

By: Representatives Shows, Hudson, Arinder

To: Ways and Means

HOUSE BILL NO. 704

1 AN ACT TO AMEND SECTION 27-19-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM PRIVATE CARRIER OF PROPERTY
3 UNDER THE MOTOR VEHICLE PRIVILEGE TAX LAWS; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 27-19-3, Mississippi Code of 1972, is
7 amended as follows:

8 27-19-3. (a) The following words and phrases when used in
9 this article for the purpose of this article have the meanings
10 respectively ascribed to them in this section, except in those
11 instances where the context clearly describes and indicates a
12 different meaning:

13 (1) "Vehicle" means every device in, upon or by which
14 any person or property is or may be transported or drawn upon a
15 public highway, except devices moved by muscular power or used
16 exclusively upon stationary rails or tracks.

17 (2) "Commercial vehicle" means every vehicle used or
18 operated upon the public roads, highways or bridges in connection
19 with any business function.

20 (3) "Motor vehicle" means every vehicle as defined in
21 this section which is self-propelled, including trackless street
22 or trolley cars. The term "motor vehicle" shall not include
23 electric personal assistive mobility devices as defined in Section
24 63-3-103.

25 (4) "Tractor" means every vehicle designed, constructed
26 or used for drawing other vehicles.

27 (5) "Motorcycle" means every vehicle designed to travel
28 on not more than three (3) wheels in contact with the ground,

29 except vehicles included within the term "tractor" as herein
30 classified and defined.

31 (6) "Truck tractor" means every motor vehicle designed
32 and used for drawing other vehicles and so constructed as to carry
33 a load other than a part of the weight of the vehicle and load so
34 drawn and has a gross vehicle weight (GVW) in excess of ten
35 thousand (10,000) pounds.

36 (7) "Trailer" means every vehicle without motive power,
37 designed to carry property or passengers wholly on its structure
38 and which is drawn by a motor vehicle.

39 (8) "Semitrailer" means every vehicle (of the trailer
40 type) so designed and used in conjunction with a truck tractor.

41 (9) "Foreign vehicle" means every motor vehicle,
42 trailer or semitrailer, which shall be brought into the state
43 otherwise than by or through a manufacturer or dealer for resale
44 and which has not been registered in this state.

45 (10) "Pneumatic tires" means all tires inflated with
46 compressed air.

47 (11) "Solid rubber tires" means every tire made of
48 rubber other than pneumatic tires.

49 (12) "Solid tires" means all tires, the surface of
50 which in contact with the highway is wholly or partly of metal or
51 other hard, nonresilient material.

52 (13) "Person" means every natural person, firm,
53 copartnership, corporation, joint-stock or other association or
54 organization.

55 (14) "Owner" means a person who holds the legal title
56 of a vehicle or in the event a vehicle is the subject of an
57 agreement for the conditional sale, lease or transfer of the
58 possession, the person with the right of purchase upon performance
59 of conditions stated in the agreement, and with an immediate right
60 of possession vested in the conditional vendee, lessee, possessor
61 or in the event such or similar transaction is had by means of a

62 mortgage, and the mortgagor of a vehicle is entitled to
63 possession, then such conditional vendee, lessee, possessor or
64 mortgagor shall be deemed the owner for the purposes of this
65 article.

66 (15) "School bus" means every motor vehicle engaged
67 solely in transporting school children or school children and
68 teachers to and from schools; however, such vehicles may transport
69 passengers on weekends and legal holidays and during summer months
70 between the terms of school for compensation when the
71 transportation of passengers is over a route of which not more
72 than fifty percent (50%) traverses the route of a common carrier
73 of passengers by motor vehicle and when no passengers are picked
74 up on the route of any such carrier.

75 (16) "Dealer" means every person engaged regularly in
76 the business of buying, selling or exchanging motor vehicles,
77 trailers, semitrailers, trucks, tractors or other character of
78 commercial or industrial motor vehicles in this state, and having
79 an established place of business in this state.

