

By: Representative Miles

To: Transportation

HOUSE BILL NO. 838

1 AN ACT TO AMEND SECTION 77-7-16, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MOTOR CARRIER DIVISION OF THE MISSISSIPPI HIGHWAY
3 SAFETY PATROL WITHIN THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY,
4 ALONG WITH THE MISSISSIPPI TRANSPORTATION COMMISSION, TO ENFORCE
5 THE MISSISSIPPI MOTOR CARRIER REGULATORY LAW OF 1938 AND RULES AND
6 REGULATIONS PROMULGATED THEREUNDER; TO AMEND SECTION 45-3-21,
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
8 THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 77-7-16, Mississippi Code of 1972, is
11 amended as follows:

12 77-7-16. (1) Supervision and inspection of the safe
13 operation and the safe use of equipment of motor vehicles
14 operating in the state shall be a specified duty of the
15 Mississippi Transportation Commission and the Motor Carrier
16 Division of the Mississippi Highway Safety Patrol within the
17 Mississippi Department of Public Safety. In accordance therewith,
18 the Mississippi Transportation Commission shall promulgate as its
19 own * * * the rules, regulations, requirements and classifications
20 of the United States Department of Transportation or any successor
21 federal agency thereof charged with the regulation of motor
22 vehicle safety and, along with the Motor Carrier Division of the
23 Mississippi Highway Safety Patrol, shall enforce such rules,
24 regulations, requirements and classifications. The Mississippi
25 Transportation Commission shall establish a system of reciprocity
26 with other states to facilitate the inspection of motor vehicles
27 provided for in this subsection.

28 (2) The Mississippi Transportation Commission and the Motor
29 Carrier Division of the Mississippi Highway Safety Patrol within
30 the Mississippi Department of Public Safety shall have the

31 authority to inspect for safe operation and safe use of equipment
32 the following motor vehicles:

33 (a) Each holder of a certificate of convenience and
34 necessity, a permit to operate as a contract carrier or interstate
35 permit;

36 (b) Any individual, corporation or partnership engaged
37 in a commercial enterprise operating a single motor vehicle or
38 those in combination with a manufacturer's gross vehicle rating of
39 more than ten thousand (10,000) pounds; and

40 (c) Any individual, corporation or partnership
41 operating a motor vehicle of any gross weight transporting
42 hazardous material that requires placarding under the Federal
43 Hazardous Material Regulations.

44 (3) This section shall not apply to the following:

45 (a) Motor vehicles employed to transport school
46 children and teachers;

47 (b) Motor vehicles owned and operated by the United
48 States, District of Columbia or any state or any municipality or
49 any other political subdivision of this state;

50 (c) Motor vehicles engaged in the occasional
51 transportation of personal property without compensation by
52 individuals which is not in the furtherance of a commercial
53 enterprise;

54 (d) Motor vehicles engaged in the transportation of
55 human corpses or sick or injured persons;

56 (e) Motor vehicles engaged in emergency or related
57 operations;

58 (f) Motor vehicles engaged in the private
59 transportation of passengers;

60 (g) Motor vehicles owned and operated by any farmer
61 who:

62 (i) Is using the vehicle to transport agricultural
63 products from a farm owned by the farmer, or to transport farm
64 machinery or farm supplies to or from a farm owned by the farmer;

65 (ii) Is not using the vehicle to transport
66 hazardous materials of a type or quantity that requires the
67 vehicle to be placarded in accordance with the Federal Hazardous
68 Material Regulations in CFR 49 part 177.823; and

69 (iii) Is using the vehicle within one hundred
70 fifty (150) air miles of the farmer's farm, and the vehicle is a
71 private motor carrier of property.

72 (h) Motor vehicles engaged in the transportation of
73 logs and pulpwood between the point of harvest and the first point
74 of processing the harvested product;

75 (i) Motor vehicles engaged exclusively in hauling
76 gravel, soil or other unmanufactured road building materials;

77 (j) As to hours of service only, utility service
78 vehicles owned or operated by public utilities subject to
79 regulation by the commission, while in intrastate commerce within
80 this state, with a manufacturer's gross vehicle rating of less
81 than twenty-six thousand one (26,001) pounds, unless the vehicle:

82 (i) Transports hazardous materials requiring a
83 placard; or

84 (ii) Is designed or used to transport sixteen (16)
85 or more people, including the driver.

