

By: Representative Martinson

To: Transportation

## HOUSE BILL NO. 355

1 AN ACT TO AMEND SECTION 63-3-519, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE SHERIFF AND HIS DEPUTIES IN ANY COUNTY HAVING A  
3 POPULATION OF SEVENTY THOUSAND OR MORE TO USE RADAR SPEED  
4 DETECTION EQUIPMENT UPON THE PUBLIC STREETS, ROADS AND HIGHWAYS OF  
5 THE COUNTY LYING OUTSIDE OF THE LIMITS OF ANY INCORPORATED  
6 MUNICIPALITY; TO REDUCE THE MINIMUM POPULATION REQUIREMENTS OF  
7 MUNICIPALITIES WHOSE LAW ENFORCEMENT OFFICERS ARE AUTHORIZED TO  
8 USE RADAR SPEED DETECTION EQUIPMENT ON FEDERALLY DESIGNATED  
9 HIGHWAYS LYING WITHIN THE CORPORATE LIMITS; TO AMEND SECTION  
10 63-9-11, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE FINE THAT MAY  
11 BE IMPOSED UPON CONVICTION OF ANY PERSON FOR A MOTOR VEHICLE  
12 SPEEDING VIOLATION WHERE A RADAR SPEED DETECTION DEVICE WAS USED  
13 AS EVIDENCE OF THE VIOLATION BY A SHERIFF OR DEPUTY SHERIFF IN A  
14 COUNTY HAVING A POPULATION OF SEVENTY THOUSAND OR MORE; TO AMEND  
15 SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO IMPOSE AN  
16 ADDITIONAL STATE ASSESSMENT UPON PERSONS CONVICTED OF A MOTOR  
17 VEHICLE SPEEDING VIOLATION WHERE A RADAR SPEED DETECTION DEVICE  
18 WAS USED AS EVIDENCE OF THE VIOLATION BY A SHERIFF OR DEPUTY  
19 SHERIFF IN A COUNTY HAVING A POPULATION OF SEVENTY THOUSAND OR  
20 MORE; TO PRESCRIBE THE MANNER BY WHICH THE AMOUNT OF THE  
21 ADDITIONAL ASSESSMENT SHALL BE CALCULATED; TO PROVIDE THAT THE  
22 ASSESSMENT SHALL BE DEPOSITED INTO THE STATE GENERAL FUND; AND FOR  
23 RELATED PURPOSES.

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

25 **SECTION 1.** Section 63-3-519, Mississippi Code of 1972, is  
26 amended as follows:

27 63-3-519. (1) It is unlawful for any person or peace  
28 officer or law enforcement agency, except the Mississippi Highway  
29 Safety Patrol, to purchase or use or allow to be used any type of  
30 radar speed detection equipment upon any public street, road or  
31 highway of this state. However, such equipment may be used:

32 (a) By municipal law enforcement officers within a  
33 municipality having a population of two thousand (2,000) or more  
34 upon the public streets of the municipality;

35 (b) By any college or university campus police force  
36 within the confines of any campus wherein more than two thousand  
37 (2,000) students are enrolled;

38           (c) By municipal law enforcement officers in any  
39 municipality having a population in excess of fourteen thousand  
40 (14,000) according to the latest federal census on federally  
41 designated highways lying within the corporate limits; and

42           (d) By the sheriff and deputy sheriffs of any county  
43 having a population of seventy thousand (70,000) or more,  
44 according to the latest federal decennial census, upon the public  
45 streets, roads and highways of the county lying outside of the  
46 limits of any incorporated municipality. Any person convicted of  
47 a motor vehicle speeding violation where a radar speed detection  
48 device was used under this paragraph (d) as evidence of the  
49 violation shall be punished as provided under Section 63-9-11(3).

50           (2) The Mississippi Highway Safety Patrol shall not set up  
51 radar on highways within municipalities with a population in  
52 excess of fourteen thousand (14,000) according to the latest  
53 federal census.

54           **SECTION 2.** Section 63-9-11, Mississippi Code of 1972, is  
55 amended as follows:

56           63-9-11. (1) It is a misdemeanor for any person to violate  
57 any of the provisions of Chapter 3, 5 or 7 of this title, unless  
58 such violation is by such chapters or other law of this state  
59 declared to be a felony.

