MISSISSIPPI LEGISLATURE FIFTH EXTRAORDINARY SESSION 2005

By: The Entire Membership To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 7

AN ACT TO AMEND SECTIONS 27-19-63 AND 27-51-43, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE TAX COLLECTOR IN ANY COUNTY WHERE A FEDERAL DISASTER HAS BEEN DECLARED TO WAIVE ALL DELINQUENCY PENALTIES IMPOSED UNDER THE PRIVILEGE TAX LAWS AND THE MOTOR VEHICLE AD VALOREM TAX LAWS FOR A PERIOD OF 120 DAYS AFTER THE DATE OF DECLARATION OF THE DISASTER IF BECAUSE OF SUCH DISASTER THE TAX COLLECTOR HAS BEEN UNABLE TO COLLECT TAXES AND ISSUE TAGS AND/OR DECALS OR THE TAXPAYER HAS BEEN UNABLE TIMELY TO ACQUIRE A TAG AND/OR DECAL; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-19-63, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2007, this section shall read as follows:]

27-19-63. (1) Except as otherwise provided in this section, the privilege license tax levied by the provisions of this article shall be paid annually during the anniversary month of the acquisition of the vehicle. The privilege license tax levied shall be based on a period of twelve (12) months, even though the actual time from the acquisition of the vehicle to the end of the anniversary month of the next succeeding year may be more than twelve (12) months. Any person subject to the provisions of this article shall have an additional fifteen (15) days from the end of the anniversary month in which to purchase the tag and/or decals and to pay the privilege license tax without being in violation of this section. Any person owning a vehicle subject to taxation under the provisions of this article who fails or refuses to pay such tax and obtain the privilege license required within the prescribed period of time shall be guilty of violating the provisions of this article, and shall be liable for the amount of such tax plus a penalty as provided for in this section. If the

person owning a vehicle subject to taxation under the provisions of this article does not operate such vehicle on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of his tag and decals to the date on which he makes application for the privilege license, he shall pay such license tax for a period of twelve (12) months beginning with the first day of the month in which he applies for such privilege license. The owner shall submit an affidavit with his application attesting to the fact that his vehicle was not operated on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of his tag and decals to the date on which he makes application for the privilege license.

(2) Except as may be otherwise provided in subsection (3) of this section, the privilege license tax levied by the provision of this article on operators of motor vehicles in excess of ten thousand (10,000) pounds, gross vehicle weight, apportioned vehicles, rental and commercial trailers and buses shall be due annually during the anniversary month which shall be established by the Chairman of the State Tax Commission; provided, however, there shall be an additional fifteen (15) days from the end of the anniversary month in which to file an application with the commission and pay the privilege license tax. The annual license tag and/or decals issued by the commission for the license tax year shall be valid for a period of time to be determined by the chairman but not to exceed fifteen (15) months following the anniversary month; provided, however, this does not extend the time for filing the application with the commission and the payment of the license tax. Any person who fails or refuses to pay such tax and obtain the privilege license required when due shall be guilty of violating the provision of this article and shall be liable for the entire amount of such tax from the date

the liability was incurred, plus penalty as provided for in this section.

(3) The privilege license tax levied by the provisions of this article on operators of a motor vehicle that is in a corporate fleet or an individual fleet registered under Section 27-19-66 shall be due annually during the anniversary month which shall be established by the Chairman of the State Tax Commission for corporate fleets and by the county tax collectors for individual fleets; provided, however, there shall be an additional fifteen (15) days from the end of the anniversary month in which to file an application with the commission or the county tax collector, as the case may be, and to purchase the tag or renew the registration of such motor vehicle and pay the privilege license tax. The commission or the county tax collector, as the case may be, shall issue a tag or renew the annual registration of such motor vehicle for the license tax year only after all ad valorem taxes and privilege taxes due on such motor vehicle have been paid. Any person who fails or refuses to pay the privilege tax and obtain the privilege license required when due shall be guilty of violating the provisions of this article and shall be liable for the entire amount of such tax from the date the liability was incurred, plus penalty as provided for in this section.

