

By: Senator(s) Parker

To: Highways and
Transportation

SENATE BILL NO. 2225

1 AN ACT TO AMEND SECTION 63-3-103, MISSISSIPPI CODE OF 1972,
 2 TO DEFINE AUTOCYCLES; TO AMEND SECTION 63-1-6, MISSISSIPPI CODE OF
 3 1972, TO EXEMPT AUTOCYCLES FOR THE REQUIREMENT OF A MOTORCYCLE
 4 ENDORSEMENT LICENSE; TO AMEND SECTION 63-2-1, MISSISSIPPI CODE OF
 5 1972, TO REQUIRE THE USE OF SEAT BELTS IN AUTOCYCLES; TO AMEND
 6 SECTION 63-7-64, MISSISSIPPI CODE OF 1972, TO EXEMPT AUTOCYCLES
 7 FROM THE MOTORCYCLE HELMET REQUIREMENT; TO AMEND SECTION 63-15-3,
 8 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT AUTOCYCLES ARE SUBJECT
 9 TO THE MISSISSIPPI MOTOR VEHICLE SAFETY RESPONSIBLY LAW; TO AMEND
 10 SECTION 63-17-55, MISSISSIPPI CODE OF 1972, TO INCLUDE AUTOCYCLES
 11 IN THE MISSISSIPPI MOTOR VEHICLE COMMISSION LAW; TO AMEND SECTION
 12 63-17-155, MISSISSIPPI CODE OF 1972, TO INCLUDE AUTOCYCLES IN THE
 13 MOTOR VEHICLE WARRANTY ENFORCEMENT ACT; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 63-3-103, Mississippi Code of 1972, is
 16 amended as follows:

17 63-3-103. (a) "Vehicle" means every device in, upon or by
 18 which any person or property is or may be transported or drawn
 19 upon a highway, except devices used exclusively upon stationary
 20 rails or tracks.

21 (b) "Motor vehicle" means every vehicle which is
 22 self-propelled and every vehicle which is propelled by electric
 23 power obtained from overhead trolley wires, but not operated upon



24 rails. The term "motor vehicle" shall not include electric
25 personal assistive mobility devices.

26 (c) "Motorcycle" means every motor vehicle having a saddle
27 for the use of the rider and designed to travel on not more than
28 three (3) wheels in contact with the ground * * * excluding * * *
29 autocycles and tractors.

30 (d) "Authorized emergency vehicle" means every vehicle of
31 the fire department (fire patrol), every police vehicle, every 911
32 Emergency Communications District vehicle, every such ambulance
33 and special use EMS vehicle as defined in Section 41-59-3, every
34 Mississippi Emergency Management Agency vehicle as is designated
35 or authorized by the Executive Director of MEMA and every
36 emergency vehicle of municipal departments or public service
37 corporations as is designated or authorized by the commission or
38 the chief of police of an incorporated city.

39 (e) "School bus" means every motor vehicle operated for the
40 transportation of children to or from any school, provided same is
41 plainly marked "School Bus" on the front and rear thereof and
42 meets the requirements of the State Board of Education as
43 authorized under Section 37-41-1.

44 (f) "Recreational vehicle" means a vehicular type unit
45 primarily designed as temporary living quarters for recreational,
46 camping or travel use, which either has its own motive power or is
47 mounted on or drawn by another vehicle and includes travel



48 trailers, fifth-wheel trailers, camping trailers, truck campers
49 and motor homes.

50 (g) "Motor home" means a motor vehicle that is designed and
51 constructed primarily to provide temporary living quarters for
52 recreational, camping or travel use.

53 (h) "Electric assistive mobility device" means a
54 self-balancing two-tandem wheeled device, designed to transport
55 only one (1) person, with an electric propulsion system that
56 limits the maximum speed of the device to fifteen (15) miles per
57 hour.