60           (2) Except as otherwise provided under subsection (3) of  
61 this section, every person convicted of a misdemeanor for a  
62 violation of any of the provisions of such chapters for which  
63 another penalty is not provided shall, for a first conviction  
64 thereof, be punished by a fine of not more than One Hundred  
65 Dollars (\$100.00) or by imprisonment for not more than ten (10)  
66 days; for a second such conviction within one (1) year thereafter  
67 such person shall be punished by a fine of not more than Two  
68 Hundred Dollars (\$200.00) or by imprisonment for not more than  
69 twenty (20) days or by both such fine and imprisonment; upon a  
70 third or subsequent conviction within one (1) year after the first

71 conviction such person shall be punished by a fine of not more  
72 than Five Hundred Dollars (\$500.00) or by imprisonment for not  
73 more than six (6) months or by both such fine and imprisonment.

74 (3) Any person convicted for a motor vehicle speeding  
75 violation where a radar speed detection device was used under  
76 Section 63-3-519(1)(d) as evidence of the violation shall be  
77 punished by a fine in the amount of Ten Dollars (\$10.00) and/or  
78 any applicable imprisonment as authorized for the offense under  
79 subsection (2) of this section.

80 (4) (a) Whenever a person not covered under Section 63-1-55  
81 is charged with a misdemeanor violation of any of the provisions  
82 of Chapter 3, 5 or 7 of this title, the person shall be eligible  
83 to participate in not less than four (4) hours of a traffic safety  
84 violator course and thereby have no record of the violation on the  
85 person's driving record if the person meets all the following  
86 conditions:

87 (i) The defendant has a valid Mississippi driver's  
88 license or permit.

89 (ii) The defendant has not had a conviction of a  
90 violation under Chapter 3, 5 or 7 of this title within three (3)  
91 years before the current offense; any conviction entered before  
92 October 1, 2002, does not constitute a prior offense for the  
93 purposes of this subsection (4).

94 (iii) The defendant's public and nonpublic driving  
95 record as maintained by the Department of Public Safety does not  
96 indicate successful completion of a traffic safety violator course  
97 under this section in the three-year period before the offense.

98 (iv) The defendant files an affidavit with the  
99 court stating that this is the defendant's first conviction in  
100 more than three (3) years or since October 1, 2002, whichever is  
101 the lesser period of time; the defendant is not in the process of  
102 taking a course under this section; and the defendant has not

103 completed a course under this section that is not yet reflected on  
104 the defendant's public or nonpublic driving record.

105 (v) The offense charged is for a misdemeanor  
106 offense under Chapter 3, 5 or 7 of this title.

107 (vi) The defendant pays the applicable fine, costs  
108 and any assessments required by law to be paid upon conviction of  
109 such an offense.

110 (vii) The defendant pays to the court an  
111 additional fee of Ten Dollars (\$10.00) to elect to proceed under  
112 the provisions of this subsection (4).

113 (b) (i) 1. An eligible defendant may enter a plea of  
114 nolo contendere or guilty in person or in writing and present to  
115 the court, in person or by mail postmarked on or before the  
116 appearance date on the citation, an oral or written request to  
117 participate in a course under this subsection (4).

118 2. The court shall withhold acceptance of the  
119 plea and defer sentencing in order to allow the eligible defendant  
120 ninety (90) days to successfully complete not less than four (4)  
121 hours of a court-approved traffic safety violator course at the  
122 cost of the defendant. Upon proof of successful completion  
123 entered with the court, the court shall dismiss the prosecution  
124 and direct that the case be closed. The only record maintained  
125 thereafter shall be the nonpublic record required under Section  
126 63-9-17 solely for use by the courts in determining eligibility  
127 under this subsection (4).

128 (ii) If a person pleads not guilty to a  
129 misdemeanor offense under any of the provisions of Chapter 3, 5 or  
130 7 of this title but is convicted, and the person meets all the  
131 requirements under paragraph (a) of this subsection, upon request  
132 of the defendant the court shall suspend the sentence for such  
133 offense to allow the defendant forty-five (45) days to  
134 successfully complete not less than four (4) hours of a  
135 court-approved traffic safety violator course at his own cost.

136 Upon successful completion by the defendant of the course, the  
137 court shall set the conviction aside, dismiss the prosecution and  
138 direct that the case be closed. The court on its own motion shall  
139 expunge the record of the conviction, and the only record  
140 maintained thereafter shall be the nonpublic record required under  
141 Section 63-9-17 solely for use by the courts in determining an  
142 offender's eligibility under this subsection (4).

143 (c) An out-of-state resident shall be allowed to  
144 complete a substantially similar program in his home state,  
145 province or country provided the requirements of this subsection  
146 (4) are met, except that the necessary valid driver's license or  
147 permit shall be one issued by the home jurisdiction.

148 (d) A court shall not approve a traffic safety violator  
149 course under this subsection (4) that does not supply at least  
150 four (4) hours of instruction, an instructor's manual setting  
151 forth an appropriate curriculum, student workbooks, some  
152 scientifically verifiable analysis of the effectiveness of the  
153 curriculum and provide minimum qualifications for instructors.