(4) Penalties shall be assessed on the privilege license tax at the rate of five percent (5%) for the first fifteen (15) days of delinquency, or part thereof, and five percent (5%) for each additional thirty-day period of delinquency, or part thereof, not to exceed a maximum penalty of twenty-five percent (25%); however, a penalty of Two Hundred Fifty Dollars ($250.00), in addition to the maximum penalty for delinquency, shall be assessed against any person who is liable for the motor vehicle privilege license tax but who (a) displays an out-of-state license tag on the motor vehicle; or (b) displays a license tag or privilege license decal

on the motor vehicle which was issued for another vehicle. The commission, for good reason shown, may waive all or any part of the penalties imposed. For a period of one hundred twenty (120) days after the date of a declaration of a federal disaster, any county tax collector, for good reason shown, may waive all delinquency penalties imposed by this section when a taxpayer is obtaining or renewing a tag for any vehicle in a county where the federal disaster has been declared and either the tax collector has been unable to collect taxes and issue tags and/or decals due to the disaster or the taxpayer has been unable timely to acquire tags and/or decals as a result of the disaster; however, before a tax collector may waive any such penalties, the board of supervisors of the appropriate county must duly adopt and enter upon its official minutes a resolution authorizing the tax collector to take such action. Any such waiver of penalties by a tax collector shall not apply to penalties due or accrued before the date of declaration of the federal disaster. No private passenger vehicle registered under this chapter shall have displayed on the front of such vehicle, or elsewhere, the official license tag of another state, whether or not such license tag has expired. Law enforcement officers of this state may remove from private passenger vehicles any out-of-state license tags so displayed.

(5) The requirement that the privilege tax be paid during the anniversary month of each year shall not apply in the following cases:

(a) When a motor vehicle is acquired, the owner or operator of the vehicle purchased shall have seven (7) full working days, exclusive of the date of delivery, after the vehicle has been delivered to him, within which to make the application for the required privilege license, otherwise such person shall be liable for penalty as provided for in this section. Provided, however, that when any person shall acquire a vehicle as herein

provided, and it shall be necessary that such vehicle be remodeled, changed or altered by such person before same is suitable for the purposes for which it was acquired, then such person shall have seven (7) full working days, exclusive of the day of the completion of such remodeling, change or alteration, after the completion thereof within which to make application for the required privilege license; provided, that if such person fails to make application within such period, such person shall be liable for penalty as provided for in this section.

"Delivery" as used herein shall be construed to mean receipt of such vehicle by the purchaser thereof at his residence or place of business, and, in the event the vehicle is purchased at any place other than in the county of residence or place of business of such person, he shall be entitled to forty-eight (48) hours within which to transport such vehicle to the county of his residence or place of business. At all times during such transportation, the owner or operator of such vehicle shall have in his possession a true bill of sale, giving the description of the vehicle, the name and address of the dealer from whom purchased, the name and address of the owner or operator, and the date on which the vehicle was acquired. For failure to have such bill of sale in his possession during the entire time during which the vehicle is being transported, the owner or operator shall be liable for the annual privilege tax plus penalty as provided for in this section.

(b) Where a person has paid the current privilege license tax required by the laws of another state and applies for a privilege license in this state within thirty (30) days, no penalty shall be assessed; however, any person who fails to comply herewith shall be liable for the full annual tax, plus penalty as provided for in this section.

(6) Any nonresident of the State of Mississippi who has paid the current privilege license required by the laws of another

state upon a private carrier of passengers, and thereafter becomes a resident of the State of Mississippi, or brings such vehicle into the State of Mississippi for use in connection with his business in this state, or who is gainfully employed in this state shall be entitled to operate such vehicle without obtaining a privilege license in this state for a period of not more than thirty (30) days.

"Resident" for the purpose of registration and operation of motor vehicles shall include, but not be limited to, the following:

(a) Any person, except a tourist or out-of-town student, who owns, leases or rents a place within the state and occupies same as a place of residence.

(b) Any person who engages in a trade, profession or occupation in this state or who accepts employment in other than seasonal agricultural work.