86 (4) Anyone who violates or fails to comply with this section
87 shall be subject to the penalties as provided for in Section
88 77-7-311.

89 **SECTION 2.** Section 45-3-21, Mississippi Code of 1972, is
90 amended as follows:

91 45-3-21. (1) The powers and duties of the Highway Safety
92 Patrol shall be, in addition to all others prescribed by law, as
93 follows:

94 (a) To enforce all of the traffic laws, rules and
95 regulations of the State of Mississippi upon all highways of the
96 state highway system and the rights-of-way of such highways;
97 provided, however, that if any person commits an offense upon the
98 state highway system and be pursued by a member of the Highway
99 Safety Patrol, such patrol officer may pursue and apprehend such
100 offender upon any of the highways or public roads of this state,
101 or to any other place to which such offender may flee.

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

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

107 (d) Upon the request of the State Tax Commission, and
108 with the approval of the Governor, to enforce all of the
109 provisions of law with reference to the registration, license and
110 taxation of vehicles using the highways of this state, and
111 relative to the sizes, weights and load limits of such vehicles,
112 and to enforce the provisions of all other laws administered by
113 the State Tax Commission upon any of the highways or public roads
114 of this state; and for such purpose the Highway Safety Patrol
115 shall have the authority to collect and receive all taxes which
116 may be due under any of such laws, and to report and remit same to
117 the State Tax Commission in the manner required by law, or the
118 rules and regulations of the commission.

119 (e) Upon request of the Mississippi Transportation
120 Commission * * *, and when so instructed by the commissioner, to
121 aid and assist in the enforcement of all laws which such agencies
122 are authorized or required to enforce, and in the enforcement of
123 the rules and regulations of such agencies, including the
124 Mississippi Motor Carrier Regulatory Law of 1938 and rules and
125 regulations promulgated thereunder.

126 (f) To arrest without warrant any person or persons
127 committing or attempting to commit any misdemeanor, felony or
128 breach of the peace within their presence or view, and to pursue
129 and so arrest any person committing such an offense to and at any
130 place in the State of Mississippi where he may go or be. Nothing
131 herein shall be construed as granting the Mississippi Highway
132 Safety Patrol general police powers.

133 (g) To aid and assist any law enforcement officer whose
134 life or safety is in jeopardy. Additionally, officers of the
135 Highway Safety Patrol may arrest without warrant any fugitive from
136 justice who has escaped or who is using the highways of the state
137 in an attempt to flee. With the approval of the commissioner or
138 his designee, officers of the Highway Safety Patrol may assist
139 other law enforcement agencies in manhunts for convicted felons
140 who have escaped and/or for alleged felons where there is probable
141 cause to believe that the person being sought committed the felony
142 and a felony had actually been committed.

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

145 (i) Upon request of the sheriff or his designee, or
146 board of supervisors of any county or the chief of police or mayor
147 of any municipality, and when so instructed by the commissioner or
148 his designee, to respond to calls for assistance in a law
149 enforcement incident; such request and action shall be noted and
150 clearly reflected on the radio logs of both the Mississippi
151 Highway Safety Patrol district substation and that of the
152 requesting agency, entered on the local NCIC terminal, if
153 available, and a request in writing shall follow within
154 forty-eight (48) hours. Additionally, the time of commencement
155 and termination of the specific law enforcement incident shall be
156 clearly noted on the radio logs of both law enforcement agencies.

157 (2) The Legislature declares that the primary law
158 enforcement officer in any county in the State of Mississippi is

