

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2368

1 AN ACT TO ESTABLISH A STREAMLINED ADMINISTRATIVE APPEAL
2 PROCEDURE FOR THE REVOCATION OF PERMITS, LICENSES OR DECALS ISSUED
3 UNDER THE INTERSTATE COMMERCIAL CARRIERS MOTOR FUEL TAX LAW OR THE
4 INTERNATIONAL FUEL TAX AGREEMENT; TO PROVIDE FOR WRITTEN NOTICE TO
5 THE LICENSEE, PERMITTEE, LICENSEE OR HOLDER OF A DECAL OF THE
6 INTENT TO REVOKE; TO PROVIDE THAT THE AGGRIEVED PARTY MUST REQUEST
7 A HEARING WITHIN 30 DAYS OF THE DATE OF THE NOTICE; TO PROVIDE
8 THAT FAILURE TO TIMELY REQUEST A HEARING SHALL RESULT IN THE
9 AUTOMATIC REVOCATION OF THE PERMIT, LICENSE OR DECAL; TO PROVIDE
10 FOR A SHOW CAUSE HEARING TO BE SCHEDULED A MINIMUM OF 30 DAYS FROM
11 THE DATE OF THE NOTICE; TO PROVIDE THE DUTIES OF THE BOARD OF
12 REVIEW OR A HEARING OFFICER DESIGNATED BY THE CHAIRMAN OF THE
13 STATE TAX COMMISSION WITH REGARD TO THE SHOW CAUSE HEARING; TO
14 PROVIDE FOR APPEALS OF DECISIONS OF THE BOARD OF REVIEW OR
15 DESIGNATED OFFICER TO THE STATE TAX COMMISSION; TO PROVIDE FOR THE
16 VOLUNTARY AND INVOLUNTARY WITHDRAWAL OF REQUESTS FOR A SHOW CAUSE
17 HEARING OR AN APPEAL FROM THE DECISION MADE AS A RESULT OF A SHOW
18 CAUSE HEARING; TO AMEND SECTIONS 27-77-1, 27-77-11, 27-77-13,
19 27-77-15 AND 27-61-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY
20 THERETO; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** (1) If the agency determines that there is a
23 basis for revocation of an IFTA license, the agency shall give the
24 IFTA licensee holding the IFTA license written notice of its
25 intent to revoke his IFTA license. The notice of intent shall be
26 mailed or hand delivered to the IFTA licensee and shall set forth
27 the facts and conduct that provide the basis for the intended
28 revocation and shall advise the IFTA licensee that he has thirty
29 (30) days from the date of the notice to file with the agency a
30 written request for a hearing on the intended revocation. If the
31 IFTA licensee fails to file a written request with the agency for
32 a hearing on the intended revocation within the thirty-day period,
33 the IFTA license shall be automatically revoked on the
34 thirty-first day after the date of the notice without any further
35 action by the agency. The agency retains jurisdiction to
36 reinstate an IFTA license after revocation. Failure of the IFTA

37 licensee to timely file a written request for a hearing on the
38 intended revocation will bar further review of the revocation by
39 any court.

40 (2) Upon receipt of a timely filed written request for a
41 hearing on the intended revocation of the IFTA license, the IFTA
42 licensee filing the request shall be advised of the date, time and
43 location of a show cause hearing that will be held a minimum
44 thirty (30) days from the date of the notice. At the hearing, the
45 IFTA licensee shall show cause why his IFTA license should not be
46 revoked. The show cause hearing shall be informal and the rules
47 of evidence shall be relaxed. The hearing shall be conducted by
48 the board of review or by a single hearing officer designated by
49 the commissioner. The IFTA licensee or his designated
50 representative shall attend the hearing unless a request is made
51 to, and granted by, the board of review or the designated hearing
52 officer to allow the IFTA licensee to submit his position in
53 writing or by electronic transmission in lieu of attending the
54 hearing. Failure of the IFTA licensee or his designated
55 representative to attend a hearing or submit his position in
56 writing or by electronic transmission in lieu of attendance by the
57 date specified by the board of review or designated hearing
58 officer or by the hearing date, if no date is specified, shall
59 constitute a withdrawal of the appeal. As soon as practical after
60 the show cause hearing, the hearing officer or the board of review
61 that conducted the hearing shall make a determination as to
62 whether the IFTA license in issue should be revoked. The hearing
63 officer or board of review shall enter an order based on this
64 determination and a copy of this order shall be mailed to the IFTA
65 licensee notifying him of the decision and the action taken.