58 (i) "Autocycle" means a motor vehicle with three (3) wheels
59 that is completely enclosed with a roll cage, automotive controls,
60 air bags and seat belts.

61 **SECTION 2.** Section 63-1-6, Mississippi Code of 1972, is
62 amended as follows:

63 63-1-6. (1) Unless exempted under Section 63-1-7, no person
64 shall drive or operate a motorcycle upon the highways of the State
65 of Mississippi without first securing an operator's license with a
66 motorcycle endorsement upon it.

67 (2) (a) A motorcycle endorsement may be issued to any
68 person who holds a valid Mississippi driver's license and meets
69 the other requirements for a motorcycle endorsement contained in
70 this chapter.

71 (b) Every applicant for a motorcycle endorsement shall
72 first obtain a temporary motorcycle permit, successfully complete



73 the examination provided in Section 63-1-33, and pay the temporary
74 motorcycle permit fee and examination fee prescribed in Section
75 63-1-43. Applicants for a temporary motorcycle permit shall:

76 (i) Be at least fifteen (15) years of age;

77 (ii) Operate a motorcycle only under the direct
78 supervision of a person at least twenty-one (21) years of age who
79 possesses either a valid driver's or operator's license with a
80 motorcycle endorsement or a valid restricted motorcycle operator's
81 license;

82 (iii) Be prohibited from transporting a passenger
83 on a motorcycle;

84 (iv) Be prohibited from operating a motorcycle
85 upon any controlled access highway; and

86 (v) Be prohibited from operating a motorcycle
87 during the hours of 6:00 p.m. through 6:00 a.m.

88 Temporary motorcycle driving permits shall be valid for the
89 same period of time and may be renewed upon the same conditions as
90 regular learner's permits issued under Section 63-1-21.

91 (3) The requirement of a motorcycle endorsement does not
92 apply to autocycles as defined in Section 63-3-103.

93 **SECTION 3.** Section 63-2-1, Mississippi Code of 1972, is
94 amended as follows:

95 63-2-1. (1) When a passenger motor vehicle is operated in
96 forward motion on a public road, street or highway within this
97 state, every operator, every front-seat passenger and every child



98 under seven (7) years of age who is not required to be protected
99 by the use of a child passenger restraint device or system or a
100 belt positioning booster seat system under the provisions of
101 Sections 63-7-301 through 63-7-311, regardless of the seat that
102 the child occupies, shall wear a properly fastened safety seat
103 belt system, required to be installed in the vehicle when
104 manufactured pursuant to Federal Motor Vehicle Safety Standard
105 208.

106 (2) "Passenger motor vehicle" for purposes of this chapter
107 means a motor vehicle designed to carry fifteen (15) or fewer
108 passengers, including the driver, and including autocycles as
109 defined in Section 63-3-103 but * * * not * * * including
110 motorcycles, mopeds, all-terrain vehicles or trailers.

111 (3) This section shall not apply to:

112 (a) Vehicles which may be registered for "farm" use,
113 including "implements of husbandry" as defined in Section
114 63-21-5(d), and "farm tractors" as defined in Section 63-3-105(a);

115 (b) An operator or passenger possessing a written
116 verification from a licensed physician that he is unable to wear a
117 safety belt system for medical reasons;

118 (c) A passenger car operated by a rural letter carrier
119 of the United States Postal Service or by a utility meter reader
120 while on duty; or

121 (d) Buses.



122 **SECTION 4.** Section 63-7-64, Mississippi Code of 1972, is
123 amended as follows:

124 63-7-64. (1) No person shall operate or ride upon any
125 motorcycle or motor scooter upon the public roads or highways of
126 this state unless such person is wearing on his or her head a
127 crash helmet that complies with minimum guidelines established by
128 the National Highway Traffic Safety Administration pursuant to
129 federal Motor Vehicle Safety Standard No. 218 (49 CFR 571.218).
130 Violation of this section shall be deemed a violation of the
131 traffic regulations and rules of the road and punishable as
132 provided by Section 63-9-11. This section shall not apply to
133 persons riding in a parade, at a speed not to exceed thirty (30)
134 miles per hour, if the person is eighteen (18) years of age or
135 older.

