exceeding one (1) year or both such 123 fine and imprisonment. This fine and imprisonment shall be waived if the offender chooses to purchase, and provides proof of such 124 125 purchase by the court date, motor vehicle liability insurance for a minimum of six (6) months' coverage in at least the minimum 126 amounts required under paragraph (j) of Section 63-15-3. 127 Any person convicted of filing false proof of motor vehicle liability 128 129 insurance as required by this chapter shall surrender to the 130 department his driver's license, license plates and registration of the motor vehicle for which false proof was presented and the 131 132 procedure for the suspension of licenses provided in Section 133 63-15-11 relating to accidents shall be followed. Such driver's license, license plates and registration shall be reinstated upon 134 135 payment of any fines and reinstatement fees, serving of a sentence 136 if applicable, and upon presentation of proof of purchase of 137 minimum motor vehicle liability insurance in accordance with the 138 provisions of this subsection. The district attorney of the 139 jurisdiction where any false evidence is presented shall prosecute any violation of this section. Any person convicted under this 140 141 section shall be assessed with all costs of prosecution and all 142 court costs.

143 (3) No tax collector nor any of his employees shall be 144 liable for any claim arising out of any act or omission in the 145 execution or performance of, or in the failure to execute or 146 perform, the provisions of this section.

147 SECTION 4. Section 63-15-3, Mississippi Code of 1972, is 148 amended as follows:

149 63-15-3. The following words and phrases, when used in this 150 chapter, shall, for the purposes of this chapter, have the 151 meanings respectively ascribed to them in this section, except in 152 those instances where the context clearly indicates a different 153 meaning:

(a) "Highway" means the entire width between property
lines of any road, street, way, thoroughfare or bridge in the
State of Mississippi not privately owned or controlled, when any
part thereof is open to the public for vehicular traffic and over
which the state has legislative jurisdiction under its police
power.

160 (b) "Judgment" means any judgment which shall have become final by expiration, without appeal, of the time within 161 162 which an appeal might have been perfected, or by final affirmation 163 on appeal, rendered by a court of competent jurisdiction of any 164 state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for 165 166 damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because 167 of injury to or destruction of property, including the loss of use 168 169 thereof, or upon a cause of action on an agreement of settlement 170 for such damages.

171 (C) "Motor vehicle" means every self-propelled vehicle 172 (other than traction engines, road rollers and graders, tractor 173 cranes, power shovels, well drillers, implements of husbandry and 174 electric personal assistive mobility device as defined in Section 63-3-103) which is designed for use upon a highway, including 175 trailers and semitrailers designed for use with such vehicles, and 176 177 every vehicle which is propelled by electric power obtained from 178 overhead wires but not operated upon rails.

For purposes of this definition, "implements of husbandry" shall not include trucks, pickup trucks, trailers and semitrailers designed for use with such trucks and pickup trucks.

182 (d) "License" means any driver's, operator's,183 commercial operator's, or chauffeur's license, temporary

184 instruction permit or temporary license, or restricted license, 185 issued under the laws of the State of Mississippi pertaining to 186 the licensing of persons to operate motor vehicles.

187 (e) "Nonresident" means every person who is not a188 resident of the State of Mississippi.

(f) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of Mississippi pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in the State of Mississippi.

193 (g) "Operator" means every person who is in actual194 physical control of a motor vehicle.

195 "Owner" means a person who holds the legal title of (h) 196 a motor vehicle; in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right 197 of purchase upon performance of the conditions stated in the 198 199 agreement and with an immediate right of possession vested in the 200 conditional vendee or lessee or in the event a mortgagor of a 201 vehicle is entitled to possession, then such conditional vendee or 202 lessee or mortgagor shall be deemed the owner for the purpose of 203 this chapter.

204 (i) "Person" means every natural person, firm,205 copartnership, association or corporation.

206 "Proof of financial responsibility" means proof of (j) 207 ability to respond in damages for liability, on account of 208 accidents occurring subsequent to the effective date of said 209 proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of Twenty-five Thousand Dollars 210 (\$25,000.00) because of bodily injury to or death of one (1) 211 person in any one (1) accident, and subject to said limit for one 212 213 (1) person, in the amount of Fifty Thousand Dollars (\$50,000.00) because of bodily injury to or death of two (2) or more persons in 214 215 any one (1) accident, and in the amount of Twenty-five Thousand Dollars (\$25,000.00) because of injury to or destruction of 216 217 property of others in any one (1) accident.