66 (3) The order of the hearing officer or the board of review
67 in regard to a show cause hearing shall be final unless, within
68 thirty (30) days from the date the order, the IFTA licensee
69 appeals the order to the commission. The appeal shall be in

70 writing and request a hearing and reversal or modification of the
71 order of the hearing officer or board of review, specify in detail
72 the relief requested, contain any other information that might be
73 required by regulation and be filed with the commission secretary.

74 (4) Upon receipt of a written appeal from an order of a
75 hearing officer or the board of review regarding a show cause
76 hearing on an IFTA license, the commission secretary shall
77 schedule a hearing before the commission on the appeal. A notice
78 of the hearing shall be mailed to the IFTA licensee or his
79 designated representative to advise the IFTA licensee of the date,
80 time and location of a the hearing. The IFTA licensee or his
81 designated representative shall attend the hearing. Failure of
82 the IFTA licensee or his designated representative to attend a
83 hearing shall constitute a withdrawal of the appeal.

84 (5) At any hearing before the commission on an appeal of an
85 order regarding a show cause hearing on an IFTA license, two (2)
86 members of the commission shall constitute a quorum. At the
87 hearing the commission shall try the issues presented according to
88 law and the facts and pursuant to any guidelines established by
89 regulation. The rules of evidence shall be relaxed at the hearing
90 and the hearing shall be recorded by a court reporter. After
91 reaching a decision on the issues presented, the commission shall
92 enter an order setting forth its findings and decision on the
93 appeal. A copy of the order of the commission shall be mailed to
94 the person who filed the appeal to notify him of the findings and
95 decision of the commission.

96 (6) At any time after the filing of a timely written request
97 for a hearing on the intended revocation of an IFTA license under
98 this section, the request may be withdrawn. A withdrawal of a
99 request for a hearing on the intended revocation may be made
100 voluntarily by the person requesting the hearing or may occur
101 involuntarily as a result of a failure to appear at a scheduled
102 hearing, or by any other act or failure that the board of review

103 or designated hearing officer determines represents a failure on
104 the part of that person to pursue his request for a hearing on the
105 intended revocation. A voluntary withdrawal shall be in writing
106 or by electronic transmission and sent from the person requesting
107 the hearing or his designated representative to the chairman of
108 the board of review or the hearing officer designated to hear the
109 matter. If the withdrawal of the request for a hearing is
110 involuntary, the board of review or the hearing officer designated
111 to hear the matter shall note on its minutes or by order the
112 involuntary withdrawal of the request and the basis for the
113 withdrawal. Once a request for hearing on the intended revocation
114 is withdrawn, whether voluntary or involuntary, the IFTA license
115 shall be automatically revoked.

116 (7) At any time after the filing of an appeal with the
117 commission under this section, the appeal may be withdrawn. A
118 withdrawal of an appeal can be made voluntarily by the person
119 appealing or may occur involuntarily as the result of the failure
120 to appear at a scheduled hearing, or by any other act or failure
121 that the commission determines to represent a failure on the part
122 of that person to prosecute his appeal. A voluntary withdrawal
123 shall be in writing or by electronic transmission and sent from
124 the person appealing or his designated representative to the
125 commission secretary. If the withdrawal of the appeal is
126 involuntary, the commission shall note on its minutes the
127 involuntary withdrawal of the appeal and the basis for the
128 withdrawal. Once an appeal is withdrawn, whether voluntary or
129 involuntary, the order from the show cause hearing from which the
130 appeal was taken shall become final and not subject to further
131 review by the commission or a court. The agency shall then
132 proceed in accordance with law based on the final order.