136 (2) This section does not apply to autocycles as defined in
137 Section 63-3-103.

138 **SECTION 5.** Section 63-15-3, Mississippi Code of 1972, is
139 amended as follows:

140 63-15-3. The following words and phrases, when used in this
141 chapter, shall, for the purposes of this chapter, have the
142 meanings respectively ascribed to them in this section, except in
143 those instances where the context clearly indicates a different
144 meaning:

145 (a) "Highway" means the entire width between property
146 lines of any road, street, way, thoroughfare or bridge in the



147 State of Mississippi not privately owned or controlled, when any
148 part thereof is open to the public for vehicular traffic and over
149 which the state has legislative jurisdiction under its police
150 power.

151 (b) "Judgment" means any judgment which shall have
152 become final by expiration, without appeal, of the time within
153 which an appeal might have been perfected, or by final affirmation
154 on appeal, rendered by a court of competent jurisdiction of any
155 state or of the United States, upon a cause of action arising out
156 of the ownership, maintenance or use of any motor vehicle, for
157 damages, including damages for care and loss of services, because
158 of bodily injury to or death of any person, or for damages because
159 of injury to or destruction of property, including the loss of use
160 thereof, or upon a cause of action on an agreement of settlement
161 for such damages.

162 (c) "Motor vehicle" means every self-propelled vehicle
163 (other than traction engines, road rollers and graders, tractor
164 cranes, power shovels, well drillers, implements of husbandry and
165 electric personal assistive mobility device as defined in Section
166 63-3-103) which is designed for use upon a highway, including
167 trailers and semitrailers designed for use with such
168 vehicles, * * * every vehicle which is propelled by electric power
169 obtained from overhead wires but not operated upon rails, and
170 autocycles as defined in Section 63-3-103.



171 For purposes of this definition, "implements of husbandry"
172 shall not include trucks, pickup trucks, trailers and semitrailers
173 designed for use with such trucks and pickup trucks.

174 (d) "License" means any driver's, operator's,
175 commercial operator's, or chauffeur's license, temporary
176 instruction permit or temporary license, or restricted license,
177 issued under the laws of the State of Mississippi pertaining to
178 the licensing of persons to operate motor vehicles.

179 (e) "Nonresident" means every person who is not a
180 resident of the State of Mississippi.

181 (f) "Nonresident's operating privilege" means the
182 privilege conferred upon a nonresident by the laws of Mississippi
183 pertaining to the operation by him of a motor vehicle, or the use
184 of a motor vehicle owned by him, in the State of Mississippi.

185 (g) "Operator" means every person who is in actual
186 physical control of a motor vehicle.

187 (h) "Owner" means a person who holds the legal title of
188 a motor vehicle; in the event a motor vehicle is the subject of an
189 agreement for the conditional sale or lease thereof with the right
190 of purchase upon performance of the conditions stated in the
191 agreement and with an immediate right of possession vested in the
192 conditional vendee or lessee or in the event a mortgagor of a
193 vehicle is entitled to possession, then such conditional vendee or
194 lessee or mortgagor shall be deemed the owner for the purpose of
195 this chapter.



196 (i) "Person" means every natural person, firm,
197 copartnership, association or corporation.

198 (j) "Proof of financial responsibility" means proof of
199 ability to respond in damages for liability, on account of
200 accidents occurring subsequent to the effective date of said
201 proof, arising out of the ownership, maintenance or use of a motor
202 vehicle, in the amount of Twenty-five Thousand Dollars
203 (\$25,000.00) because of bodily injury to or death of one (1)
204 person in any one (1) accident, and subject to said limit for one
205 (1) person, in the amount of Fifty Thousand Dollars (\$50,000.00)
206 because of bodily injury to or death of two (2) or more persons in
207 any one (1) accident, and in the amount of Twenty-five Thousand
208 Dollars (\$25,000.00) because of injury to or destruction of
209 property of others in any one (1) accident.

