

By: Representative Fleming

To: Judiciary A;
Appropriations

HOUSE BILL NO. 1400

1 AN ACT TO AMEND SECTION 45-3-21, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO CONDUCT A TRAFFIC STUDY
3 RELATIVE TO RACIAL PROFILING; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 45-3-21, Mississippi Code of 1972, is
6 amended as follows:

7 45-3-21. (1) The powers and duties of the Highway Safety
8 Patrol shall be, in addition to all others prescribed by law, as
9 follows:

10 (a) To enforce all of the traffic laws, rules and
11 regulations of the State of Mississippi upon all highways of the
12 state highway system and the rights-of-way of such highways;
13 provided, however, that if any person commits an offense upon the
14 state highway system and be pursued by a member of the Highway
15 Safety Patrol, such patrol officer may pursue and apprehend such
16 offender upon any of the highways or public roads of this state,
17 or to any other place to which such offender may flee.

18 (b) To enforce all rules and regulations of the
19 commissioner promulgated pursuant to legal authority.

20 (c) When so directed by the Governor, to enforce any of
21 the laws of this state upon any of the highways or public roads
22 thereof.

23 (d) Upon the request of the State Tax Commission, and
24 with the approval of the Governor, to enforce all of the
25 provisions of law with reference to the registration, license and
26 taxation of vehicles using the highways of this state, and
27 relative to the sizes, weights and load limits of such vehicles,

28 and to enforce the provisions of all other laws administered by
29 the State Tax Commission upon any of the highways or public roads
30 of this state; and for such purpose the Highway Safety Patrol
31 shall have the authority to collect and receive all taxes which
32 may be due under any of such laws, and to report and remit same to
33 the State Tax Commission in the manner required by law, or the
34 rules and regulations of the commission.

35 (e) Upon request of the State Highway Commission or
36 Public Service Commission, and when so instructed by the
37 commissioner, to aid and assist in the enforcement of all laws
38 which such agencies are authorized or required to enforce, and in
39 the enforcement of the rules and regulations of such agencies.

40 (f) To arrest without warrant any person or persons
41 committing or attempting to commit any misdemeanor, felony or
42 breach of the peace within their presence or view, and to pursue
43 and so arrest any person committing such an offense to and at any
44 place in the State of Mississippi where he may go or be. Nothing
45 herein shall be construed as granting the Mississippi Highway
46 Safety Patrol general police powers.

47 (g) To aid and assist any law enforcement officer whose
48 life or safety is in jeopardy. Additionally, officers of the
49 Highway Safety Patrol may arrest without warrant any fugitive from
50 justice who has escaped or who is using the highways of the state
51 in an attempt to flee. With the approval of the commissioner or
52 his designee, officers of the Highway Safety Patrol may assist
53 other law enforcement agencies in manhunts for convicted felons
54 who have escaped and/or for alleged felons where there is probable
55 cause to believe that the person being sought committed the felony
56 and a felony had actually been committed.

57 (h) To cooperate with the State Forest Service by
58 reporting all forest fires.

59 (i) Upon request of the sheriff or his designee, or
60 board of supervisors of any county or the chief of police or mayor

61 of any municipality, and when so instructed by the commissioner or
62 his designee, to respond to calls for assistance in a law
63 enforcement incident; such request and action shall be noted and
64 clearly reflected on the radio logs of both the Mississippi
65 Highway Safety Patrol district substation and that of the
66 requesting agency, entered on the local NCIC terminal, if
67 available, and a request in writing shall follow within
68 forty-eight (48) hours. Additionally, the time of commencement
69 and termination of the specific law enforcement incident shall be
70 clearly noted on the radio logs of both law enforcement agencies.

71 (2) The Legislature declares that the primary law
72 enforcement officer in any county in the State of Mississippi is
73 the duly qualified and elected sheriff thereof, but for the
74 purposes of this subsection there is hereby vested in the
75 Department of Public Safety, in addition to the powers hereinabove
76 mentioned and the other provisions of this section under the terms
77 and limitations hereinafter mentioned and for the purpose of
78 insuring domestic tranquility and for the purpose of preventing or
79 suppressing, or both, crimes of violence, acts and conduct
80 calculated to, or which may, provoke or lead to violence and/or
81 incite riots, mobs, mob violence, a breach of the peace, and acts
82 of intimidation or terror, the powers and duties to include the
83 enforcement of all the laws of the State of Mississippi relating
84 to such purposes, to investigate any violation of the laws of the
85 State of Mississippi and to aid in the arrest and prosecution of
86 persons charged with violating the laws of the State of
87 Mississippi which relate to such purposes. Investigators of the
88 Mississippi Criminal Investigation Bureau of the Department of
89 Public Safety shall have general police powers to enforce all the
90 laws of the State of Mississippi. All officers of the Department
91 of Public Safety charged with the enforcement of the laws
92 administered by that agency, for the purposes herein set forth,
93 shall have full power to investigate, prevent, apprehend and