133 **SECTION 2.** Section 27-77-1, Mississippi Code of 1972, is
134 amended as follows:

135 27-77-1. As used in this chapter:

136 (a) "Agency" means the commissioner acting directly or
137 through his duly authorized officers, agents, representatives and
138 employees, to perform duties and powers prescribed by the laws of
139 this state to be performed by the Chairman of the State Tax
140 Commission, the Commissioner of Revenue or the State Tax
141 Commission, except as provided in Section 27-3-31 for those
142 matters with respect to which the chairman and associate
143 commissioners of the State Tax Commission act collectively as a
144 commission.

145 (b) "Board of review" means the board of review of the
146 State Tax Commission as appointed by the commissioner under
147 Section 27-77-3, and also means a panel of the board of review
148 when an appeal is considered by a panel of the board of review
149 instead of the board of review en banc.

150 (c) "Commissioner" means the Chairman of the State Tax
151 Commission.

152 (d) "Commission" means the State Tax Commission as
153 created under Section 27-3-1 when the members thereof sit
154 collectively to hear appeals from a hearing officer or from the
155 board of review as provided in this chapter.

156 (e) "Denial" means the final decision of the staff of
157 the agency to deny the claim, request for waiver or application
158 being considered. In this context, staff of the agency does not
159 include the board of review or the commission. "Denial" does not
160 mean the act of returning or refusing to consider a claim, request
161 for waiver or application for permit, IFTA license, title or tag
162 by the staff of the agency due to a lack of information and/or
163 documentation unless the return or refusal is in response to a
164 representation by the person who filed the claim, request for
165 waiver or application in issue that information and/or
166 documentation indicated by the staff of the agency to be lacking
167 cannot or will not be provided.

168 (f) "Designated representative" means an individual who
169 represents a person in an administrative appeal before a hearing
170 officer of the agency, before the board of review or before the
171 commission.

172 (g) "IFTA license" means a permit, license or decal
173 which the agency is authorized to issue or revoke under the
174 Interstate Commercial Carriers Motor Fuel Tax Law (Section 27-61-1
175 et seq.) or the International Fuel Tax Agreement.

176 (h) "IFTA licensee" means a person holding the IFTA
177 license, applying for an IFTA license or renewing an IFTA license.

178 (i) "Last known address" when referring to the mailing
179 of a notice of intent to suspend, revoke or to order the surrender
180 and/or seizure of the permit, IFTA license, tag or title or to the
181 mailing of a denial of permit, tag or title, means the last
182 mailing address of the person being sent the notice as it appears
183 on the record of the agency in regard to the permit, IFTA license,
184 tag or title in issue. All other references to "last known
185 address" in this chapter mean the official mailing address that
186 the hearing officer, the board of review or the commission
187 secretary has for the addressee in their file on the
188 administrative appeal in which the document or item is being
189 mailed to the addressee. The addressee is presumed to have
190 received any document or item mailed to his official mailing
191 address. The commissioner, by regulation, shall prescribe the
192 procedure for establishing an official mailing address in the
193 administrative appeal process and the procedure for changing the
194 official mailing address. It is the responsibility of the
195 addressee to make sure that his official mailing address is
196 correct.

197 (j) "Mail," "mailed" or "mailing" means placing the
198 document or item referred to in first-class United States mail,
199 postage prepaid, addressed to the person to whom the document or
200 item is to be sent at the last known address of that person.

201 Where a person is represented in an administrative appeal before a
202 hearing officer, the board of review or the commission by a
203 designated representative, the terms "mail," "mailed" or "mailing"
204 when referring to sending a document or item to that person shall
205 also mean placing the document or item referred to in first-class
206 United States mail, postage prepaid, to the last known address of
207 that person's designated representative. Mailing to the
208 designated representative of a taxpayer, permittee, IFTA licensee,
209 tag holder or title interest holder shall constitute mailing and
210 notice to the taxpayer, permittee, IFTA licensee, tag holder or
211 title interest holder.

212 (k) "Permit" means a type of license or permit that the
213 agency is authorized to issue, suspend or revoke, such as a sales
214 tax permit, a beer permit, a tobacco permit, a dealer license, or
215 designated agent status, but does not include:

216 (i) Any type of permit issued under the Local
217 Option Alcoholic Beverage Control Law, Section 67-1-1 et seq. or
218 under the Mississippi Native Wine Law of 1976, Section 67-5-1 et
219 seq.; or

220 (ii) An IFTA license.