80 (17) "Highway" means and includes every way or place of
81 whatever nature, including public roads, streets and alleys of
82 this state generally open to the use of the public or to be opened
83 or reopened to the use of the public for the purpose of vehicular
84 travel, and notwithstanding that the same may be temporarily
85 closed for the purpose of construction, reconstruction,
86 maintenance or repair.

87 (18) "State Tax Commission" means the Chairman of the
88 State Tax Commission of this state, acting directly or through his
89 duly authorized officers, agents, representatives and employees.

90 (19) "Common carrier by motor vehicle" means any person
91 who or which undertakes, whether directly or by a lease or any
92 other arrangement, to transport passengers or property or any
93 class or classes of property for the general public in interstate
94 or intrastate commerce on the public highways of this state by

95 motor vehicles for compensation, whether over regular or irregular
96 routes. The term "common carrier by motor vehicle" shall not
97 include passenger buses operating within the corporate limits of a
98 municipality in this state or not exceeding five (5) miles beyond
99 the corporate limits of the municipality, and hearses, ambulances,
100 school buses as such. In addition, this definition shall not
101 include taxicabs.

102 (20) "Contract carrier by motor vehicle" means any
103 person who or which under the special and individual contract or
104 agreements, and whether directly or by a lease or any other
105 arrangement, transports passengers or property in interstate or
106 intrastate commerce on the public highways of this state by motor
107 vehicle for compensation. The term "contract carrier by motor
108 vehicle" shall not include passenger buses operating wholly within
109 the corporate limits of a municipality in this state or not
110 exceeding five (5) miles beyond the corporate limits of the
111 municipality, and hearses, ambulances, school buses as such. In
112 addition, this definition shall not include taxicabs.

113 (21) "Private commercial and noncommercial carrier of
114 property by motor vehicle" means any person not included in the
115 terms "common carrier by motor vehicle" or "contract carrier by
116 motor vehicle," who or which transports in interstate or
117 intrastate commerce on the public highways of this state by motor
118 vehicle, property of which such person is the owner, lessee, or
119 bailee, other than for hire. The term "private commercial and
120 noncommercial carrier of private property by motor vehicle" shall
121 not include passenger buses operated wholly within the corporate
122 limits of a municipality of this state, or not exceeding five (5)
123 miles beyond the corporate limits of the municipality, and
124 hearses, ambulances, school buses as such. In addition, this
125 definition shall not include taxicabs.

126 Haulers of fertilizer shall be classified as private
127 commercial carriers of property by motor vehicle.

128 (22) "Private carrier of passengers" means all other
129 passenger motor vehicle carriers not included in the above
130 definitions. The term "private carrier of passengers" shall not
131 include passenger buses operating wholly within the corporate
132 limits of a municipality in this state, or not exceeding five (5)
133 miles beyond the corporate limits of the municipality, and
134 hearses, ambulances, and school buses as such. In addition, this
135 definition shall not include taxicabs.

136 (23) "Operator" means any person, partnership,
137 joint-stock company or corporation operating on the public
138 highways of the state one or more motor vehicles as the beneficial
139 owner or lessee.

140 (24) "Driver" means the person actually driving or
141 operating such motor vehicle at any given time.

142 (25) "Private carrier of property" means any person
143 transporting property on the highways of this state as defined
144 below:

145 (a) Any person, or any employee of such person,
146 transporting farm products, farm supplies, materials and/or
147 equipment used in the growing or production of his own
148 agricultural products in his own truck.

149 (b) Any person transporting his own fish,
150 including shellfish, in his own truck.

151 (c) Any person transporting unprocessed forest
152 products, wherein ownership remains the same, in his own truck.

153 (26) "Taxicab" means any passenger motor vehicle for
154 hire with a seating capacity not greater than ten (10) passengers.
155 For purposes of this paragraph (26), seating capacity shall be
156 determined according to the manufacturer's suggested seating
157 capacity for a vehicle. If there is no manufacturer's suggested
158 seating capacity for a vehicle, the seating capacity for the
159 vehicle shall be determined according to regulations established
160 by the State Tax Commission.