154 (e) A court shall inform a defendant making inquiry or  
155 entering a personal appearance of the provisions of this  
156 subsection (4).

157 (f) The Department of Public Safety shall cause notice  
158 of the provisions of this subsection (4) to be available on its  
159 official web site.

160 (g) Failure of a defendant to elect to come under the  
161 provisions of this subsection (4) for whatever reason, in and of  
162 itself, shall not invalidate a conviction.

163 (h) No employee of the sentencing court shall  
164 personally benefit from a defendant's attendance of a traffic  
165 safety violator course. Violation of this prohibition shall  
166 result in termination of employment.

167 (i) The additional fee of Ten Dollars (\$10.00) imposed  
168 under this subsection (4) shall be forwarded by the court clerk to

169 the State Treasurer for deposit into a special fund created in the  
170 State Treasury. Monies in the special fund may be expended by the  
171 Department of Public Safety, upon legislative appropriation, to  
172 defray the costs incurred by the department in maintaining the  
173 nonpublic record of persons who are eligible for participation  
174 under the provisions of this subsection (4).

175 (5) The provisions of subsection (4) of this section shall  
176 not be applicable to violation of any of the provisions of Chapter  
177 3, 5 or 7 of this title committed by the holder of a commercial  
178 driver's license issued under the Mississippi Commercial Driver's  
179 License Law, regardless of whether the violation occurred while  
180 operating a commercial motor vehicle or some other motor vehicle.

181 **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, is  
182 amended as follows:

183 99-19-73. (1) **Traffic violations.**

184 (a) In addition to any monetary penalties and any other  
185 penalties imposed by law, there shall be imposed and collected the  
186 following state assessment from each person upon whom a court  
187 imposes a fine or other penalty for any violation in Title 63,  
188 Mississippi Code of 1972, except offenses relating to the  
189 Mississippi Implied Consent Law (Section 63-11-1 et seq.) and  
190 offenses relating to vehicular parking or registration and  
191 violations described under paragraph (b) of this subsection:

192	FUND	AMOUNT
193	State Court Education Fund.....	\$ 1.50
194	State Prosecutor Education Fund.....	1.00
195	Vulnerable Adults Training,	
196	Investigation and Prosecution Trust Fund.....	.50
197	Child Support Prosecution Trust Fund.....	.50
198	Driver Training Penalty Assessment Fund.....	7.00
199	Law Enforcement Officers Training Fund.....	5.00
200	Spinal Cord and Head Injury Trust Fund	
201	(for all moving violations).....	6.00

202	Emergency Medical Services Operating Fund.....	15.00
203	Mississippi Leadership Council on Aging Fund.....	1.00
204	Law Enforcement Officers and Fire Fighters Death	
205	Benefits Trust Fund.....	.50
206	Law Enforcement Officers <u>and Fire Fighters</u> Disability	
207	Benefits Trust Fund.....	1.00
208	State Prosecutor Compensation Fund for the purpose	
209	of providing additional compensation for legal	
210	assistants to district attorneys.....	1.50
211	Crisis Intervention Mental Health Fund.....	10.00
212	Drug Court Fund.....	10.00
213	Capital Defense Counsel Fund.....	1.89
214	Indigent Appeals Fund.....	2.29
215	Capital Post-Conviction Counsel Fund.....	2.33
216	Victims of Domestic Violence Fund.....	.49
217	TOTAL STATE ASSESSMENT.....	\$ 67.50

218       (b) In addition to the penalties imposed under Section  
219 63-9-11, and the state assessments imposed under paragraph (a) of  
220 this subsection, there shall be imposed and collected a state  
221 assessment from each person convicted of a motor vehicle speeding  
222 violation where a radar speed detection device was used under  
223 Section 63-3-519(1)(d) as evidence of the violation. The amount  
224 of the additional assessment shall be calculated in the same  
225 manner as fines imposed for speeding violations under Section  
226 63-9-11(2) are calculated, and shall be deposited into the State  
227 General Fund.