(k) "Registration" means a certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(1) "Department" means the Department of Public Safety of the State of Mississippi, acting directly or through its authorized officers and agents, except in such sections of this chapter in which some other state department is specifically named.

(m) "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

229 SECTION 5. Section 63-15-11, Mississippi Code of 1972, is
230 amended as follows:

231 63-15-11. (1) If twenty (20) days after the receipt of a report of a motor vehicle accident in this state which has 232 233 resulted in bodily injury or death, or damage to the property of any one (1) person in excess of Two Hundred Fifty Dollars 234 235 (\$250.00), the department does not have on file evidence 236 satisfactory to it that the person who would otherwise be required 237 to file security under subsection (2) of this section has been finally adjudicated not to be liable, or has executed a duly 238 239 acknowledged written agreement providing for the payment of an 240 agreed amount in installments with respect to all claims for 241 injuries or damages resulting from the accident, the department 242 shall determine the amount of security which shall be sufficient 243 in its judgment to satisfy any judgment or judgments for damages 244 resulting from such accident as may be recovered against each 245 operator or owner.

(2) The department shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned

253 by him, unless such operator or owner or both shall deposit 254 security in the sum so determined by the department and shall also furnish proof of financial responsibility. Notice of such 255 256 suspension shall be sent by the department to such operator and 257 owner not less than ten (10) days prior to the effective date of 258 such suspension and shall state the amount required as security. 259 Where erroneous information is given the department with respect 260 to the matters set forth in paragraphs (a), (b) and (c) of 261 subsection (4) of this section, it shall take appropriate action as hereinbefore provided, within sixty (60) days after receipt by 262 263 it of correct information with respect to said matters.

(3) Any person so notified of suspension may, within ten 264 (10) days after receipt of such notification, make a written 265 266 request to the department for a hearing, and such request shall 267 operate as a stay of any suspension pending the outcome of such 268 hearing. For the purposes of this section, the scope of such hearing shall cover the issues of whether there is a reasonable 269 270 probability of a judgment being rendered against such person in a 271 lawsuit arising out of the accident and whether such person is exempt from the requirement of depositing security under 272 273 subsection (4) of this section. At such hearing the department 274 may also consider the amount of security required to be deposited, 275 if any. The hearing shall be in accordance with rules and 276 regulations which shall be adopted by the department and furnished 277 to the operator or owner with the notice of suspension. For the purposes of this section, a "hearing" may consist of a 278 determination of such issues by the department based solely on 279 280 written reports submitted by the operator or owner and by 281 investigatory officers, provided that the owner or operator, in 282 his request to the department for a hearing, has expressly consented to such type hearing and that the department has 283 284 consented thereto.

Any person whose suspension has been sustained shall have the right to appeal as provided in Section 63-15-7. However, such 287 suspension shall not be stayed by the department or any court 288 while such appeal is pending.

289 (4) Subsections (1) and (2) of this section shall not apply: 290 (a) to such operator or owner if such owner had in effect at the time of such accident a liability policy with respect to the motor 291 292 vehicle involved in such accident; (b) to such operator, if not the owner of such motor vehicle, if there was in effect at the 293 294 time of such accident a liability policy with respect to his 295 operation of motor vehicles not owned by him; (c) to such operator 296 or owner if the liability of such operator or owner for damages 297 resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance 298 policy or bond of a surety company authorized to do business in 299 300 this state; (d) to any person qualifying as a self-insurer under Section 63-15-53, or to any person operating a motor vehicle for 301 302 such self-insurer; (e) to the operator or the owner of a motor vehicle legally parked at the time of the accident; (f) to the 303 304 owner of a motor vehicle if at the time of the accident the 305 vehicle was stolen; or (g) to any person for whom the department 306 has found in the hearing provided for in subsection (3) of this 307 section, that there is not a reasonable probability of a judgment 308 being rendered against such person in a lawsuit arising out of the 309 accident.

