

By: Representatives McBride,
Bell, Zuber

To: Transportation

HOUSE BILL NO. 3

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION
2 65-43-2, MISSISSIPPI CODE OF 1972, TO STATE LEGISLATIVE FINDINGS
3 WITH REGARD TO THE CHAPTER OF LAW AUTHORIZING THE MISSISSIPPI
4 TRANSPORTATION COMMISSION AND COUNTIES AND MUNICIPALITIES TO
5 DESIGN, FINANCE, CONSTRUCT, OPERATE AND MAINTAIN TOLL ROADS AND
6 TOLL BRIDGES AND TO CONTRACT WITH COMPANIES FOR SUCH PURPOSES; TO
7 AMEND SECTION 65-43-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
8 MISSISSIPPI TRANSPORTATION COMMISSION AND COUNTIES AND
9 MUNICIPALITIES TO GRANT CERTAIN RIGHTS IN LAND HELD BY SUCH
10 GOVERNMENTAL ENTITIES TO THE COMPANIES WITH WHICH THEY CONTRACT
11 FOR THE DESIGN, FINANCE, CONSTRUCTION, OPERATION AND MAINTENANCE
12 OF TOLL ROADS AND BRIDGES; TO EXCEPT CERTAIN SUCCESSOR CONTRACTS
13 ENTERED INTO WITH A COMPANY FROM THE REQUIREMENT THAT THE COMPANY
14 MUST PROVIDE FOR THE DESIGN AND CONSTRUCTION OF A NEW TOLL ROAD OR
15 TOLL BRIDGE PROJECT; TO PROVIDE THAT ANY RIGHT OR INTEREST IN LAND
16 RESULTING FROM A CONTRACT BY A GOVERNMENTAL ENTITY WITH A COMPANY
17 INVOLVING THE DESIGN, FINANCE, CONSTRUCTION, OPERATION AND/OR
18 MAINTENANCE OF A TOLL ROAD OR BRIDGE IS NOT SUCH A RIGHT, TITLE OR
19 INTEREST AS IS TAXABLE UNDER THE LAWS PROVIDING FOR AD VALOREM
20 TAXATION OF REAL PROPERTY; TO INCREASE FROM THIRTY YEARS TO FIFTY
21 YEARS THE MAXIMUM TERM OF ANY CONTRACT THAT A GOVERNMENTAL ENTITY
22 MAY ENTER INTO WITH A COMPANY FOR THE DESIGN, FINANCE,
23 CONSTRUCTION, OPERATION AND/OR MAINTENANCE OF A TOLL ROAD AND/OR
24 BRIDGE; TO CLARIFY THE AUTHORITY OF A GOVERNMENTAL ENTITY HAVING
25 JURISDICTION OVER A TOLL ROAD OR BRIDGE TO COLLECT TOLLS; TO
26 PROVIDE FOR THE DISTRIBUTION OF TOLL PROCEEDS IN CONTRACTS BETWEEN
27 THE TRANSPORTATION DEPARTMENT AND COMPANIES WHEN BONDS ARE NOT
28 ISSUED TO FUND SUCH PROJECTS; TO AMEND SECTION 63-3-501,
29 MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE MAXIMUM SPEED LIMIT OF
30 MOTOR VEHICLES ON TOLL ROADS; TO PROVIDE THAT IT SHALL BE UNLAWFUL
31 FOR THE DRIVER OF A VEHICLE TO FAIL OR REFUSE TO PAY A REQUIRED
32 TOLL ON A TOLL ROAD OR TOLL BRIDGE FACILITY AND TO PRESCRIBE
33 PENALTIES FOR VIOLATIONS THEREOF; TO PROVIDE A PROCEDURE FOR THE
34 COLLECTION OF TOLLS; TO AMEND SECTION 27-35-51, MISSISSIPPI CODE
35 OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO REQUIRE
36 MDOT TO SUBMIT REPORTS TO THE LEGISLATURE ON TOLL PROJECTS; AND
37 FOR RELATED PURPOSES.