228       (2) **Implied Consent Law violations.** In addition to any  
229 monetary penalties and any other penalties imposed by law, there  
230 shall be imposed and collected the following state assessment from  
231 each person upon whom a court imposes a fine or any other penalty  
232 for any violation of the Mississippi Implied Consent Law (Section  
233 63-11-1 et seq.):

234	FUND	AMOUNT
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235	Crime Victims' Compensation Fund.....	\$ 10.00
236	State Court Education Fund.....	1.50
237	State Prosecutor Education Fund.....	1.00
238	Vulnerable Adults Training,	
239	Investigation and Prosecution Trust Fund.....	.50
240	Child Support Prosecution Trust Fund.....	.50
241	Driver Training Penalty Assessment Fund.....	22.00
242	Law Enforcement Officers Training Fund.....	11.00
243	Emergency Medical Services Operating Fund.....	15.00
244	Mississippi Alcohol Safety Education Program Fund....	5.00
245	Federal-State Alcohol Program Fund.....	10.00
246	Mississippi Crime Laboratory	
247	Implied Consent Law Fund.....	25.00
248	Spinal Cord and Head Injury Trust Fund.....	25.00
249	Capital Defense Counsel Fund.....	1.89
250	Indigent Appeals Fund.....	2.29
251	Capital Post-Conviction Counsel Fund.....	2.33
252	Victims of Domestic Violence Fund.....	.49
253	State General Fund.....	35.00
254	Law Enforcement Officers and Fire Fighters Death	
255	Benefits Trust Fund.....	.50
256	Law Enforcement Officers <u>and Fire Fighters</u> Disability	
257	Benefits Trust Fund.....	1.00
258	State Prosecutor Compensation Fund for the purpose	
259	of providing additional compensation for legal	
260	assistants to district attorneys.....	1.50
261	Crisis Intervention Mental Health Fund.....	10.00
262	Drug Court Fund.....	10.00
263	TOTAL STATE ASSESSMENT.....	\$191.50

264       (3) **Game and Fish Law violations.** In addition to any  
265 monetary penalties and any other penalties imposed by law, there  
266 shall be imposed and collected the following state assessment from  
267 each person upon whom a court imposes a fine or other penalty for



268 any violation of the game and fish statutes or regulations of this  
269 state:

270	FUND	AMOUNT
271	State Court Education Fund.....	\$ 1.50
272	State Prosecutor Education Fund.....	1.00
273	Law Enforcement Officers Training Fund.....	5.00
274	Hunter Education and Training Program Fund.....	5.00
275	State General Fund.....	30.00
276	Law Enforcement Officers and Fire Fighters Death	
277	Benefits Trust Fund.....	.50
278	Law Enforcement Officers <u>and Fire Fighters</u> Disability	
279	Benefits Trust Fund.....	1.00
280	State Prosecutor Compensation Fund for the purpose	
281	of providing additional compensation for legal	
282	assistants to district attorneys.....	1.00
283	Crisis Intervention Mental Health Fund.....	10.00
284	Drug Court Fund.....	10.00
285	Capital Defense Counsel Fund.....	1.89
286	Indigent Appeals Fund.....	2.29
287	Capital Post-Conviction Counsel Fund.....	2.33
288	Victims of Domestic Violence Fund.....	.49
289	TOTAL STATE ASSESSMENT.....	\$ 72.00

290 (4) **Litter Law violations.** In addition to any monetary  
291 penalties and any other penalties imposed by law, there shall be  
292 imposed and collected the following state assessment from each  
293 person upon whom a court imposes a fine or other penalty for any  
294 violation of Section 97-15-29 or 97-15-30:

295	FUND	AMOUNT
296	Statewide Litter Prevention Fund.....	\$ 25.00
297	TOTAL STATE ASSESSMENT.....	\$ 25.00

298 (5) **Other misdemeanors.** In addition to any monetary  
299 penalties and any other penalties imposed by law, there shall be  
300 imposed and collected the following state assessment from each

301 person upon whom a court imposes a fine or other penalty for any  
 302 misdemeanor violation not specified in subsection (1), (2) or (3)  
 303 of this section, except offenses relating to vehicular parking or  
 304 registration:

305 FUND	AMOUNT
306 Crime Victims' Compensation Fund.....	\$ 10.00
307 State Court Education Fund.....	1.50
308 State Prosecutor Education Fund.....	1.00
309 Vulnerable Adults Training,	
310       Investigation and Prosecution Trust Fund.....	.50
311 Child Support Prosecution Trust Fund.....	.50
312 Law Enforcement Officers Training Fund.....	5.00
313 Capital Defense Counsel Fund.....	1.89
314 Indigent Appeals Fund.....	2.29
315 Capital Post-Conviction Counsel Fund.....	2.33
316 Victims of Domestic Violence Fund.....	.49
317 State General Fund.....	30.00
318 State Crime Stoppers Fund.....	1.50
319 Law Enforcement Officers and Fire Fighters Death	
320       Benefits Trust Fund.....	.50
321 Law Enforcement Officers <u>and Fire Fighters</u> Disability	
322       Benefits Trust Fund.....	1.00
323 State Prosecutor Compensation Fund for the purpose	
324       of providing additional compensation for legal	
325       assistants to district attorneys.....	1.50
326 Crisis Intervention Mental Health Fund.....	10.00
327 Drug Court Fund.....	8.00
328 Judicial Performance Fund.....	2.00
329 TOTAL STATE ASSESSMENT.....	\$ 80.00