221 (l) "Permittee" means a person holding a permit,
222 applying for a permit or renewing a permit.

223 (m) "Person" means a natural person, partnership,
224 limited partnership, corporation, limited liability company,
225 estate, trust, association, joint venture, other legal entity or
226 other group or combination acting as a unit, and includes the
227 plural as well as the singular in number. "Person" includes the
228 state, county, municipal, other political subdivision and any
229 agency, institution or instrumentality thereof, but only when used
230 in the context of a taxpayer, permittee, IFTA license, tag holder
231 or title interest holder.

232 (n) "Refund claim" means a claim made in writing by a
233 taxpayer and received by the agency wherein the taxpayer indicates

234 that he overpaid taxes to the agency and requests a refund of the
235 overpayment and/or a credit against current or future taxes for
236 the overpayment.

237 (o) "Resident," when used to describe a taxpayer or
238 petitioner, means a natural person whose residence and place of
239 abode is within the State of Mississippi.

240 (p) "Tag" means a type of license tag or plate for a
241 motor vehicle or trailer that the agency is authorized under the
242 Mississippi Motor Vehicle Privilege Tax Law, Section 27-19-1 et
243 seq., or under the Motor Vehicle Dealer Tag Permit Law, Section
244 27-19-301 et seq., to issue or approve before issuance, but does
245 not include other types of license tags or plates issued by the
246 county tax collectors except for personalized license tags and
247 only to the extent that the agency determines under Section
248 27-19-48 that a personalized license tag applied for is considered
249 obscene, slandering, insulting or vulgar in ordinary usage or
250 demands the surrender or orders the seizure of the tag where
251 issued in error.

252 (q) "Tag holder" means the person in whose name a tag
253 is registered or the person applying for a tag.

254 (r) "Tag penalty" means the penalties imposed under
255 Sections 27-19-63 and 27-51-43 for any delinquency in the payment
256 of motor vehicle privilege tax and ad valorem tax on a motor
257 vehicle which can be waived by the agency for good reason shown.
258 Pursuant to Section 27-51-103, imposition of this ad valorem tag
259 penalty at the maximum rate of twenty-five percent (25%) also
260 results in ineligibility for the credit against motor vehicle ad
261 valorem taxes provided by that statute. Waiver of the twenty-five
262 percent (25%) delinquency penalty by the agency under Section
263 27-51-43 shall reinstate credit eligibility.

264 (s) "Tax" means a tax, fee, penalty and/or interest
265 which the agency is required by either general law or by local and
266 private law to administer, assess and collect.

267 (t) "Taxpayer" means a person who is liable for or paid
268 any tax to the agency.

269 (u) "Title" means a title to a motor vehicle or
270 manufactured housing issued by the agency under the Mississippi
271 Motor Vehicle Title Law, Section 63-21-1 et seq.

272 (v) "Title interest holder" shall mean the owner or
273 lienholder in a motor vehicle or manufactured housing as indicated
274 on a title issued by the agency or as indicated on an application
275 to the agency for the issuance of a title.

276 **SECTION 3.** Section 27-77-11, Mississippi Code of 1972, is
277 amended as follows:

278 27-77-11. (1) If the agency determines that an application
279 or request for a permit, IFTA license, tag or title issued or
280 approved by the agency should be denied, the agency shall give the
281 applicant for the permit, IFTA license, tag or title written
282 notice of the denial by mailing or hand delivering the notice to
283 the applicant. In regard to the denial of an application for
284 title, the designated agent who took the application and any other
285 alleged title interest holders as appearing on the application
286 shall also be mailed or hand delivered a copy of the agency's
287 denial of the title application. If the applicant, or in the case
288 of the denial of a title application, any title interest holder
289 appearing on the title application, is aggrieved by the denial and
290 wishes to contest the denial, he shall, within thirty (30) days
291 from the date of the written notice of the denial, file an appeal
292 in writing with the board of review requesting a hearing on the
293 denial that specified in detail the relief requested and contains
294 any other information required by regulation. Failure to timely
295 file a written appeal with the board of review within this
296 thirty-day period shall make final the agency's denial of the
297 permit, IFTA license, tag or title in issue and not subject to
298 further review by the board of review, the commission or a court

299 except as to the issue of whether a written appeal to the board of
300 review was timely filed.