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

39 **SECTION 1.** The following shall be codified as Section
40 65-43-2, Mississippi Code of 1972:

41 65-43-2. The Legislature finds and declares as a matter of
42 public policy that, for the benefit of the people of this state,



43 it is essential to foster, promote and provide public
44 infrastructure, including toll roads and bridges.

45 **SECTION 2.** Section 65-43-3, Mississippi Code of 1972, is
46 amended as follows:

47 65-43-3. (1) (a) In addition to and as an alternative to
48 any other authority granted by law, including, but not limited to,
49 Section 65-43-1, any governmental entities, as defined in Section
50 65-43-1, in their discretion, may contract, individually or
51 jointly with other governmental entities, with any persons,
52 corporations, partnerships or other businesses licensed to do
53 business in the State of Mississippi (hereinafter referred to as
54 "companies" or "company") for the purpose of designing, financing,
55 constructing, operating and maintaining one or more new toll roads
56 or toll bridges in the state for motor vehicle traffic, including
57 tollbooths and related facilities, at and along only those
58 locations where an alternate untolled route exists. An existing
59 road or any segment of an existing road shall not be part of a new
60 toll road, and the reconstruction or repair of an existing road
61 shall not be tolled. Such contracts may provide that the
62 governmental entities may grant certain rights (including, but not
63 limited to, the right to exclusively operate and maintain) in land
64 held by the governmental entities, whether in fee simple, as an
65 easement or other interest, * * * to a company for design,
66 construction, operation and/or maintenance of roadways, highways
67 or bridges for motor vehicle traffic, tollbooths and related
68 facilities. All such highways, pavement, bridges,
69 drainage-related structures and other infrastructure comprising
70 the projects shall be built and maintained in accordance with not
71 less than the minimum highway design, construction and maintenance
72 standards established by the contracting governmental entity for
73 such highways, infrastructure and facilities. The contracting
74 governmental entity shall conduct periodic inspections of any such
75 project throughout the term of the contract to ensure compliance



76 by the company. Failure of a company to comply with minimum
77 standards established for the project by the contracting
78 governmental entity shall constitute a breach and shall subject
79 the company to liability on its bond or security or to rescission
80 of the contract in accordance with the terms and provisions of the
81 contract.

82 (b) A governmental entity may not enter into a contract
83 under this section with (i) any company designated as a foreign
84 terrorist organization pursuant to Presidential Executive Order
85 13224 or Section 302 of the federal Antiterrorism or Effective
86 Death Penalty Act of 1996, (ii) any company under the control of a
87 so-designated foreign terrorist organization, or (iii) any company
88 controlled by a foreign person if to do so would violate any order
89 of the Committee on Foreign Investment in the United States under
90 the Foreign Investment and National Security Act of 2007, H.R.
91 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These
92 requirements also shall apply to any proposed transfer or
93 assignment of any contract entered into under this section.

94 (2) (a) Every contract entered into by a governmental
95 entity under this section (except for contracts entered into with
96 another governmental entity or following termination of a
97 predecessor contract entered into under this section), at a
98 minimum, must provide for the design and construction of a new
99 toll road or toll bridge project and may also provide for the
100 financing, acquisition, lease, maintenance, and/or operation of a
101 new toll road or toll bridge project.

102 (b) If a governmental entity enters into a contract
103 with a company as authorized by this section, such governmental
104 entity shall use a competitive procurement process that provides
105 the best value for the governmental entity. The governmental
106 entity may accept unsolicited proposals for a proposed new toll
107 road or solicit proposals in accordance with this section.



108 (c) A governmental entity shall publish a request for
109 competing proposals and qualifications in a newspaper having a
110 general circulation within such governmental entity or, if the
111 governmental entity is the Mississippi Transportation Commission,
112 shall publish the request in a newspaper having a general
113 circulation at the seat of government and, if the governmental
114 entity has a Web site, shall post the request on such Web site.
115 Such request shall include the criteria used to evaluate the
116 proposals, the relative weight given to the criteria and a
117 deadline by which proposals must be received. At a minimum, a
118 proposal submitted in response to such request must contain:

119 (i) Information regarding the proposed project
120 location, scope and limits;

121 (ii) Information regarding the company's
122 qualifications, experience, technical competence, and capability
123 to develop the project; and

124 (iii) A proposed financial plan for the proposed
125 project that includes, at a minimum, the projected project costs,
126 projected revenues and proposed sources of funds.