330 (6) **Other felonies.** In addition to any monetary penalties  
 331 and any other penalties imposed by law, there shall be imposed and  
 332 collected the following state assessment from each person upon  
 333 whom a court imposes a fine or other penalty for any felony

334 violation not specified in subsection (1), (2) or (3) of this  
335 section:

336	FUND	AMOUNT
337	Crime Victims' Compensation Fund.....	\$ 10.00
338	State Court Education Fund.....	1.50
339	State Prosecutor Education Fund.....	1.00
340	Vulnerable Adults Training,	
341	Investigation and Prosecution Trust Fund.....	.50
342	Child Support Prosecution Trust Fund.....	.50
343	Law Enforcement Officers Training Fund.....	5.00
344	Capital Defense Counsel Fund.....	1.89
345	Indigent Appeals Fund.....	2.29
346	Capital Post-Conviction Counsel Fund.....	2.33
347	Victims of Domestic Violence Fund.....	.49
348	State General Fund.....	60.00
349	Criminal Justice Fund.....	50.00
350	Law Enforcement Officers and Fire Fighters Death	
351	Benefits Trust Fund.....	.50
352	Law Enforcement Officers <u>and Fire Fighters</u> Disability	
353	Benefits Trust Fund.....	1.00
354	State Prosecutor Compensation Fund for the purpose	
355	of providing additional compensation for legal	
356	assistants to district attorneys.....	1.50
357	Crisis Intervention Mental Health Fund.....	10.00
358	Drug Court Fund.....	10.00
359	TOTAL STATE ASSESSMENT.....	\$158.50

360 (7) If a fine or other penalty imposed is suspended, in  
361 whole or in part, such suspension shall not affect the state  
362 assessment under this section. No state assessment imposed under  
363 the provisions of this section may be suspended or reduced by the  
364 court.

365 (8) After a determination by the court of the amount due, it  
366 shall be the duty of the clerk of the court to promptly collect

367 all state assessments imposed under the provisions of this  
368 section. The state assessments imposed under the provisions of  
369 this section may not be paid by personal check. It shall be the  
370 duty of the chancery clerk of each county to deposit all such  
371 state assessments collected in the circuit, county and justice  
372 courts in such county on a monthly basis with the State Treasurer  
373 pursuant to appropriate procedures established by the State  
374 Auditor. The chancery clerk shall make a monthly lump-sum deposit  
375 of the total state assessments collected in the circuit, county  
376 and justice courts in such county under this section, and shall  
377 report to the Department of Finance and Administration the total  
378 number of violations under each subsection for which state  
379 assessments were collected in the circuit, county and justice  
380 courts in such county during such month. It shall be the duty of  
381 the municipal clerk of each municipality to deposit all such state  
382 assessments collected in the municipal court in such municipality  
383 on a monthly basis with the State Treasurer pursuant to  
384 appropriate procedures established by the State Auditor. The  
385 municipal clerk shall make a monthly lump-sum deposit of the total  
386 state assessments collected in the municipal court in such  
387 municipality under this section, and shall report to the  
388 Department of Finance and Administration the total number of  
389 violations under each subsection for which state assessments were  
390 collected in the municipal court in such municipality during such  
391 month.

392 (9) It shall be the duty of the Department of Finance and  
393 Administration to deposit on a monthly basis all such state  
394 assessments into the proper special fund in the State Treasury.  
395 The monthly deposit shall be based upon the number of violations  
396 reported under each subsection and the pro rata amount of such  
397 assessment due to the appropriate special fund. The Department of  
398 Finance and Administration shall issue regulations providing for  
399 the proper allocation of these special funds.

400 (10) The State Auditor shall establish by regulation  
401 procedures for refunds of state assessments, including refunds  
402 associated with assessments imposed before July 1, 1990, and  
403 refunds after appeals in which the defendant's conviction is  
404 reversed. The Auditor shall provide in such regulations for  
405 certification of eligibility for refunds and may require the  
406 defendant seeking a refund to submit a verified copy of a court  
407 order or abstract by which such defendant is entitled to a refund.  
408 All refunds of state assessments shall be made in accordance with  
409 the procedures established by the Auditor.

410 **SECTION 4.** This act shall take effect and be in force from  
411 and after July 1, 2006.