301 (2) Upon receipt of a written appeal from a denial of a
302 permit, IFTA license, tag or title, a hearing shall be scheduled
303 before the board of review unless it is determined that the relief
304 requested in the written appeal should be granted without a
305 hearing. A notice of the hearing shall be mailed to the person
306 appealing advising him of the date, time and location of hearing.
307 If the appeal involves the denial of a title, the notice of
308 hearing shall also be mailed to all other title interest holders
309 in the motor vehicle or manufactured housing in issue, including
310 both those that appear on a current title and those that appear on
311 the application that was denied. The notice may contain a
312 statement as to the basis for the denial of the permit, IFTA
313 license, tag or title. The person appealing or his designated
314 representative shall attend the hearing unless a request is made
315 to and granted by the board of review to allow him to submit his
316 position in writing or by electronic transmission in lieu of
317 attendance. Failure of the person appealing, or his designated
318 representative, to attend a hearing or to submit his position in
319 writing or by electronic transmission in lieu of attendance by the
320 date specified by the board of review or by the hearing date, if
321 no date is specified, shall constitute a withdrawal of the appeal.

322 (3) At a hearing before the board of review on a denial of a
323 permit, IFTA license, tag or title, the board of review shall try
324 the issues presented, according to law and the facts and within
325 the guidelines established by regulation. The hearing before the
326 board of review shall be informal and no official transcript shall
327 be made of the hearing. At the earliest practical date after the
328 hearing, the members of the board of review that heard the appeal
329 shall make a determination on the matter presented and notify the
330 person appealing of its findings by mailing a copy of its order to
331 that person. In the case of a hearing involving the denial of a

332 title, the order shall also be mailed to all other title interest
333 holders in the motor vehicle or manufactured housing in issue,
334 including those that appear on a current title and those that
335 appear on the application that was denied.

336 (4) The order of the board of review involving the denial of
337 a permit, IFTA license, tag or title shall be final unless within
338 thirty (30) days from the date of the order, the applicant appeals
339 the order to the commission. In the case of an order of the board
340 of review involving a review of the denial of a title, any title
341 interest holder in the motor vehicle or manufactured housing in
342 issue may appeal the order to the commission. The appeal shall be
343 in writing, request a hearing and reversal or modification of the
344 order of the board of review, specify in detail the relief
345 requested, contain any other information that is required by
346 regulation and be filed with the commission secretary. Failure to
347 timely file a written appeal with the commission secretary within
348 the thirty-day period will make the order of the board of review
349 being appealed final and not subject to further review by the
350 commission or a court other than as to the issue of whether a
351 written appeal from the order of the board of review was timely
352 filed with the commission secretary.

353 (5) Upon receipt of a written appeal from an order of the
354 board of review involving the denial of a permit, IFTA license,
355 tag or title, the commission secretary shall schedule a hearing
356 before the commission on the appeal. A notice of the hearing
357 shall be mailed to the person who filed the appeal to advise him
358 of the date, time and location of hearing. In the case of an
359 appeal from an order of the board of review involving the denial
360 of a title, the notice of hearing shall also be mailed to all
361 title interest holders in the motor vehicle or manufactured
362 housing in issue. The person who filed the appeal or his
363 designated representative shall attend the hearing. Failure of

364 this person or his designated representative to attend a hearing
365 shall constitute a withdrawal of the appeal.

