

By: Representatives Miles, Rotenberry

To: Transportation

COMMITTEE SUBSTITUTE
FOR
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 REQUIRE THE DEPARTMENT OF
7 PUBLIC SAFETY TO PROVIDE TRAINING TO ITS LAW ENFORCEMENT OFFICERS
8 AND LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF TRANSPORTATION
9 CHARGED WITH THE DUTY OF ENFORCING THE MISSISSIPPI MOTOR CARRIER
10 REGULATORY LAW TO THE EXTENT THAT FUNDS ARE MADE AVAILABLE AND
11 TRAINING IS APPROVED UNDER FEDERAL LAW; TO AMEND SECTION 45-3-21,
12 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
13 THIS ACT; AND FOR RELATED PURPOSES.

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

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

17 77-7-16. (1) Supervision and inspection of the safe
18 operation and the safe use of equipment of motor vehicles
19 operating in the state shall be a specified duty of the
20 Mississippi Transportation Commission and the Motor Carrier
21 Division of the Mississippi Highway Safety Patrol within the
22 Mississippi Department of Public Safety. In accordance therewith,
23 the Mississippi Transportation Commission shall promulgate as its
24 own * * * the rules, regulations, requirements and classifications
25 of the United States Department of Transportation or any successor
26 federal agency thereof charged with the regulation of motor
27 vehicle safety and, along with the Motor Carrier Division of the
28 Mississippi Highway Safety Patrol, shall enforce such rules,
29 regulations, requirements and classifications. The Department of
30 Public Safety shall provide training to its law enforcement
31 officers and to law enforcement officers of the Mississippi
32 Department of Transportation charged with the duty of enforcing

33 the Mississippi Motor Carrier Regulatory Law of 1938 to the extent
34 that funds are made available and training is approved under the
35 Motor Carrier Safety Assistance Program of the Federal Motor
36 Carrier Safety Administration. The Mississippi Transportation
37 Commission shall establish a system of reciprocity with other
38 states to facilitate the inspection of motor vehicles provided for
39 in this subsection.

40 (2) The Mississippi Transportation Commission and the Motor
41 Carrier Division of the Mississippi Highway Safety Patrol within
42 the Mississippi Department of Public Safety shall have the
43 authority to inspect for safe operation and safe use of equipment
44 the following motor vehicles:

45 (a) Each holder of a certificate of convenience and
46 necessity, a permit to operate as a contract carrier or interstate
47 permit;

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

52 (c) Any individual, corporation or partnership
53 operating a motor vehicle of any gross weight transporting
54 hazardous material that requires placarding under the Federal
55 Hazardous Material Regulations.

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

57 (a) Motor vehicles employed to transport school
58 children and teachers;

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

62 (c) Motor vehicles engaged in the occasional
63 transportation of personal property without compensation by
64 individuals which is not in the furtherance of a commercial
65 enterprise;

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

68 (e) Motor vehicles engaged in emergency or related
69 operations;

70 (f) Motor vehicles engaged in the private
71 transportation of passengers;

72 (g) Motor vehicles owned and operated by any farmer
73 who:

74 (i) Is using the vehicle to transport agricultural
75 products from a farm owned by the farmer, or to transport farm
76 machinery or farm supplies to or from a farm owned by the farmer;

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

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

84 (h) Motor vehicles engaged in the transportation of
85 logs and pulpwood between the point of harvest and the first point
86 of processing the harvested product;

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

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

94 (i) Transports hazardous materials requiring a
95 placard; or

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

98 (4) Anyone who violates or fails to comply with this section
99 shall be subject to the penalties as provided for in Section
100 77-7-311.

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

103 45-3-21. (1) The powers and duties of the Highway Safety
104 Patrol shall be, in addition to all others prescribed by law, as
105 follows:

106 (a) To enforce all of the traffic laws, rules and
107 regulations of the State of Mississippi upon all highways of the
108 state highway system and the rights-of-way of such highways;
109 provided, however, that if any person commits an offense upon the
110 state highway system and be pursued by a member of the Highway
111 Safety Patrol, such patrol officer may pursue and apprehend such
112 offender upon any of the highways or public roads of this state,
113 or to any other place to which such offender may flee.