[From and after July 1, 2007, this section shall read as follows:]

27-19-63. (1) Except as otherwise provided in this section, the privilege license tax levied by the provisions of this article shall be paid annually during the anniversary month of the acquisition of the vehicle. The privilege license tax levied shall be based on a period of twelve (12) months, even though the actual time from the acquisition of the vehicle to the end of the anniversary month of the next succeeding year may be more than twelve (12) months. Any person subject to the provisions of this article shall have an additional fifteen (15) days from the end of the anniversary month in which to purchase the tag and/or decals and to pay the privilege license tax without being in violation of this section. Any person owning a vehicle subject to taxation under the provisions of this article who fails or refuses to pay such tax and obtain the privilege license required within the prescribed period of time shall be guilty of violating the

provisions of this article, and shall be liable for the amount of such tax plus a penalty as provided for in this section. If the person owning a vehicle subject to taxation under the provisions of this article does not operate such vehicle on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of his tag and decals to the date on which he makes application for the privilege license, he shall pay such license tax for a period of twelve (12) months beginning with the first day of the month in which he applies for such privilege license. The owner shall submit an affidavit with his application attesting to the fact that his vehicle was not operated on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of his tag and decals to the date on which he makes application for the privilege license.

(2) Except as may be otherwise provided in subsection (3) of this section, the privilege license tax levied by the provision of this article on operators of motor vehicles in excess of ten thousand (10,000) pounds, gross vehicle weight, apportioned vehicles, rental and commercial trailers and buses shall be due annually during the anniversary month which shall be established by the Chairman of the State Tax Commission; provided, however, there shall be an additional fifteen (15) days from the end of the anniversary month in which to file an application with the commission and pay the privilege license tax. The annual license tag and/or decals issued by the commission for the license tax year shall be valid for a period of time to be determined by the chairman but not to exceed fifteen (15) months following the anniversary month; provided, however, this does not extend the time for filing the application with the commission and the payment of the license tax. Any person who fails or refuses to pay such tax and obtain the privilege license required when due shall be guilty of violating the provision of this article and

shall be liable for the entire amount of such tax from the date the liability was incurred, plus penalty as provided for in this section.

(3) The privilege license tax levied by the provisions of this article on operators of a motor vehicle that is in a corporate fleet or an individual fleet registered under Section 27-19-66 shall be due annually during the anniversary month which shall be established by the Chairman of the State Tax Commission for corporate fleets and by the county tax collectors for individual fleets; provided, however, there shall be an additional fifteen (15) days from the end of the anniversary month in which to file an application with the commission or the county tax collector, as the case may be, and to purchase the tag or renew the registration of such motor vehicle and pay the privilege license tax. The commission or the county tax collector, as the case may be, shall issue a tag or renew the annual registration of such motor vehicle for the license tax year only after all ad valorem taxes and privilege taxes due on such motor vehicle have been paid. Any person who fails or refuses to pay the privilege tax and obtain the privilege license required when due shall be guilty of violating the provisions of this article and shall be liable for the entire amount of such tax from the date the liability was incurred, plus penalty as provided for in this section.

(4) Penalties shall be assessed on the privilege license tax at the rate of five percent (5%) for the first fifteen (15) days of delinquency, or part thereof, and five percent (5%) for each additional thirty-day period of delinquency, or part thereof, not to exceed a maximum penalty of twenty-five percent (25%); however, a penalty of Two Hundred Fifty Dollars ($250.00), in addition to the maximum penalty for delinquency, shall be assessed against any person who is liable for the motor vehicle privilege license tax but who (a) displays an out-of-state license tag on the motor

vehicle; or (b) displays a license tag or privilege license decal on the motor vehicle which was issued for another vehicle. The commission, for good reason shown, may waive all or any part of the penalties imposed. No private passenger vehicle registered under this chapter shall have displayed on the front of such vehicle, or elsewhere, the official license tag of another state, whether or not such license tag has expired. Law enforcement officers of this state may remove from private passenger vehicles any out-of-state license tags so displayed.

(5) The requirement that the privilege tax be paid during the anniversary month of each year shall not apply in the following cases:

(a) When a motor vehicle is acquired, the owner or operator of the vehicle purchased shall have seven (7) full working days, exclusive of the date of delivery, after the vehicle has been delivered to him, within which to make the application for the required privilege license, otherwise such person shall be liable for penalty as provided for in this section. Provided, however, that when any person shall acquire a vehicle as herein provided, and it shall be necessary that such vehicle be remodeled, changed or altered by such person before same is suitable for the purposes for which it was acquired, then such person shall have seven (7) full working days, exclusive of the day of the completion of such remodeling, change or alteration, after the completion thereof within which to make application for the required privilege license; provided, that if such person fails to make application within such period, such person shall be liable for penalty as provided for in this section.