366 (6) At any hearing before the commission on an appeal of an
367 order from the board of review involving the denial of a permit,
368 IFTA license, tag or title, two (2) members of the commission
369 shall constitute a quorum. At the hearing, the commission shall
370 try the issues presented according to law and the facts and
371 pursuant to any guidelines established by regulation. The rules
372 of evidence shall be relaxed at the hearing and the hearing shall
373 be taken down by a court reporter. After reaching a decision on
374 the issues presented, the commission shall enter its order setting
375 forth its findings and decision on the appeal. A copy of the
376 order of the commission shall be mailed to the person who filed
377 the appeal with the commission to notify him of the findings and
378 decision of the commission. In the case of an appeal involving a
379 title, a copy of the order of the commission shall also be mailed
380 to all title interest holders in the motor vehicle or manufactured
381 housing in issue.

382 (7) At any time after the filing of an appeal with the board
383 of review, or from the board of review to the commission under
384 this chapter, an appeal can be withdrawn. A withdrawal of an
385 appeal may be made voluntarily by the person who filed the appeal
386 or may occur involuntarily by the person failing to appear at a
387 scheduled hearing, by failing to make a written submission or
388 electronic transmission to the board of review in lieu of
389 attendance by the date specified by the board or by the hearing
390 date, if no date was specified, or by any other act or failure
391 that the board of review or the commission determines represents a
392 failure on the part of this person to prosecute his appeal. Any
393 voluntary withdrawal shall be in writing or by electronic
394 transmission and sent by the person appealing or his designated
395 representative to the chairman of the board of review, if the
396 appeal being withdrawn is to the board of review, or to the

397 commission secretary, if the appeal being withdrawn is to the
398 commission. If the withdrawal of appeal is involuntary, the
399 administrative appeal body from whom the appeal is being withdrawn
400 shall note on its minutes the involuntary withdrawal of the appeal
401 and the basis for the withdrawal. Once an appeal is withdrawn,
402 whether voluntary or involuntary, the action from which the appeal
403 was taken, whether the original denial or the order of the board
404 of review, shall become final and not subject to further review by
405 the board of review, the commission or a court. The agency shall
406 then proceed in accordance with law based on such final action.

407 **SECTION 4.** Section 27-77-13, Mississippi Code of 1972, is
408 amended as follows:

409 27-77-13. (1) The order of the commission entered in
410 accordance with Section 27-77-9, 27-77-11 or Section 1 of Senate
411 Bill No. 2368, 2007 Regular Session, shall be final unless the
412 permittee, IFTA licensee, tag holder, or title interest holder of
413 the permit, IFTA license, tag or title in regard to which action
414 was taken in the order shall, within thirty (30) days from the
415 date of the order, file a petition in the chancery court seeking a
416 review of the order. The petition shall be filed against the
417 State Tax Commission and shall contain a concise statement of the
418 facts as contended by the petitioner, identify the order from
419 which the appeal is being taken and the type of relief sought.
420 The petition shall also contain a certificate that the petitioner
421 has paid to the commission secretary the estimated cost of the
422 preparation of the entire record of the commission on the matter
423 for which a review is sought.

424 (2) A petition under subsection (1) of this section shall be
425 filed in the chancery court of the county or judicial district in
426 which the petitioner has a place of business or in the First
427 Judicial District of Hinds County, Mississippi; however, a
428 resident petitioner may file a petition in the chancery court of
429 the county or judicial district in which he is a resident.

430 (3) The review by the chancery court of the order of the
431 commission on a petition filed under subsection (1) of this
432 section shall be based on the record made before the commission.
433 Before filing a petition under subsection (1) of this section, the
434 petitioner shall obtain from the commission secretary an estimate
435 of the cost to prepare the entire record of the commission and
436 shall pay to the commission secretary the amount of the estimate.
437 If, upon the preparation of the record, it is determined that the
438 estimate paid was insufficient to pay the actual cost of the
439 preparation of the record, the commission secretary shall mail to
440 the petitioner a written notice of the deficiency. The petitioner
441 shall pay the deficiency to the commission secretary within thirty
442 (30) days from the date of this written notice. If upon the
443 preparation of the record, it is determined that the estimate paid
444 by the petitioner exceeds the actual cost of the preparation of
445 the record, the commission secretary shall remit to the petitioner
446 the amount by which the estimate paid exceeds the actual cost.
447 The chancery court shall dismiss with prejudice any petition filed
448 where it is shown that the petitioner failed to pay prior to
449 filing the petition the estimated cost for preparation of the
450 record of the commission or failed to pay any deficiency in the
451 estimate within thirty (30) days of a notice of deficiency.

