

**Adopted  
AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 838**

**BY: Senator(s) Hewes**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

18           **SECTION 1.** Section 77-7-16, Mississippi Code of 1972, is  
19 amended as follows:  
20           77-7-16. (1) Supervision and inspection of the safe  
21 operation and the safe use of equipment of motor vehicles  
22 operating in the state shall be a specified duty of the  
23 Mississippi Transportation Commission and the Motor Carrier  
24 Division of the Mississippi Highway Safety Patrol within the  
25 Mississippi Department of Public Safety. In accordance therewith,  
26 the Mississippi Transportation Commission shall promulgate as its  
27 own \* \* \* the rules, regulations, requirements and classifications  
28 of the United States Department of Transportation or any successor  
29 federal agency thereof charged with the regulation of motor  
30 vehicle safety and, along with the Motor Carrier Division of the  
31 Mississippi Highway Safety Patrol, shall enforce such rules,  
32 regulations, requirements and classifications. The Department of  
33 Public Safety shall provide training to its law enforcement  
34 officers and to law enforcement officers of the Mississippi  
35 Department of Transportation charged with the duty of enforcing  
36 the Mississippi Motor Carrier Regulatory Law of 1938 to the extent

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

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

48 (a) Each holder of a certificate of convenience and  
49 necessity, a permit to operate as a contract carrier or interstate  
50 permit;

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

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

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

60 (a) Motor vehicles employed to transport school  
61 children and teachers;

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

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

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

71 (e) Motor vehicles engaged in emergency or related  
72 operations;

73 (f) Motor vehicles engaged in the private  
74 transportation of passengers;

75 (g) Motor vehicles, including pick-up trucks, that have  
76 a GVWR or GCWR of Twenty-six Thousand (26,000) pounds or less,  
77 operating intrastate only, provided that such vehicle does not:

78 (i) Transport hazardous material requiring a  
79 placard; or

80 (ii) Transport sixteen (16) or more passengers,  
81 including the driver.

82 (h) Motor vehicles owned and operated by any farmer  
83 who:

84 (i) Is using the vehicle to transport agricultural  
85 products from a farm owned by the farmer, or to transport farm  
86 machinery or farm supplies to or from a farm owned by the farmer;

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

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

94 (i) Motor vehicles engaged in the transportation of  
95 logs and pulpwood between the point of harvest and the first point  
96 of processing the harvested product;

97 (j) Motor vehicles engaged exclusively in hauling  
98 gravel, soil or other unmanufactured road building materials;

99 (k) As to hours of service only, utility service  
100 vehicles owned or operated by public utilities subject to

101 regulation by the commission, while in intrastate commerce within  
102 this state, with a manufacturer's gross vehicle rating of less  
103 than twenty-six thousand one (26,001) pounds, unless the vehicle:

104 (i) Transports hazardous materials requiring a  
105 placard; or

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

108 (4) Anyone who violates or fails to comply with this section  
109 shall be subject to the penalties as provided for in Section  
110 77-7-311, Mississippi Code of 1972.

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

113 45-3-21. (1) The powers and duties of the Highway Safety  
114 Patrol shall be, in addition to all others prescribed by law, as  
115 follows:

116 (a) To enforce all of the traffic laws, rules and  
117 regulations of the State of Mississippi upon all highways of the  
118 state highway system and the rights-of-way of such highways;  
119 provided, however, that if any person commits an offense upon the  
120 state highway system and be pursued by a member of the Highway  
121 Safety Patrol, such patrol officer may pursue and apprehend such  
122 offender upon any of the highways or public roads of this state,  
123 or to any other place to which such offender may flee.