210 (k) "Registration" means a certificate or certificates
211 and registration plates issued under the laws of this state
212 pertaining to the registration of motor vehicles.

213 (l) "Department" means the Department of Public Safety
214 of the State of Mississippi, acting directly or through its
215 authorized officers and agents, except in such sections of this
216 chapter in which some other state department is specifically
217 named.

218 (m) "State" means any state, territory or possession of
219 the United States, the District of Columbia, or any province of
220 the Dominion of Canada.



221 **SECTION 6.** Section 63-17-55, Mississippi Code of 1972, is
222 amended as follows:

223 63-17-55. The following words, terms and phrases, when used
224 in the Mississippi Motor Vehicle Commission Law, shall have the
225 meanings respectively ascribed to them in this section, except
226 where the context clearly indicates a different meaning:

227 (a) "Motor vehicle" means any motor-driven vehicle of
228 the sort and kind required to have a Mississippi road or bridge
229 privilege license, and shall include, but not be limited to,
230 autocycles and motorcycles. "Motor vehicle" shall also mean an
231 engine, transmission, or rear axle manufactured for installation
232 in a vehicle having as its primary purpose the transport of person
233 or persons or property on a public highway and having a gross
234 vehicle weight rating of more than sixteen thousand (16,000)
235 pounds, whether or not attached to a vehicle chassis.

236 (b) "Motor vehicle dealer" means any person, firm,
237 partnership, copartnership, association, corporation, trust or
238 legal entity, not excluded by paragraph (c) of this section, who
239 holds a bona fide contract or franchise in effect with a
240 manufacturer, distributor or wholesaler of new motor vehicles, and
241 a license under the provisions of the Mississippi Motor Vehicle
242 Commission Law, and such duly franchised and licensed motor
243 vehicle dealers shall be the sole and only persons, firms,
244 partnerships, copartnerships, associations, corporations, trusts



245 or legal entities entitled to sell and publicly or otherwise
246 solicit and advertise for sale new motor vehicles as such.

247 (c) The term "motor vehicle dealer" does not include:

248 (i) Receivers, trustees, administrators,
249 executors, guardians or other persons appointed by or acting under
250 judgment, decree or order of any court;

251 (ii) Public officers while performing their duties
252 as such officers;

253 (iii) Employees of persons, corporations or
254 associations enumerated in paragraph (c) (i) of this section when
255 engaged in the specific performance of their duties as such
256 employees; or

257 (iv) A motor vehicle manufacturer operating a
258 project as defined in Section 57-75-5(f) (iv)1; and the provisions
259 of the Mississippi Motor Vehicle Commission Law shall not apply
260 to:

261 1. a. Any lease by such a motor vehicle
262 manufacturer of three (3) or fewer motor vehicles at any one time
263 and related vehicle maintenance, of any line of vehicle produced
264 by the manufacturer or its subsidiaries, to any one (1) employee
265 of the motor vehicle manufacturer on a direct basis; or

266 b. Any sale or other disposition of such
267 motor vehicles by the motor vehicle manufacturer at the end of a
268 lease through direct sales to employees of the manufacturer or



269 through an open auction or auction limited to dealers of the
270 manufacturer's vehicle line or its subsidiaries' vehicle lines; or

271 2. Any sale or other disposition by such a
272 motor vehicle manufacturer of motor vehicles for which the
273 manufacturer obtained distinguishing number tags under Section
274 27-19-309(8).

275 (d) "New motor vehicle" means a motor vehicle which has
276 not been previously sold to any person except a distributor or
277 wholesaler or motor vehicle dealer for resale.

