

By: Senator(s) Lee (35th), Burton

To: Finance

SENATE BILL NO. 3103

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 LAW TO INCLUDE ANY PERSON OR
4 EMPLOYEE OF SUCH PERSON TRANSPORTING FARM PRODUCTS, FARM SUPPLIES,
5 MATERIALS AND/OR EQUIPMENT USED IN THE GROWING OR PRODUCTION OF
6 HIS AGRICULTURAL PRODUCTS IN HIS OWN TRUCK; AND FOR RELATED
7 PURPOSES.

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

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

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

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

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

23 (3) "Motor vehicle" means every vehicle as defined in
24 this section which is self-propelled, including trackless street
25 or trolley cars. The term "motor vehicle" shall not include
26 electric personal assistive mobility devices as defined in Section
27 63-3-103.

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

30 (5) "Motorcycle" means every vehicle designed to travel
31 on not more than three (3) wheels in contact with the ground,
32 except vehicles included within the term "tractor" as herein
33 classified and defined.

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

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

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

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

48 (10) "Pneumatic tires" means all tires inflated with
49 compressed air.

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

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

55 (13) "Person" means every natural person, firm,
56 copartnership, corporation, joint-stock or other association or
57 organization.

58 (14) "Owner" means a person who holds the legal title
59 of a vehicle or in the event a vehicle is the subject of an
60 agreement for the conditional sale, lease or transfer of the
61 possession, the person with the right of purchase upon performance
62 of conditions stated in the agreement, and with an immediate right

63 of possession vested in the conditional vendee, lessee, possessor
64 or in the event such or similar transaction is had by means of a
65 mortgage, and the mortgagor of a vehicle is entitled to
66 possession, then such conditional vendee, lessee, possessor or
67 mortgagor shall be deemed the owner for the purposes of this
68 article.

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

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

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

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

93 (19) "Common carrier by motor vehicle" means any person
94 who or which undertakes, whether directly or by a lease or any
95 other arrangement, to transport passengers or property or any

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

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

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

129 Haulers of fertilizer shall be classified as private
130 commercial carriers of property by motor vehicle.

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

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

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

145 (25) "Private carrier of property" means any person
146 transporting property on the highways of this state as defined
147 below:

148 (a) Any person or employee of such person transporting farm
149 products, * * * farm supplies, materials and/or equipment used in
150 the growing or production of his agricultural products in his own
151 truck.

152 (b) Any person transporting his own fish, including
153 shellfish, in his own truck.

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

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

162 vehicle shall be determined according to regulations established
163 by the State Tax Commission.

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

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

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

182 (30) "Ambulance and hearse" shall have the meaning
183 generally ascribed to them. A hearse or funeral coach shall be
184 classified as a light carrier of property, as defined in Section
185 27-51-101.

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

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

196 (32) "Ton" means two thousand (2,000) pounds
197 avoirdupois.

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

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

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

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

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

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