310 No such policy shall be effective under this section unless 311 issued by an insurance company or surety company authorized to write motor vehicle liability insurance in this state, except that 312 if such motor vehicle was not registered in this state, or was a 313 314 motor vehicle which was registered elsewhere than in this state at 315 the effective date of the policy or the most recent renewal 316 thereof, such policy shall not be effective under this section unless the insurance company or surety company if not authorized 317 318 to do business in this state shall execute a power of attorney 319 authorizing the department to accept service on its behalf of 320 notice or process in any action upon such policy arising out of 321 such accident. However, every such policy shall be subject, if

the accident has resulted in bodily injury or death, to a limit, 322 exclusive of interest and cost, of not less than Twenty-five 323 Thousand Dollars (\$25,000.00) because of bodily injury to or death 324 325 of one (1) person in any one (1) accident and, subject to said limit for one (1) person, to a limit of not less than Fifty 326 327 Thousand Dollars (\$50,000.00) because of bodily injury to or death 328 of two (2) or more persons in any one (1) accident, and if the accident has resulted in injury to or destruction of property, to 329 330 a limit of not less than Twenty-five Thousand Dollars (\$25,000.00) because of injury to or destruction of property of others in any 331 332 one (1) accident.

333 SECTION 6. Section 63-15-31, Mississippi Code of 1972, is
334 amended as follows:

335 63-15-31. Judgments referred to in this chapter shall, for336 the purpose of this chapter only, be deemed satisfied:

(a) When <u>Twenty-five Thousand Dollars (\$25,000.00)</u> has
been credited upon any judgment or judgments rendered in excess of
that amount because of bodily injury to or death of one (1) person
as the result of any one (1) accident; or

(b) When, subject to such limit of <u>Twenty-five Thousand</u> <u>Dollars (\$25,000.00)</u> because of bodily injury to or death of one (1) person, the sum of <u>Fifty Thousand Dollars (\$50,000.00)</u> has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two (2) or more persons as the result of any one (1) accident; or

347 (c) When <u>Twenty-five Thousand Dollars (\$25,000.00)</u> has
348 been credited upon any judgment or judgments rendered in excess of
349 that amount because of injury to or destruction of property of
350 others as a result of any one (1) accident.

However, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

355 **SECTION 7.** Section 63-15-43, Mississippi Code of 1972, is 356 amended as follows:

357 63-15-43. (1) A "motor vehicle liability policy" as said 358 term is used in this chapter shall mean an owner's or an 359 operator's policy of liability insurance, certified as provided in 360 Section 63-15-39 or Section 63-15-41, as proof of financial responsibility, and issued, except as otherwise provided in 361 362 Section 63-15-41, by an insurance company duly authorized to write 363 motor vehicle liability insurance in this state, to or for the benefit of the person named therein as insured. 364

365 (2) Such owner's policy of liability insurance:

366 (a) Shall designate by explicit description or by
367 appropriate reference all motor vehicles with respect to which
368 coverage is thereby to be granted.

Shall pay on behalf of the insured named therein 369 (b) 370 and any other person, as insured, using any such motor vehicle or 371 motor vehicles with the express or implied permission of such 372 named insured, all sums which the insured shall become legally 373 obligated to pay as damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within 374 375 the United States of America or the Dominion of Canada, subject to 376 limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: Twenty-five Thousand Dollars 377 (\$25,000.00) because of bodily injury to or death of one (1) 378 379 person in any one (1) accident and, subject to said limit for one 380 (1) person, Fifty Thousand Dollars (\$50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) 381 accident, and Twenty-five Thousand Dollars (\$25,000.00) because of 382 383 injury to or destruction of property of others in any one (1) 384 accident.

(3) Such operator's policy of liability insurance shall pay on behalf of the insured named therein all sums which the insured shall become legally obligated to pay as damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

Such motor vehicle liability policy shall state the name 392 (4) 393 and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the 394 395 limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the 396 397 coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the 398 399 provisions of this chapter.