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

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

129 (d) Upon the request of the State Tax Commission, and  
130 with the approval of the Governor, to enforce all of the  
131 provisions of law with reference to the registration, license and  
132 taxation of vehicles using the highways of this state, and

133 relative to the sizes, weights and load limits of such vehicles,  
134 and to enforce the provisions of all other laws administered by  
135 the State Tax Commission upon any of the highways or public roads  
136 of this state; and for such purpose the Highway Safety Patrol  
137 shall have the authority to collect and receive all taxes which  
138 may be due under any of such laws, and to report and remit same to  
139 the State Tax Commission in the manner required by law, or the  
140 rules and regulations of the commission.

141 (e) Upon request of the Mississippi Transportation  
142 Commission \* \* \*, and when so instructed by the commissioner, to  
143 aid and assist in the enforcement of all laws which such agencies  
144 are authorized or required to enforce, and in the enforcement of  
145 the rules and regulations of such agencies, including the  
146 Mississippi Motor Carrier Regulatory Law of 1938 and rules and  
147 regulations promulgated thereunder.

148 (f) To arrest without warrant any person or persons  
149 committing or attempting to commit any misdemeanor, felony or  
150 breach of the peace within their presence or view, and to pursue  
151 and so arrest any person committing such an offense to and at any  
152 place in the State of Mississippi where he may go or be. Nothing  
153 herein shall be construed as granting the Mississippi Highway  
154 Safety Patrol general police powers.

155 (g) To aid and assist any law enforcement officer whose  
156 life or safety is in jeopardy. Additionally, officers of the  
157 Highway Safety Patrol may arrest without warrant any fugitive from  
158 justice who has escaped or who is using the highways of the state  
159 in an attempt to flee. With the approval of the commissioner or  
160 his designee, officers of the Highway Safety Patrol may assist  
161 other law enforcement agencies in manhunts for convicted felons  
162 who have escaped and/or for alleged felons where there is probable  
163 cause to believe that the person being sought committed the felony  
164 and a felony had actually been committed.

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

167           (i) Upon request of the sheriff or his designee, or  
168 board of supervisors of any county or the chief of police or mayor  
169 of any municipality, and when so instructed by the commissioner or  
170 his designee, to respond to calls for assistance in a law  
171 enforcement incident; such request and action shall be noted and  
172 clearly reflected on the radio logs of both the Mississippi  
173 Highway Safety Patrol district substation and that of the  
174 requesting agency, entered on the local NCIC terminal, if  
175 available, and a request in writing shall follow within  
176 forty-eight (48) hours. Additionally, the time of commencement  
177 and termination of the specific law enforcement incident shall be  
178 clearly noted on the radio logs of both law enforcement agencies.

179           (2) The Legislature declares that the primary law  
180 enforcement officer in any county in the State of Mississippi is  
181 the duly qualified and elected sheriff thereof, but for the  
182 purposes of this subsection there is hereby vested in the  
183 Department of Public Safety, in addition to the powers hereinabove  
184 mentioned and the other provisions of this section under the terms  
185 and limitations hereinafter mentioned and for the purpose of  
186 insuring domestic tranquility and for the purpose of preventing or  
187 suppressing, or both, crimes of violence, acts and conduct  
188 calculated to, or which may, provoke or lead to violence and/or  
189 incite riots, mobs, mob violence, a breach of the peace, and acts  
190 of intimidation or terror, the powers and duties to include the  
191 enforcement of all the laws of the State of Mississippi relating  
192 to such purposes, to investigate any violation of the laws of the  
193 State of Mississippi and to aid in the arrest and prosecution of  
194 persons charged with violating the laws of the State of  
195 Mississippi which relate to such purposes. Investigators of  
196 the \* \* \* Bureau of Investigation of the Department of Public