127 A governmental entity may interview a company submitting a
128 solicited or unsolicited proposal. In evaluating such proposals,
129 a governmental entity may solicit input from other sources
130 regarding such proposals.

131 (d) The governmental entity shall rank each proposal
132 based on the criteria described in the request for proposals and
133 select the company whose proposal offers the best value to the
134 governmental entity. The governmental entity may enter into
135 discussions with the company whose proposal offers the best value.
136 If at any point during the discussions it appears to the
137 governmental entity that the highest ranking proposal will not
138 provide the governmental entity with the overall best value, the
139 governmental entity may enter into discussions with the company
140 submitting the next highest ranking proposal.



141 (e) The governmental entity may withdraw a request for
142 competing proposals and qualifications at any time and for any
143 reason and may reject any one (1) or all proposals. In either
144 case, the governmental entity may then publish a new request for
145 competing proposals and qualifications. A governmental entity
146 shall not be required to pay any company for the costs of
147 preparing or submitting proposals.

148 (f) The governmental entity shall prescribe the general
149 form of a contract authorized by this section and may include any
150 matter the governmental entity considers advantageous to it. The
151 governmental entity and the company shall negotiate the specific
152 terms of the contract.

153 (g) Except as provided under this subsection (2), no
154 such contract entered into hereunder shall be subject to the
155 provisions of Section 65-1-8, Section 31-7-13 or any other public
156 bid or public procurement laws of this state.

157 (h) The transportation commission shall evaluate each
158 proposal based on the criteria established by the commission. The
159 Transportation Commission shall approve or disapprove a proposal
160 within ninety (90) days after receipt of the proposal. If the
161 Transportation Commission needs additional information, it may
162 delay approval for an additional sixty (60) days.

163 (i) Any right or interest arising under or as a result
164 of any contract entered into under this section by a governmental
165 entity with a company involving a franchise, license agreement,
166 concession agreement, operating agreement, construction agreement,
167 design agreement and/or any other similar contractual arrangement
168 in connection with the financing, design, construction,
169 acquisition, maintenance and/or operation of a toll road or toll
170 bridge project shall not constitute any right, title or interest
171 in land or other real property or real estate or in personal
172 property within the meaning of Article 1, Chapter 35, Title 27,
173 Mississippi Code of 1972, in the toll road or toll bridge project,



174 including tollbooths and related toll facilities (including, but
175 not limited to, land, pavement, drainage-related structures, and
176 other infrastructure and property related thereto) in which a
177 governmental entity is the title owner of such property and/or
178 holder of easements, rights-of-way and/or other interests for such
179 toll road or toll bridge project.

180 (3) Every contract entered into by a governmental entity
181 under this section shall require a company to enter into bond and
182 provide such security as the governmental entity determines may be
183 necessary or advisable to ensure timely completion and proper
184 execution and performance of the contract. The term of the
185 contract shall not exceed fifty (50) years and shall not be
186 extended or renewed. The governmental entities are authorized to
187 acquire such property or interests in property as may be
188 necessary, by gift, purchase or eminent domain, for construction
189 and maintenance of the highways or bridges built pursuant to
190 contracts entered into under this section. Upon expiration,
191 termination or rescission of the contract, any and all rights
192 and/or interests that the company may have in the land,
193 infrastructure, facilities or other improvements to the property
194 subject to contract shall terminate and automatically, by
195 operation of law, be returned or conveyed to and vested in the
196 State of Mississippi or the contracting governmental entity. Upon
197 termination, expiration or rescission of the contract, the
198 collection of tolls shall cease.