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

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

119 (d) Upon the request of the State Tax Commission, and
120 with the approval of the Governor, to enforce all of the
121 provisions of law with reference to the registration, license and
122 taxation of vehicles using the highways of this state, and
123 relative to the sizes, weights and load limits of such vehicles,
124 and to enforce the provisions of all other laws administered by
125 the State Tax Commission upon any of the highways or public roads
126 of this state; and for such purpose the Highway Safety Patrol
127 shall have the authority to collect and receive all taxes which
128 may be due under any of such laws, and to report and remit same to
129 the State Tax Commission in the manner required by law, or the
130 rules and regulations of the commission.

131 (e) Upon request of the Mississippi Transportation
132 Commission * * *, and when so instructed by the commissioner, to
133 aid and assist in the enforcement of all laws which such agencies
134 are authorized or required to enforce, and in the enforcement of
135 the rules and regulations of such agencies, including the
136 Mississippi Motor Carrier Regulatory Law of 1938 and rules and
137 regulations promulgated thereunder.

138 (f) To arrest without warrant any person or persons
139 committing or attempting to commit any misdemeanor, felony or
140 breach of the peace within their presence or view, and to pursue
141 and so arrest any person committing such an offense to and at any
142 place in the State of Mississippi where he may go or be. Nothing
143 herein shall be construed as granting the Mississippi Highway
144 Safety Patrol general police powers.

145 (g) To aid and assist any law enforcement officer whose
146 life or safety is in jeopardy. Additionally, officers of the
147 Highway Safety Patrol may arrest without warrant any fugitive from
148 justice who has escaped or who is using the highways of the state
149 in an attempt to flee. With the approval of the commissioner or
150 his designee, officers of the Highway Safety Patrol may assist
151 other law enforcement agencies in manhunts for convicted felons
152 who have escaped and/or for alleged felons where there is probable
153 cause to believe that the person being sought committed the felony
154 and a felony had actually been committed.

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

157 (i) Upon request of the sheriff or his designee, or
158 board of supervisors of any county or the chief of police or mayor
159 of any municipality, and when so instructed by the commissioner or
160 his designee, to respond to calls for assistance in a law
161 enforcement incident; such request and action shall be noted and
162 clearly reflected on the radio logs of both the Mississippi
163 Highway Safety Patrol district substation and that of the

164 requesting agency, entered on the local NCIC terminal, if
165 available, and a request in writing shall follow within
166 forty-eight (48) hours. Additionally, the time of commencement
167 and termination of the specific law enforcement incident shall be
168 clearly noted on the radio logs of both law enforcement agencies.

169 (2) The Legislature declares that the primary law
170 enforcement officer in any county in the State of Mississippi is
171 the duly qualified and elected sheriff thereof, but for the
172 purposes of this subsection there is hereby vested in the
173 Department of Public Safety, in addition to the powers hereinabove
174 mentioned and the other provisions of this section under the terms
175 and limitations hereinafter mentioned and for the purpose of
176 insuring domestic tranquility and for the purpose of preventing or
177 suppressing, or both, crimes of violence, acts and conduct
178 calculated to, or which may, provoke or lead to violence and/or
179 incite riots, mobs, mob violence, a breach of the peace, and acts
180 of intimidation or terror, the powers and duties to include the
181 enforcement of all the laws of the State of Mississippi relating
182 to such purposes, to investigate any violation of the laws of the
183 State of Mississippi and to aid in the arrest and prosecution of
184 persons charged with violating the laws of the State of
185 Mississippi which relate to such purposes. Investigators of the
186 Mississippi Criminal Investigation Bureau of the Department of
187 Public Safety shall have general police powers to enforce all the
188 laws of the State of Mississippi. All officers of the Department
189 of Public Safety charged with the enforcement of the laws
190 administered by that agency, for the purposes herein set forth,
191 shall have full power to investigate, prevent, apprehend and
192 arrest law violators anywhere in the state, and shall be vested
193 with the power of general police officers in the performance of
194 their duties. The officers of the Department of Public Safety are
195 authorized and empowered to carry and use firearms and other
196 weapons deemed necessary in the discharge of their duties as such