452 (4) Upon the filing of the petition under subsection (1) of
453 this section, the clerk of the court in * * * which the petition
454 is filed shall issue a summons to the State Tax Commission
455 requiring the commission to answer or otherwise respond to the
456 petition within thirty (30) days of service. The summons shall be
457 served on the State Tax Commission by personal service on the
458 commissioner as the chief executive officer of the State Tax
459 Commission.

460 (5) Upon the filing of an answer and/or response by the
461 State Tax Commission to the petition filed under subsection (1) of
462 this section, and upon the filing of the record made before the

463 commission with the clerk of the court, the chancery court shall,
464 upon the motion of either party, establish a schedule for the
465 filing of briefs in the action. The scope of review of the
466 chancery court in an action filed under subsection (1) of this
467 section shall be limited to a review of the record made before the
468 commission to determine if the action of the commission is
469 unlawful for the reason that it was:

- 470 (a) Not supported by substantial evidence;
- 471 (b) Arbitrary or capricious;
- 472 (c) Beyond the power of the commission to make; or
- 473 (d) In violation of some statutory or constitutional
474 right of the petitioner.

475 (6) No relief shall be granted based upon the chancery
476 court's finding of harmless error by the commission in complying
477 with any procedural requirement; however, in the event that there
478 is a finding of prejudicial error in the proceedings, the cause
479 shall be remanded to the commission for a rehearing consistent
480 with the findings of the court.

481 (7) The State Tax Commission, the petitioner, or both, shall
482 have the right to appeal from the order of the chancery court to
483 the Supreme Court as in other cases.

484 **SECTION 5.** Section 27-77-15, Mississippi Code of 1972, is
485 amended as follows:

486 27-77-15. (1) Except as otherwise provided in this section,
487 it shall be unlawful for the commission, the commissioner, the
488 commission secretary, the agency, or an officer, agent or employee
489 of the agency, to divulge or make known in any manner the
490 information contained in the files, records and orders of the
491 agency, a hearing officer of the agency, the board of review or
492 the commission in regard to an appeal to a hearing officer, the
493 board of review or the commission under this chapter.

494 (2) For purposes of this section, the term "appellant" means
495 the taxpayer, IFTA licensee, permittee, tag holder or title

496 interest holder who filed the appeal to the board of review or the
497 commission under this chapter which resulted in the files, records
498 and orders of that appeal. For purposes of this section, when
499 applied to the files, records and orders regarding a matter
500 brought before a hearing officer of the agency or before the board
501 of review for a show cause hearing, the term "appellant" shall
502 mean the permittee, IFTA licensee, tag holder or title interest
503 holder in the permit, IFTA license, tag or title that was the
504 subject of the show cause hearing.

505 (3) The commission, the commissioner, the commission
506 secretary, the agency, hearing officer or an agent or employee of
507 the agency is permitted to divulge and make known information
508 otherwise prohibited from disclosure under subsection (1) of this
509 section in any of the following circumstances:

510 (a) Where the information is being disclosed as a
511 result of complying with the provisions of this chapter and/or
512 with regulations promulgated to enforce the provisions of this
513 chapter.

514 (b) Where the information is being provided to the
515 appellant or his designated representative.

516 (c) Where the information is being provided or
517 disclosed pursuant to a written authorization executed by the
518 appellant as prescribed by regulation.

519 (d) Where the information is being provided or
520 disclosed in the course of a court action in which the agency, the
521 commission, an agency officer or an agency employee and the
522 appellant are parties, including, but not limited to, an action
523 brought under this chapter or in the course of the bankruptcy case
524 of the appellant.

525 (e) Where the information is being provided to the
526 Internal Revenue Service or a taxing authority of another state
527 under an information exchange agreement where similar information

528 can be obtained by the agency from the Internal Revenue Service or
529 state taxing authority receiving the information.

530 (f) Where the information is being provided pursuant to
531 the International Registration Plan (IRP) or the International
532 Fuel Tax Agreement (IFTA) or any regulations, rules or procedures
533 adopted under such plan or agreement.