199 (4) The governmental entity having jurisdiction over the
200 toll highway or bridge may, after notice and public hearing,
201 establish, charge and collect motor vehicle operator tolls for use
202 of the highway or bridge and its facilities. Alternatively,
203 during the term of any contract entered into under this section,
204 the company may establish, charge and collect motor vehicle
205 operators tolls for use of the highway or bridge and its
206 facilities. The amount of such tolls, and any modification



207 thereto, shall be subject to approval by the contracting
208 governmental entity after notice and public hearing. All such
209 contracts entered into with the Mississippi Transportation
210 Commission may require a company to pay a percentage or other
211 specified portion of all tolls collected to the Mississippi
212 Department of Transportation. If bonds are issued pursuant to
213 Section 65-43-13, then all such tolls paid to the department shall
214 be deposited into the special bond sinking fund under Section
215 65-43-11, and may be expended only as authorized by the
216 Legislature. If bonds are not issued pursuant to Section
217 65-43-13, then all such tolls paid to the department shall be
218 deposited into the department's highway fund to be used by the
219 department for the construction and maintenance of highways.

220 (5) If a toll road is a designated evacuation route and a
221 declaration of a state of emergency is issued by the President of
222 the United States or by the Governor, the collection of tolls
223 shall cease until the termination of the state of emergency.

224 (6) All statutes of this state relating to vehicle and
225 traffic regulation and control shall be applicable to motor
226 vehicles operated upon highways and bridges constructed under this
227 section and shall be enforceable by the Mississippi Department of
228 Public Safety, the Mississippi Highway Safety Patrol or any other
229 law enforcement agency having jurisdiction over such highways and
230 bridges.

231 (7) The State of Mississippi, the Mississippi Transportation
232 Commission, the Mississippi Department of Transportation,
233 counties, municipalities or any other agency or political
234 subdivision, or any officer or employee thereof, shall not be
235 liable for any tortious act or omission arising out of the
236 construction, maintenance or operation of any highway or bridge
237 project under the provisions of this section where the act or
238 omission occurs during the term of any such contract entered into



239 by the Mississippi Transportation Commission or other governmental
240 entity and a company.

241 **SECTION 3.** Section 63-3-501, Mississippi Code of 1972, is
242 amended as follows:

243 63-3-501. Except as otherwise provided in this section, no
244 person shall operate a vehicle on the highways of the state at a
245 speed greater than sixty-five (65) miles per hour.

246 The Mississippi Transportation Commission may, in its
247 discretion, by order duly entered on its minutes, increase the
248 speed restrictions on any portion of the Interstate Highway System
249 provided such speed restrictions are not increased to more than
250 seventy (70) miles per hour. The commission may likewise increase
251 the speed limit to seventy (70) miles per hour on controlled
252 access highways with four (4) or more lanes.

253 A governmental entity that operates and maintains a toll road
254 as authorized under Section 65-43-1, or that contracts with some
255 person or business to operate and maintain a toll road as
256 authorized under Section 65-43-3, may establish the maximum speed
257 for motor vehicles operated on any such toll road; however, the
258 maximum speed so established may not exceed eighty (80) miles per
259 hour.

260 **SECTION 4.** Section 27-35-51, Mississippi Code of 1972, is
261 amended as follows:

262 27-35-51. (1) Except as otherwise provided in subsection
263 (2) of this section, whenever any buildings, improvements or
264 structures, mineral, gas, oil, timber or similar interests in real
265 estate, including building permits or reservations, are owned
266 separately and apart from and independently of the rights and
267 interests owned in the surface of such real estate, or when any
268 person reserves any right or interest, or has any leasehold in the
269 elements above enumerated, all of such interests shall be assessed
270 and taxed separately from such surface rights and interests in
271 said real estate, and shall be sold for taxes in the same manner



272 and with the same effect as other interests in real estate are
273 sold for taxes. All interests in real estate herein enumerated
274 shall be returned to the tax assessor within the same time and in
275 the same manner as the owners of land are now required by law to
276 list lands for assessment and taxation and under like penalties.
277 The tax assessor shall enter the assessment of the interests
278 herein enumerated upon the assessment roll by entering the same
279 upon the next succeeding line or lines of the roll following the
280 assessment of the surface owner, the name of the owner and the
281 name of the interest, and by placing the value in the appropriate
282 column or columns on the roll; or the assessor may enter the
283 assessment of any or all of such interests upon a page or pages in
284 the land roll following the assessment of the lands of the county,
285 and the value of all such interests shall be included in the
286 recapitulation of the roll. And the value of said interest or
287 interests shall be determined and fixed in the same manner and by
288 the same officials now required by law to value and assess
289 property for taxation.