197 and are also empowered to serve warrants and subpoenas issued
198 under the authority of the State of Mississippi. The Governor
199 shall be authorized to offer and pay suitable rewards to persons
200 aiding in the investigation, apprehension and conviction of
201 persons charged with acts of violence, or threats of violence or
202 intimidation or acts of terrorism. The additional powers herein
203 granted to or vested in the Department of Public Safety or any of
204 its officers or employees by this section, excepting investigating
205 powers, and those powers of investigators who shall have general
206 police power, being the investigators in the Mississippi Criminal
207 Investigation Bureau of the Department of Public Safety, shall not
208 be exercised by the Department of Public Safety, or any of its
209 officers or employees, except upon authority and direction of the
210 Governor or Acting Governor, by proclamation duly signed, in the
211 following instances, to wit:

212 (a) When requested by the sheriff or board of
213 supervisors of any county or the mayor of any municipality on the
214 grounds that mob violence, crimes of violence, acts and conduct of
215 terrorism, riots or acts of intimidation, or either, calculated to
216 or which may provoke violence or incite riots, mobs, mob violence,
217 violence, or lead to any breach of the peace, or either, and acts
218 of intimidation or terror are anticipated, and when such acts or
219 conduct in the opinion of the Governor or Acting Governor would
220 provoke violence or any of the foregoing acts or conduct set out
221 in this subsection, and the sheriff or mayor, as the case may be,
222 lacks adequate police force to prevent or suppress the same.

223 (b) Acting upon evidence submitted to him by the
224 Department of Public Safety, or other investigating agency
225 authorized by the Governor or Acting Governor to make such
226 investigations, because of the failure or refusal of the sheriff
227 of any county or mayor of any municipality to take action or
228 employ such means at his disposal, to prevent or suppress the
229 acts, conduct or offenses provided for in subsection (1) of this

230 section, the Governor or Acting Governor deems it necessary to
231 invoke the powers and authority vested in the Department of Public
232 Safety.

233 (c) The Governor or Acting Governor is hereby
234 authorized and empowered to issue his proclamation invoking the
235 powers and authority vested by this paragraph, as provided in
236 paragraphs (a) and (b) of this subsection, and when the Governor
237 or Acting Governor issues said proclamation in accordance
238 herewith, said proclamation shall become effective upon the
239 signing thereof and shall continue in full force and effect for a
240 period of ninety (90) days, or for a shorter period if otherwise
241 ordered by the Governor or Acting Governor. At the signing of the
242 proclamation by the Governor or Acting Governor, the Department of
243 Public Safety and its officers and employees shall thereupon be
244 authorized to exercise the additional power and authority vested
245 in them by this paragraph. The Governor and Acting Governor may
246 issue additional proclamations for periods of ninety (90) days
247 each under the authority of paragraphs (a) and (b) of this
248 subsection (2).

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

252 (4) It is not the intention of this section to vest the wide
253 powers and authority herein provided for, as general powers of the
254 Department of Public Safety, and the same are not hereby so
255 vested, but to limit these general powers to cases and incidents
256 wherein it is deemed necessary to prevent or suppress the offenses
257 and conditions herein mentioned in this and other subsections of
258 this section, and under the terms and conditions hereinabove
259 enumerated, it being the sense of the Legislature that the prime
260 duties of the Department of Public Safety are to patrol the
261 highways of this state and enforce the highway safety laws.

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

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

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