

By: Representative Malone

To: Transportation

## HOUSE BILL NO. 145

1 AN ACT TO AMEND SECTIONS 65-1-65 AND 65-9-25, MISSISSIPPI  
2 CODE OF 1972, TO REQUIRE THE REMOVAL OF CERTAIN TREES, BUSHES AND  
3 VEGETATION LOCATED WITHIN THE RIGHT-OF-WAY OF STATE HIGHWAYS AND  
4 STATE AID ROADS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 65-1-65, Mississippi Code of 1972, is  
7 amended as follows:

8 65-1-65. It shall be the duty of the Mississippi  
9 Transportation Commission to have the Mississippi Department of  
10 Transportation maintain all highways which have been or which may  
11 be hereafter taken over by the Transportation Department for  
12 maintenance in such a way as to afford convenient, comfortable,  
13 and economic use thereof by the public at all times. To this end  
14 it shall be the duty of the director, subject to the rules,  
15 regulations and orders of the commission as spread on its minutes,  
16 to organize an adequate and continuous patrol for the maintenance,  
17 repair, and inspection of all of the state-maintained state  
18 highway system, so that said highways may be kept under proper  
19 maintenance and repair at all times.

20 As a part of its regular and continuous highway maintenance  
21 duties, the department shall remove or contract for the removal of  
22 all trees, bushes and vegetation having a trunk diameter of four  
23 (4) inches or greater located within the right-of-way of any  
24 highway or roadway under its jurisdiction, including all trees,  
25 bushes and vegetation of any size that present a safety hazard or  
26 potential safety hazard to utility lines located on the  
27 right-of-way of such highways or roadways.

28           **SECTION 2.** Section 65-9-25, Mississippi Code of 1972, is  
29 amended as follows:

30           65-9-25. It shall be the duty of the several boards of  
31 supervisors to properly maintain all state aid roads in their  
32 respective counties after construction of any such roads with  
33 state aid monies. As a part of its regular and continuous state  
34 aid road maintenance duties, the board of supervisors shall remove  
35 or contract for the removal of all trees, bushes and vegetation  
36 having a trunk diameter of four (4) inches or greater located  
37 within the right-of-way of any state aid road within the county,  
38 including all trees, bushes and vegetation of any size that  
39 present a safety hazard or potential safety hazard to utility  
40 lines located on the right-of-way of such highways or roadways.

41 It shall be the duty of the State Aid Engineer and his assistants  
42 to make annual maintenance inspections of completed projects, and  
43 such other periodic maintenance inspections as the State Aid  
44 Engineer shall deem necessary. If essential maintenance is not  
45 properly and regularly carried on, in the opinion of the State Aid  
46 Engineer, then notice thereof shall be given in writing to the  
47 board in default, and if such maintenance is not done and  
48 continued within sixty (60) days from date of such notice, then,  
49 and in such event, the State Aid Engineer may proceed to have done  
50 the necessary maintenance and repair work on such road and charge  
51 the same to any funds in the State Aid Road Fund in the State  
52 Treasury allocated to such county. If such failure to maintain  
53 continues, then such county shall be no longer eligible for state  
54 aid until proper maintenance is resumed by it, and notice of such  
55 withdrawal of state aid shall be duly given the State Auditor and  
56 State Treasurer; however, such ineligibility shall not affect  
57 payment from the State Aid Road Fund of progress or final  
58 estimates on contracts awarded prior to notice of such  
59 ineligibility, nor shall said ineligibility in any way affect the

60 payment of principal and interest on state aid road bonds issued  
61 by any such county.

62 State aid roads which have been hard surfaced through the use  
63 of state aid funds or federal aid funds shall be eligible for  
64 state aid funds to provide one or more seal courses, as required.  
65 State aid roads in which the grading and drainage structures were  
66 constructed under state aid projects and which have been  
67 subsequently hard surfaced by the county through the use of county  
68 funds under the supervision of the county engineer shall likewise  
69 be eligible for state aid funds to provide one or more seal  
70 courses as required, provided that the hard surfacing and  
71 underlying base were constructed in accordance with the then  
72 prevailing state aid standards and specifications. The county  
73 shall furnish the State Aid Engineer with sufficient engineering  
74 data, including borings and tests, if necessary, to substantiate  
75 the required thickness and quality of the base and surfacing. The  
76 correction of base defects and pavement breaks may be made part of  
77 the plans and contract documents for each sealing project.

78 State aid roads which were constructed in accordance with the  
79 then prevailing state aid standards and specifications shall be  
80 eligible for state aid funds for maintenance, repair and  
81 reconstruction, subject to the prior written approval of such work  
82 by the State Aid Engineer and subject to the work being completed  
83 in accordance with the prior written approval.

84 **SECTION 3.** This act shall take effect and be in force from  
85 and after July 1, 2006.