290 (2) Pursuant to Section 65-43-3(2)(i), any contract entered
291 into under Section 65-43-3 by a governmental entity, as defined in
292 Section 65-43-1, with a company as defined in Section 65-43-3(1),
293 involving a franchise, license agreement, concession agreement,
294 operating agreement, construction agreement, design agreement
295 and/or any other similar contractual arrangement in connection
296 with the financing, design, construction, acquisition, maintenance
297 and/or operation of a toll road or toll bridge project pursuant to
298 Section 65-43-3, shall not constitute any right, title or interest
299 in land or other real property or real estate or in personal
300 property separate and apart and independent of the rights and
301 interests of the governmental entity for purposes of subsection
302 (1) of this section, in the toll road or toll bridge project,
303 including tollbooths and related toll facilities, including, but
304 not limited to, land, pavement, drainage-related structures, and



305 other infrastructure and property related thereto in which a
306 governmental entity is the title owner of such property and/or
307 holder of easements, rights-of-way and/or other interests for such
308 toll road or toll bridge project.

309 **SECTION 5.** The following words and phrases shall have the
310 meanings ascribed herein unless the context clearly indicates
311 otherwise, as used in Sections 5 through 13 of House Bill No. 3,
312 2008 First Extraordinary Session:

313 (a) "Toll facility operator" means any private company
314 contracting with a governmental entity to collect tolls or fees
315 for the use of any toll road or toll bridge as authorized under
316 Section 65-43-3;

317 (b) "Processing agency" means a governmental entity, or
318 a toll facility operator designated by any governmental entity,
319 responsible for the processing of the notices of toll evasions and
320 notices of delinquent toll evasions and penalties. A processing
321 agency may include a public agency or private vendor with which
322 any governmental entity contracts for the processing of notices of
323 toll evasions and notices of delinquent toll evasions;

324 (c) "Toll facility" means any road or bridge for which
325 tolls or fees are charged for the use thereof.

326 **SECTION 6.** (1) A person may not use any toll facility
327 without payment of tolls, except as specifically provided by
328 statute, ordinance, regulation or rule of a governing entity.

329 (2) If a vehicle is found by automated devices, visual
330 observation, or otherwise to have evaded tolls on any toll
331 facility, the processing agency shall, within thirty (30) days of
332 the violation, forward to the registered owner of the vehicle
333 involved in the violation, by certified mail, return receipt
334 requested, or by personal delivery, a notice of toll evasion
335 violation setting forth the violation, including reference to the
336 statute, ordinance, regulation or rule violated, the approximate
337 time and location of the violation and the amount of the toll owed



338 by the violator. Included with the notice of toll evasion
339 violation shall be an affidavit of nonliability that complies with
340 the requirements of Section 10 of House Bill No. 3, 2008 First
341 Extraordinary Session. In the case of joint ownership of a motor
342 vehicle, the notice must be mailed to the first name appearing on
343 the registration, unless the first name is a business
344 organization, in which case the second name appearing on the
345 registration may be used. Mailing the notice to the address
346 provided for notice or personal delivery constitutes legal
347 notification to the violator. If accurate information concerning
348 the identity and address of the registered owner of the vehicle is
349 not available to the processing agency within thirty (30) days of
350 the violation, the processing agency shall have an additional
351 forty-five (45) calendar days to obtain such information and
352 forward the notice of toll evasion violation. If after ninety
353 (90) calendar days of the violation the processing agency has not
354 obtained accurate information concerning the identity and address
355 of the registered owner of the vehicle, the processing agency may
356 publish the notice of the toll evasion for two (2) weeks in a
357 newspaper having general circulation in the county of the
358 registered owner's last known residence. This publication shall
359 constitute legal notification to the violator. The notice of toll
360 evasion violation shall also set forth the following:

- 361 (a) The vehicle license plate number;
- 362 (b) If practicable, the registration expiration date
363 and the make of the vehicle;
- 364 (c) A clear and concise explanation of the procedures
365 for contesting the violation and appealing an adverse decision.