"Delivery" as used herein shall be construed to mean receipt of such vehicle by the purchaser thereof at his residence or place of business, and, in the event the vehicle is purchased at any place other than in the county of residence or place of business of such person, he shall be entitled to forty-eight (48) hours

within which to transport such vehicle to the county of his residence or place of business. At all times during such transportation, the owner or operator of such vehicle shall have in his possession a true bill of sale, giving the description of the vehicle, the name and address of the dealer from whom purchased, the name and address of the owner or operator, and the date on which the vehicle was acquired. For failure to have such bill of sale in his possession during the entire time during which the vehicle is being transported, the owner or operator shall be liable for the annual privilege tax plus penalty as provided for in this section.

(b) Where a person has paid the current privilege license tax required by the laws of another state and applies for a privilege license in this state within thirty (30) days, no penalty shall be assessed; however, any person who fails to comply herewith shall be liable for the full annual tax, plus penalty as provided for in this section.

(6) Any nonresident of the State of Mississippi who has paid the current privilege license required by the laws of another state upon a private carrier of passengers, and thereafter becomes a resident of the State of Mississippi, or brings such vehicle into the State of Mississippi for use in connection with his business in this state, or who is gainfully employed in this state shall be entitled to operate such vehicle without obtaining a privilege license in this state for a period of not more than thirty (30) days.

"Resident" for the purpose of registration and operation of motor vehicles shall include, but not be limited to, the following:

(a) Any person, except a tourist or out-of-town student, who owns, leases or rents a place within the state and occupies same as a place of residence.

(b) Any person who engages in a trade, profession or occupation in this state or who accepts employment in other than seasonal agricultural work.

SECTION 2. Section 27-51-43, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2007, this section shall read as follows:]

27-51-43. It shall be the duty of members of the Mississippi Highway Safety Patrol, municipal law enforcement officers or any other peace officer, when investigating any traffic violation, wreck or routine check involving any motor vehicle, to obtain all information necessary in determining whether or not the provisions of this chapter have been complied with in all substantial respect with reference to such motor vehicles so involved. It shall also be the duty of all peace officers, including municipal law enforcement officers and members of the said highway safety patrol, to investigate any alleged violation of this chapter reported to them and to proceed according to law.

On and after the effective date of this chapter, any person operating a motor vehicle upon the public highways of this state who has not complied with the provisions of this chapter shall be arrested by any officer authorized to make arrests, and tried, and, if convicted, shall be guilty of a misdemeanor for each separate offense and shall be fined as now provided by law, and each such illegal operation of a motor vehicle upon the public highways of this state shall constitute a separate offense.

Penalties shall be assessed on the ad valorem taxes due at the rate of five percent (5%) for the first fifteen (15) days of delinquency, or part thereof, and five percent (5%) for each additional thirty-day period of delinquency, or part thereof, not to exceed a maximum penalty of twenty-five percent (25%). Provided, however, the commission, for good reason shown, may waive all or any part of the penalties imposed. The penalty shall

be collected by the tax collector and deposited in the county general fund upon receipt.

For a period of one hundred twenty (120) days after the date of a declaration of a federal disaster, any county tax collector, for good reason shown, may waive all delinquency penalties imposed by this section when a taxpayer is obtaining or renewing a tag for any vehicle in a county where the federal disaster has been declared and either the tax collector has been unable to collect taxes and issue tags and/or decals due to the disaster or the taxpayer has been unable timely to acquire tags and/or decals as a result of the disaster; however, before a tax collector may waive any such penalties, the board of supervisors of the appropriate county must duly adopt and enter upon its official minutes a resolution authorizing the tax collector to take such action. Any such waiver of penalties by a tax collector shall not apply to penalties due or accrued before the date of declaration of the federal disaster.

[From and after July 1, 2007, this section shall read as follows:]

27-51-43. It shall be the duty of members of the Mississippi Highway Safety Patrol, municipal law enforcement officers or any other peace officer, when investigating any traffic violation, wreck or routine check involving any motor vehicle, to obtain all information necessary in determining whether or not the provisions of this chapter have been complied with in all substantial respect with reference to such motor vehicles so involved. It shall also be the duty of all peace officers, including municipal law enforcement officers and members of the said highway safety patrol, to investigate any alleged violation of this chapter reported to them and to proceed according to law.

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SECTION 3. This act shall take effect and be in force from and after its passage.