400 (5) Such motor vehicle liability policy shall not insure:
401 (a) Any obligation for which the insured or any company
402 as his insurer may be held liable under any workmen's compensation
403 law;

404 (b) Any liability on account of bodily injury to or
405 death of any employee of the insured while engaged in the
406 employment, other than domestic, of the insured, or in domestic
407 employment if benefits therefor are either payable or required to
408 be provided under any workmen's compensation law; or

409 (c) Any liability because of injury to or destruction
410 of property owned by, rented to, in charge of or transported by
411 the insured.

412 (6) Every motor vehicle liability policy shall be subject to413 the following provisions which need not be contained therein:

414 The liability of the insurance company with respect (a) 415 to the insurance required by this chapter shall become absolute 416 whenever injury or damage covered by said motor vehicle liability 417 policy occurs; said policy may not be cancelled or annulled as to 418 such liability by any agreement between the insurance company and 419 the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of 420 421 said policy shall defeat or void said policy;

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance company to make payment on account of such injury or damage;

(c) The insurance company shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in <u>paragraph</u> (b) of subsection (2) of this section; or

(d) The policy, the written application therefor, if
any, and any rider or endorsement which does not conflict with the
provisions of the chapter shall constitute the entire contract
between the parties.

435 (7) Any policy which grants the coverage required for a 436 motor vehicle liability policy may also grant any lawful coverage 437 in excess of or in addition to the coverage specified for a motor 438 vehicle liability policy, and such excess or additional coverage 439 shall not be subject to the provisions of this chapter. With 440 respect to a policy which grants such excess or additional 441 coverage, the term "motor vehicle liability policy" shall apply 442 only to that part of the coverage which is required by this 443 section.

444 (8) Any motor vehicle liability policy may provide that the 445 insured shall reimburse the insurance company for any payment the 446 insurance company would not have been obligated to make under the 447 terms of the policy except for the provisions of this chapter.

448 (9) Any motor vehicle liability policy may provide for the 449 prorating of the insurance thereunder with other valid and 450 collectible insurance.

(10) The requirements for a motor vehicle liability policy
may be fulfilled by the policies of one or more insurance
companies which policies together meet such requirements.

(11) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

457 **SECTION 8.** Sections 1 through 3 of this act shall take 458 effect and be in force from and after July 1, 2005. Sections 4 459 through 7 shall take effect and be in force from and after January 460 1, 2006, and shall apply to policies issued or renewed with an 461 effective date on or after January 1, 2006.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

AN ACT TO AMEND SECTION 63-15-4, MISSISSIPPI CODE OF 1972, TO 1 REQUIRE LAW ENFORCEMENT OFFICERS TO VERIFY PROOF OF AUTO LIABILITY 2 3 INSURANCE AT ROADBLOCKS, AND TO PROVIDE THAT A PORTION OF THE 4 FINES LEVIED IN MUNICIPAL COURTS OR COURTS OF THE COUNTY ON 5 PERSONS WHO DO NOT HAVE AUTO LIABILITY INSURANCE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE MUNICIPALITY OR COUNTY; TO б AMEND SECTION 63-13-9, MISSISSIPPI CODE OF 1972, TO REQUIRE PROOF 7 8 OF AUTO LIABILITY INSURANCE BEFORE RECEIVING AN INSPECTION STICKER; TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION 9 63-15-8, MISSISSIPPI CODE OF 1972, TO REQUIRE PROOF OF AUTO 10 11 LIABILITY INSURANCE BEFORE RECEIVING A LICENSE TAG; TO AMEND 12 SECTIONS 63-15-3, 63-15-11, 63-15-31 AND 63-15-43, MISSISSIPPI CODE OF 1972, TO INCREASE THE STATUTORY MINIMUM FOR MOTOR VEHICLE 13 LIABILITY INSURANCE COVERAGE IN ANY ONE ACCIDENT FROM \$10,000.00 TO \$25,000.00 FOR BODILY INJURY TO OR DEATH OF ONE PERSON, FROM \$20,000.00 TO \$50,000.00 FOR BODILY INJURY TO OR DEATH OF TWO OR 14 15 16 17 MORE PERSONS AND FROM \$5,000.00 TO \$25,000.00 FOR INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS; AND FOR RELATED PURPOSES. 18

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John O. Gilbert Secretary of the Senate