366 (3) A violation of subsection (1) of this section is an
367 infraction subject to a penalty established pursuant to Section 7
368 of House Bill No. 3, 2008 First Extraordinary Session. The
369 collection of civil penalties shall be governed by the civil



370 administrative procedures set forth in Section 8 of House Bill No.
371 3, 2008 First Extraordinary Session.

372 **SECTION 7.** (1) The notice of toll evasion violation shall
373 be accompanied by a written notice of the toll evasion penalty due
374 for that violation, the address of the person authorized to
375 receive payment of the toll evasion penalty, an affidavit of
376 nonliability and a statement that payment of the toll evasion
377 penalty for the toll evasion violation may be sent through the
378 mail.

379 (2) The schedule of toll evasion penalties for toll evasion
380 violations shall be established by the governmental entity having
381 jurisdiction over the toll road, but shall not exceed the amount
382 of the unpaid toll plus One Hundred Dollars (\$100.00) per
383 violation.

384 (3) Toll evasion penalties under this section may be
385 collected as civil penalties.

386 (4) If the amount of the unpaid toll, along with any
387 applicable toll evasion penalty, is received by the person
388 authorized to receive the deposit of these fees and there is no
389 contest as to that toll evasion violation pursuant to Sections 5
390 through 11 of House Bill No. 3, 2008 First Extraordinary Session,
391 the proceedings shall terminate.

392 (5) The amount of the unpaid toll, and any applicable
393 penalties, shall be retained by or remitted to the governmental
394 entity having jurisdiction over the toll road.

395 **SECTION 8.** The governmental entity shall establish a system
396 of civil administrative adjudication to adjudicate the contest of
397 any alleged instances of a vehicle's operation on a toll facility
398 without the required toll having been paid, such system shall
399 include a schedule of administrative fees and charges due in
400 addition to the unpaid toll and/or penalty.

401 **SECTION 9.** (1) Any person aggrieved by a final decision of
402 the adjudicative process set forth in Section 8 of House Bill No.



403 3, 2008 First Extraordinary Session, may appeal such decision
404 within ten (10) days from the date of the postmark appearing on
405 the notice of final decision mailed to the contestant. The appeal
406 shall be initiated by the filing of a written notice of appeal
407 accompanied by a bill of exceptions which shall embody the facts,
408 order and decision of the adjudicative body and which shall be
409 signed by the party executing the final decision appealed from.
410 The contestant shall file the notice of appeal and bill of
411 exceptions in the circuit court of the county in which the alleged
412 violation took place and the court shall hear and determine the
413 same on the case as presented by the bill of exceptions as an
414 appellate court and shall affirm or reverse the final decision. A
415 copy of that notice and bill of exceptions must be provided to all
416 parties or their attorneys of record and the lower authority whose
417 order or judgment is being appealed. A certificate of service
418 must accompany the written notice of appeal. If the decision be
419 reversed, the circuit court shall render such order or judgment
420 and certify same to that body; and the costs shall be awarded as
421 in other cases. The contents of the adjudicative body's official
422 file in the case, including a copy of the notice of toll evasion
423 violation, shall be made a part of the record on appeal and shall
424 constitute prima facie evidence of the facts stated therein. A
425 copy of the written notice of appeal shall be served by the
426 contestant by certified mail, return receipt requested, upon the
427 adjudicative body by service upon the party executing the final
428 decision.

429 (2) If no written notice of appeal of the final decision is
430 filed within the period set forth in subsection (1) of this
431 section, the decision shall be deemed final.

432 (3) If the toll evasion penalty, along with the amount of
433 the unpaid toll, have not been paid and the decision resulting
434 from the judicial review of the final decision is adverse to the



435 contestant, the processing agency may, promptly after the decision
436 becomes final, proceed to collect the penalty.

437 **SECTION 10.** (1) If the payment of the amount of the unpaid
438 toll, and any applicable toll evasion penalty, is not received by
439 the person authorized to receive payment of these fees by the time
440 and date fixed for appearance on the notice of toll evasion
441 violation, the processing agency shall deliver to the registered
442 owner a final notice of toll evasion violation.

