

By: Representatives Shows, Hudson, Arinder

To: Ways and Means

HOUSE BILL NO. 704  
(As Passed the House)

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, or any employee of such person,  
152 transporting unprocessed forest products, or timber harvesting  
153 equipment wherein ownership remains the same, in his own truck.

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

160 vehicle shall be determined according to regulations established  
161 by the State Tax Commission.

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

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

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

180           (30) "Ambulance and hearse" shall have the meaning  
181 generally ascribed to them. A hearse or funeral coach shall be  
182 classified as a light carrier of property, as defined in Section  
183 27-51-101.

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

192 rear seat of such automobile and one (1) seat shall be counted for  
193 the front seat of such automobile.

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

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

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

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

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

225           (2) Leased vehicles shall be considered as domiciled at  
226 the place in the State of Mississippi from which they operate in  
227 interstate or intrastate commerce, and for the purposes of this  
228 article shall be considered as owned by the lessee, who shall  
229 furnish all insurance on the vehicles and the driver of the  
230 vehicles shall be considered as an agent of the lessee for all  
231 purposes of this article.

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