161 (27) "Passenger coach" means any passenger motor
162 vehicle with a seating capacity greater than ten (10) passengers,
163 operating wholly within the corporate limits of a municipality of
164 this state or within five (5) miles of the corporate limits of the
165 municipality, or motor vehicles substituted for abandoned electric
166 railway systems in or between municipalities. For purposes of
167 this paragraph (27), seating capacity shall be determined
168 according to the manufacturer's suggested seating capacity for a
169 vehicle. If there is no manufacturer's suggested seating capacity
170 for a vehicle, the seating capacity for the vehicle shall be
171 determined according to regulations established by the State Tax
172 Commission.

173 (28) "Empty weight" means the actual weight of a
174 vehicle including fixtures and equipment necessary for the
175 transportation of load hauled or to be hauled.

176 (29) "Gross weight" means the empty weight of the
177 vehicle, as defined herein, plus any load being transported or to
178 be transported.

179 (30) "Ambulance and hearse" shall have the meaning
180 generally ascribed to them. A hearse or funeral coach shall be
181 classified as a light carrier of property, as defined in Section
182 27-51-101.

183 (31) "Regular seats" means each seat ordinarily and
184 customarily used by one (1) passenger, including all temporary,
185 emergency, and collapsible seats. Where any seats are not
186 distinguished or separated by separate cushions and backs, a seat
187 shall be counted for each eighteen (18) inches of space on such
188 seats or major fraction thereof. In the case of a regular
189 passenger-type automobile which is used as a common or contract
190 carrier of passengers, three (3) seats shall be counted for the
191 rear seat of such automobile and one (1) seat shall be counted for
192 the front seat of such automobile.

193 (32) "Ton" means two thousand (2,000) pounds
194 avoirdupois.

195 (33) "Bus" means any passenger vehicle with a seating
196 capacity of more than ten (10) but shall not include "private
197 carrier of passengers" and "school bus" as defined in paragraphs
198 (15) and (22) of this section. For purposes of this paragraph
199 (33), seating capacity shall be determined according to the
200 manufacturer's suggested seating capacity for a vehicle. If there
201 is no manufacturer's suggested seating capacity for a vehicle, the
202 seating capacity for the vehicle shall be determined according to
203 regulations established by the State Tax Commission.

204 (34) "Corporate fleet" means a group of two hundred
205 (200) or more marked private carriers of passengers or light
206 carriers of property, as defined in Section 27-51-101, trailers,
207 semitrailers, or motor vehicles in excess of ten thousand (10,000)
208 pounds gross vehicle weight, except for those vehicles registered
209 for interstate travel, owned or leased on a long-term basis by a
210 corporation or other legal entity. In order to be considered
211 marked, the motor vehicle must have a name, trademark or logo
212 located either on the sides or the rear of the vehicle in sharp
213 contrast to the background, and of a size, shape and color that is
214 legible during daylight hours from a distance of fifty (50) feet.

215 (35) "Individual fleet" means a group of five (5) or
216 more private carriers of passengers or light carriers of property,
217 as defined in Section 27-51-101, owned or leased by the same
218 person and principally garaged in the same county.

219 (b) (1) No lease shall be recognized under the provisions
220 of this article unless it shall be in writing and shall fully
221 define a bona fide relationship of lessor and lessee, signed by
222 both parties, dated and be in the possession of the driver of the
223 leased vehicle at all times.

224 (2) Leased vehicles shall be considered as domiciled at
225 the place in the State of Mississippi from which they operate in

226 interstate or intrastate commerce, and for the purposes of this
227 article shall be considered as owned by the lessee, who shall
228 furnish all insurance on the vehicles and the driver of the
229 vehicles shall be considered as an agent of the lessee for all
230 purposes of this article.

231 **SECTION 2.** This act shall take effect and be in force from
232 and after July 1, 2007.