443 (2) Delivery of a final notice of toll evasion violation
444 under this section shall be made by certified mail, return receipt
445 requested, addressed to the registered owner, or by personal
446 delivery. If delivery by certified mail or personal delivery is
447 refused by the registered owner, then the processing agency may
448 publish the notice of delinquent toll evasion for two (2) weeks in
449 a newspaper having a general circulation in the county of the
450 registered owner's last known residence.

451 (3) The final notice of toll evasion violation shall contain
452 the information specified in Section 6 of House Bill No. 3, 2008
453 First Extraordinary Session, and shall also contain a notice to
454 the registered owner that he must either:

455 (a) Pay the amount of the unpaid toll, and any
456 applicable penalty, or

457 (b) Provide proof of payment of the unpaid toll, and
458 any applicable penalty or an affidavit of nonliability.

459 (4) If the registered owner fails to pay the toll evasion
460 penalty, as required, the registered owner shall be deemed
461 responsible for the violation and the amount of the unpaid toll
462 and any administrative fees or charges which shall be due to the
463 governmental entity by the registered owner.

464 **SECTION 11.** (1) If the affidavit of nonliability is
465 returned to the governmental entity within thirty (30) days of the
466 mailing of the notice of toll evasion violation, together with the
467 proof of a written rental agreement or lease between a bona fide



468 renting or leasing company and its customer which identifies the
469 rentee or lessee and provides the driver's license number, name,
470 and address of the rentee or lessee, the processing agency shall
471 mail, by certified mail, return receipt requested, to the rentee
472 or lessee identified in the affidavit of nonliability a final
473 notice of toll evasion violation.

474 (2) If the affidavit of nonliability is returned with
475 evidence that the registered owner served has made a bona fide
476 sale or transfer of the vehicle and has delivered possession
477 thereof to the purchaser prior to the date of the alleged
478 violation, the processing agency shall cancel the notice of toll
479 evasion violation with respect to that registered owner and the
480 processing agency shall mail, by certified mail, return receipt
481 requested, to the purchaser identified in the affidavit of
482 nonliability a final notice of toll evasion violation. If payment
483 is not received within fifteen (15) days of the mailing of the
484 final notice of toll evasion violation, the processing agency may
485 proceed against the purchaser identified pursuant to Section 6 of
486 House Bill No. 3, 2008 First Extraordinary Session.

487 **SECTION 12.** The processing agency may contract with a
488 collection agency to collect unpaid toll evasion penalties, fees
489 and charges.

490 **SECTION 13.** The following shall be codified as Section
491 65-43-6, Mississippi Code of 1972:

492 65-43-6. Any driver of a vehicle who fails or refuses to pay
493 a required toll on a toll road or toll bridge facility in the
494 state shall be guilty of a misdemeanor and, upon conviction, shall
495 be fined not more than Five Hundred Dollars (\$500.00), or
496 imprisoned not more than six (6) months, or both. In addition,
497 the court shall order a person convicted of violating this
498 section, to make restitution to the toll facility operator in an
499 amount equal to the dollar amount of the toll that such person was
500 required but failed or refused to pay. Any sheriff, municipal



501 police officer, State Highway Patrol officer, law enforcement
502 officer of the Department of Public Safety or certified law
503 enforcement officer of the Mississippi Department of
504 Transportation may issue a traffic ticket for such violation
505 within the limits of their respective jurisdictions in accordance
506 with Section 63-9-21.

507 **SECTION 14.** On or before January 10 of each year the
508 Mississippi Transportation Commission shall submit a detailed
509 report to the Chairman of the Senate Highways and Transportation
510 Committee and the Chairman of the House Transportation Committee
511 describing and evaluating the financial and operational
512 performance by a company with which the commission has contracted
513 under this act of the company's duties and responsibilities
514 regarding the construction, operation and maintenance of a toll
515 road or toll bridge project.

516 **SECTION 15.** This act shall take effect and be in force from
517 and after its passage.