534 (g) Where the disclosure of information is authorized
535 under Section 27-55-49, 27-55-557, 27-57-39, 27-59-53 or 27-61-20.

536 (h) Where the information is being provided to the
537 State Auditor or his employees in the course of his audit of the
538 agency; however, the prohibitions against disclosure which apply
539 to the agency shall also apply to the State Auditor and his
540 employees or former employees.

541 (i) Where the information is being provided to the
542 Attorney General or any other attorney representing the state or
543 the agency in an action brought by the appellant to set aside the
544 tax, in an action brought by the state or agency to recover the
545 tax imposed, or in an action where the appellant is being
546 prosecuted for a crime under the tax laws of this state.

547 (j) Where the information is being provided by the
548 commissioner to a contractor of collection services pursuant to
549 the authority granted the commissioner in Section 27-75-16.

550 (k) Where the information is being provided in
551 accordance with a proper judicial order. The term "proper
552 judicial order" as used in this paragraph shall not include
553 subpoenas or subpoenas duces tecum, but shall include only those
554 orders entered by a court of record in this state after furnishing
555 notice and a hearing to the appellant and the State Tax
556 Commission. The court shall not authorize the furnishing of such
557 information unless it is satisfied that the information is needed
558 to pursue pending litigation in which the information itself is in
559 issue, or the judge is satisfied that the need for furnishing the

560 information outweighs the rights of the appellant to have such
561 information secreted.

562 (4) Nothing in subsection (1) of this section shall prohibit
563 the inspection or disclosure of the minutes of the commission
564 except to the extent that such minutes reflect the specific amount
565 of a tax assessment or refund claim or the specific amount of tax
566 or refund claim determined by the commission to be due.

567 (5) Information that is prohibited from being disclosed in
568 subsection (1) of this section shall be exempt from the provisions
569 of the Mississippi Public Records Act of 1983.

570 (6) Due to the need to discuss confidential tax information,
571 the hearings before a hearing officer, the board of review and the
572 commission under this chapter, and the meetings in which the board
573 of review and the commission deliberate and vote on the issues
574 raised at such hearings shall be exempt from the provisions of
575 Section 25-41-1 et seq.

576 **SECTION 6.** Section 27-61-9, Mississippi Code of 1972, is
577 amended as follows:

578 27-61-9. (1) If the commission approves the application and
579 bond, it shall issue to the applicant an interstate fuel use
580 permit which shall remain valid for the calendar year in which it
581 was issued, to expire on December 31 of that year. All such
582 permits shall be revocable by the commission upon thirty (30)
583 days' written notice to the permittee, if the permittee fails or
584 refuses to comply with any of the terms or provisions of this
585 chapter.

586 (2) A renewal permit for the following calendar year will be
587 issued upon application if: the permit has not been revoked or
588 cancelled; all reports have been filed; and all taxes, penalties
589 and interest due have been paid. Any interstate fuel use permit
590 issued under the provisions of this section before March 12, 1993,
591 shall expire on December 31, 1993.

592 (3) If the commission approves an application filed under
593 the provisions of the International Fuel Tax Agreement, it shall
594 issue to the applicant a license and decals for each motor
595 vehicle. The license and decals shall expire on December 31 of
596 each year. The International Fuel Tax Agreement may provide for a
597 grace period for the display of the license and decals. Such
598 license and decals may be revoked by the commission upon thirty
599 (30) days' written notice to the licensee, if the licensee fails
600 to file reports, fails to pay taxes due or fails to otherwise
601 comply with the provisions of this chapter or the International
602 Fuel Tax Agreement.

603 (4) No license or decals shall be issued to any applicant
604 that has been licensed under the International Fuel Tax Agreement
605 and such license is under revocation by any member jurisdiction.
606 No license or decals shall be issued to any applicant who is in
607 arrears or default to this state, or any political subdivision
608 thereof, for any taxes or fees.

609 **SECTION 7.** Section 1 of this act shall be codified in
610 Chapter 77 of Title 27, Mississippi Code of 1972.

611 **SECTION 8.** This act shall take effect and be in force from
612 and after its passage.