197 Safety shall have general police powers to enforce all the laws of  
198 the State of Mississippi. All officers of the Department of  
199 Public Safety charged with the enforcement of the laws  
200 administered by that agency, for the purposes herein set forth,  
201 shall have full power to investigate, prevent, apprehend and  
202 arrest law violators anywhere in the state, and shall be vested  
203 with the power of general police officers in the performance of  
204 their duties. The officers of the Department of Public Safety are  
205 authorized and empowered to carry and use firearms and other  
206 weapons deemed necessary in the discharge of their duties as such  
207 and are also empowered to serve warrants and subpoenas issued  
208 under the authority of the State of Mississippi. The Governor  
209 shall be authorized to offer and pay suitable rewards to persons  
210 aiding in the investigation, apprehension and conviction of  
211 persons charged with acts of violence, or threats of violence or  
212 intimidation or acts of terrorism. The additional powers herein  
213 granted to or vested in the Department of Public Safety or any of  
214 its officers or employees by this section, excepting investigating  
215 powers, and those powers of investigators who shall have general  
216 police power, being the investigators in the \* \* \* Bureau of  
217 Investigation of the Department of Public Safety, shall not be  
218 exercised by the Department of Public Safety, or any of its  
219 officers or employees, except upon authority and direction of the  
220 Governor or Acting Governor, by proclamation duly signed, in the  
221 following instances, to wit:

222 (a) When requested by the sheriff or board of  
223 supervisors of any county or the mayor of any municipality on the  
224 grounds that mob violence, crimes of violence, acts and conduct of  
225 terrorism, riots or acts of intimidation, or either, calculated to  
226 or which may provoke violence or incite riots, mobs, mob violence,  
227 violence, or lead to any breach of the peace, or either, and acts  
228 of intimidation or terror are anticipated, and when such acts or

229 conduct in the opinion of the Governor or Acting Governor would  
230 provoke violence or any of the foregoing acts or conduct set out  
231 in this subsection, and the sheriff or mayor, as the case may be,  
232 lacks adequate police force to prevent or suppress the same.

233 (b) Acting upon evidence submitted to him by the  
234 Department of Public Safety, or other investigating agency  
235 authorized by the Governor or Acting Governor to make such  
236 investigations, because of the failure or refusal of the sheriff  
237 of any county or mayor of any municipality to take action or  
238 employ such means at his disposal, to prevent or suppress the  
239 acts, conduct or offenses provided for in subsection (1) of this  
240 section, the Governor or Acting Governor deems it necessary to  
241 invoke the powers and authority vested in the Department of Public  
242 Safety.

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



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

262 (4) It is not the intention of this section to vest the wide  
263 powers and authority herein provided for, as general powers of the  
264 Department of Public Safety, and the same are not hereby so  
265 vested, but to limit these general powers to cases and incidents  
266 wherein it is deemed necessary to prevent or suppress the offenses  
267 and conditions herein mentioned in this and other subsections of  
268 this section, and under the terms and conditions hereinabove  
269 enumerated, it being the sense of the Legislature that the prime  
270 duties of the Department of Public Safety are to patrol the  
271 highways of this state and enforce the highway safety laws.

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

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

279 **SECTION 3.** It is the intent of the Legislature that the  
280 amendments to Sections 77-7-16 and 45-3-21, Mississippi Code of  
281 1972, contained in this House Bill No. 838, 2007 Regular Session,  
282 shall supercede the amendments to Section 77-7-16 contained in  
283 Senate Bill No. 3042, 2007 Regular Session, and to Section  
284 45-3-21, contained in Senate Bill No. 2428, 2007 Regular Session.

285 **SECTION 4.** This act shall take effect and be in force from  
286 and after July 1, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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 EXEMPT CERTAIN VEHICLES  
12 FROM REGULATION UNDER THE MISSISSIPPI MOTOR CARRIER REGULATORY LAW  
13 OF 1938; TO AMEND SECTION 45-3-21, MISSISSIPPI CODE OF 1972, IN  
14 CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO FURTHER AMEND TO  
15 CORRECT THE REFERENCE TO THE BUREAU OF INVESTIGATION OF THE  
16 DEPARTMENT OF PUBLIC SAFETY; AND FOR RELATED PURPOSES.