94 arrest law violators anywhere in the state, and shall be vested
95 with the power of general police officers in the performance of
96 their duties. The officers of the Department of Public Safety are
97 authorized and empowered to carry and use firearms and other
98 weapons deemed necessary in the discharge of their duties as such
99 and are also empowered to serve warrants and subpoenas issued
100 under the authority of the State of Mississippi. The Governor
101 shall be authorized to offer and pay suitable rewards to persons
102 aiding in the investigation, apprehension and conviction of
103 persons charged with acts of violence, or threats of violence or
104 intimidation or acts of terrorism. The additional powers herein
105 granted to or vested in the Department of Public Safety or any of
106 its officers or employees by this section, excepting investigating
107 powers, and those powers of investigators who shall have general
108 police power, being the investigators in the Mississippi Criminal
109 Investigation Bureau of the Department of Public Safety, shall not
110 be exercised by the Department of Public Safety, or any of its
111 officers or employees, except upon authority and direction of the
112 Governor or Acting Governor, by proclamation duly signed, in the
113 following instances, to wit:

114 (a) When requested by the sheriff or board of
115 supervisors of any county or the mayor of any municipality on the
116 grounds that mob violence, crimes of violence, acts and conduct of
117 terrorism, riots or acts of intimidation, or either, calculated to
118 or which may provoke violence or incite riots, mobs, mob violence,
119 violence, or lead to any breach of the peace, or either, and acts
120 of intimidation or terror are anticipated, and when such acts or
121 conduct in the opinion of the Governor or Acting Governor would
122 provoke violence or any of the foregoing acts or conduct set out
123 in this subsection, and the sheriff or mayor, as the case may be,
124 lacks adequate police force to prevent or suppress the same.

125 (b) Acting upon evidence submitted to him by the
126 Department of Public Safety, or other investigating agency

127 authorized by the Governor or Acting Governor to make such
128 investigations, because of the failure or refusal of the sheriff
129 of any county or mayor of any municipality to take action or
130 employ such means at his disposal, to prevent or suppress the
131 acts, conduct or offenses provided for in subsection (1) of this
132 section, the Governor or Acting Governor deems it necessary to
133 invoke the powers and authority vested in the Department of Public
134 Safety.

135 (c) The Governor or Acting Governor is hereby
136 authorized and empowered to issue his proclamation invoking the
137 powers and authority vested by this paragraph, as provided in
138 paragraphs (a) and (b) of this subsection, and when the Governor
139 or Acting Governor issues said proclamation in accordance
140 herewith, said proclamation shall become effective upon the
141 signing thereof and shall continue in full force and effect for a
142 period of ninety (90) days, or for a shorter period if otherwise
143 ordered by the Governor or Acting Governor. At the signing of the
144 proclamation by the Governor or Acting Governor, the Department of
145 Public Safety and its officers and employees shall thereupon be
146 authorized to exercise the additional power and authority vested
147 in them by this paragraph. The Governor and Acting Governor may
148 issue additional proclamations for periods of ninety (90) days
149 each under the authority of paragraphs (a) and (b) of this
150 subsection (2).

151 (3) All proclamations issued by the Governor or Acting
152 Governor shall be filed in the Office of the Secretary of State on
153 the next succeeding business day.

154 (4) It is not the intention of this section to vest the wide
155 powers and authority herein provided for, as general powers of the
156 Department of Public Safety, and the same are not hereby so
157 vested, but to limit these general powers to cases and incidents
158 wherein it is deemed necessary to prevent or suppress the offenses
159 and conditions herein mentioned in this and other subsections of

160 this section, and under the terms and conditions hereinabove
161 enumerated, it being the sense of the Legislature that the prime
162 duties of the Department of Public Safety are to patrol the
163 highways of this state and enforce the highway safety laws.

164 (5) Patrol officers shall have no interest in any costs in
165 the prosecution of any case through any court; nor shall any
166 patrol officer receive any fee as a witness in any court held in
167 this state, whether a state or federal court.

168 (6) Provided, however, that the general police power vested
169 by virtue of the terms of subsection (2) of this section is solely
170 for the purposes set out in said subsection.

171 (7) (a) The Highway Safety Patrol shall conduct a traffic
172 study that shall include recording and retaining the following
173 information:

174 (i) The number of persons stopped for traffic
175 violations;

176 (ii) The characteristics of race, color,
177 ethnicity, gender and age of persons stopped. The identification
178 of such characteristics shall be based on the observation and
179 perception of the law enforcement officer responsible for
180 reporting the stop and the information shall not be required to be
181 provided by the person stopped;

182 (iii) The nature of the alleged traffic violation
183 that resulted in the stop;

184 (iv) Whether a warrant or citation was issued, an
185 arrest made or a search conducted as a result of the stop; and

186 (v) If a search was conducted, the type of search
187 and the legal basis for that search, and whether contraband was
188 discovered and property was seized.

189 (b) The Highway Safety Patrol shall begin reporting the
190 information described in paragraph (a) of this subsection from and
191 after July 1, 2006, and shall report any findings from the data to
192 the Legislature by January 1, 2007.

193 **SECTION 2.** This act shall take effect and be in force from
194 and after July 1, 2006.