159 the duly qualified and elected sheriff thereof, but for the
160 purposes of this subsection there is hereby vested in the
161 Department of Public Safety, in addition to the powers hereinabove
162 mentioned and the other provisions of this section under the terms
163 and limitations hereinafter mentioned and for the purpose of
164 insuring domestic tranquility and for the purpose of preventing or
165 suppressing, or both, crimes of violence, acts and conduct
166 calculated to, or which may, provoke or lead to violence and/or
167 incite riots, mobs, mob violence, a breach of the peace, and acts
168 of intimidation or terror, the powers and duties to include the
169 enforcement of all the laws of the State of Mississippi relating
170 to such purposes, to investigate any violation of the laws of the
171 State of Mississippi and to aid in the arrest and prosecution of
172 persons charged with violating the laws of the State of
173 Mississippi which relate to such purposes. Investigators of the
174 Mississippi Criminal Investigation Bureau of the Department of
175 Public Safety shall have general police powers to enforce all the
176 laws of the State of Mississippi. All officers of the Department
177 of Public Safety charged with the enforcement of the laws
178 administered by that agency, for the purposes herein set forth,
179 shall have full power to investigate, prevent, apprehend and
180 arrest law violators anywhere in the state, and shall be vested
181 with the power of general police officers in the performance of
182 their duties. The officers of the Department of Public Safety are
183 authorized and empowered to carry and use firearms and other
184 weapons deemed necessary in the discharge of their duties as such
185 and are also empowered to serve warrants and subpoenas issued
186 under the authority of the State of Mississippi. The Governor
187 shall be authorized to offer and pay suitable rewards to persons
188 aiding in the investigation, apprehension and conviction of
189 persons charged with acts of violence, or threats of violence or
190 intimidation or acts of terrorism. The additional powers herein
191 granted to or vested in the Department of Public Safety or any of

192 its officers or employees by this section, excepting investigating
193 powers, and those powers of investigators who shall have general
194 police power, being the investigators in the Mississippi Criminal
195 Investigation Bureau of the Department of Public Safety, shall not
196 be exercised by the Department of Public Safety, or any of its
197 officers or employees, except upon authority and direction of the
198 Governor or Acting Governor, by proclamation duly signed, in the
199 following instances, to wit:

200 (a) When requested by the sheriff or board of
201 supervisors of any county or the mayor of any municipality on the
202 grounds that mob violence, crimes of violence, acts and conduct of
203 terrorism, riots or acts of intimidation, or either, calculated to
204 or which may provoke violence or incite riots, mobs, mob violence,
205 violence, or lead to any breach of the peace, or either, and acts
206 of intimidation or terror are anticipated, and when such acts or
207 conduct in the opinion of the Governor or Acting Governor would
208 provoke violence or any of the foregoing acts or conduct set out
209 in this subsection, and the sheriff or mayor, as the case may be,
210 lacks adequate police force to prevent or suppress the same.

211 (b) Acting upon evidence submitted to him by the
212 Department of Public Safety, or other investigating agency
213 authorized by the Governor or Acting Governor to make such
214 investigations, because of the failure or refusal of the sheriff
215 of any county or mayor of any municipality to take action or
216 employ such means at his disposal, to prevent or suppress the
217 acts, conduct or offenses provided for in subsection (1) of this
218 section, the Governor or Acting Governor deems it necessary to
219 invoke the powers and authority vested in the Department of Public
220 Safety.

221 (c) The Governor or Acting Governor is hereby
222 authorized and empowered to issue his proclamation invoking the
223 powers and authority vested by this paragraph, as provided in
224 paragraphs (a) and (b) of this subsection, and when the Governor

225 or Acting Governor issues said proclamation in accordance
226 herewith, said proclamation shall become effective upon the
227 signing thereof and shall continue in full force and effect for a
228 period of ninety (90) days, or for a shorter period if otherwise
229 ordered by the Governor or Acting Governor. At the signing of the
230 proclamation by the Governor or Acting Governor, the Department of
231 Public Safety and its officers and employees shall thereupon be
232 authorized to exercise the additional power and authority vested
233 in them by this paragraph. The Governor and Acting Governor may
234 issue additional proclamations for periods of ninety (90) days
235 each under the authority of paragraphs (a) and (b) of this
236 subsection (2).

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

240 (4) It is not the intention of this section to vest the wide
241 powers and authority herein provided for, as general powers of the
242 Department of Public Safety, and the same are not hereby so
243 vested, but to limit these general powers to cases and incidents
244 wherein it is deemed necessary to prevent or suppress the offenses
245 and conditions herein mentioned in this and other subsections of
246 this section, and under the terms and conditions hereinabove
247 enumerated, it being the sense of the Legislature that the prime
248 duties of the Department of Public Safety are to patrol the
249 highways of this state and enforce the highway safety laws.

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

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

257 **SECTION 3.** This act shall take effect and be in force from
258 and after July 1, 2007.