278 (e) "Ultimate purchaser" means, with respect to any new
279 motor vehicle, the first person, other than a motor vehicle dealer
280 purchasing in his capacity as such dealer, who in good-faith
281 purchases such new motor vehicle for purposes other than for
282 resale.

283 (f) "Retail sale" or "sale at retail" means the act or
284 attempted act of selling, bartering, exchanging or otherwise
285 disposing of a new motor vehicle to an ultimate purchaser for use
286 as a consumer.

287 (g) "Motor vehicle salesman" means any person who is
288 employed as a salesman by a motor vehicle dealer whose duties
289 include the selling or offering for sale of new motor vehicles.

290 (h) "Commission" means the Mississippi Motor Vehicle
291 Commission.



292 (i) "Manufacturer" means any person, firm, association,
293 corporation or trust, resident or nonresident, who manufactures or
294 assembles new motor vehicles.

295 (j) "Distributor" or "wholesaler" means any person,
296 firm, association, corporation or trust, resident or nonresident,
297 who, in whole or in part, sells or distributes new motor vehicles
298 to motor vehicle dealers, or who maintains distributor
299 representatives.

300 (k) "Factory branch" means a branch or division office
301 maintained by a person, firm, association, corporation or trust
302 who manufactures or assembles new motor vehicles for sale to
303 distributors or wholesalers, to motor vehicle dealers, or for
304 directing or supervising, in whole or in part, its
305 representatives.

306 (l) "Distributor branch" means a branch or division
307 office similarly maintained by a distributor or wholesaler for the
308 same purposes a factory branch or division is maintained.

309 (m) "Factory representative" means a representative
310 employed by a person, firm, association, corporation or trust who
311 manufactures or assembles new motor vehicles, or by a factory
312 branch, for the purpose of making or promoting the sale of his,
313 its or their new motor vehicles, or for supervising or contacting
314 his, its or their dealers or prospective dealers.



315 (n) "Distributor representative" means a representative
316 similarly employed by a distributor, distributor branch or
317 wholesaler.

318 (o) "Person" means and includes, individually and
319 collectively, individuals, firms, partnerships, copartnerships,
320 associations, corporations and trusts, or any other forms of
321 business enterprise, or any legal entity.

322 (p) "Good faith" means the duty of each party to any
323 franchise agreement, and all officers, employees or agents
324 franchise, to act in a fair and equitable manner toward each other
325 in the performance of the respective obligations under the
326 franchise agreement.

327 (q) "Coerce" means to compel or attempt to compel by
328 threat or duress. However, recommendation, exposition,
329 persuasion, urging or argument shall not be deemed to constitute
330 coercion.

331 (r) "Special tools" are those which a dealer was
332 required to purchase by the manufacturer or distributor for
333 service on that manufacturer's product.

334 (s) "Motor vehicle lessor" means any person, not
335 excluded by paragraph (c) of this section, engaged in the motor
336 vehicle leasing or rental business.

337 (t) "Specialty vehicle" means a motor vehicle
338 manufactured by a second stage manufacturer by purchasing motor
339 vehicle components, e.g. frame and drive train, and completing the



340 manufacturer of finished motor vehicles for the purpose of resale
341 with the primary manufacturer warranty unimpaired, to a limited
342 commercial market rather than the consuming public. Specialty
343 vehicles include garbage trucks, ambulances, fire trucks, buses,
344 limousines, hearses and other similar limited purpose vehicles as
345 the commission may by regulation provide.

346 (u) "Auto auction" means (i) any person who provides a
347 place of business or facilities for the wholesale exchange of
348 motor vehicles by and between duly licensed motor vehicle dealers,
349 (ii) any motor vehicle dealer licensed to sell used motor vehicles
350 selling motor vehicles using an auction format but not on
351 consignment, or (iii) any person who provides the facilities for
352 or is in the business of selling in an auction format motor
353 vehicles.

354 (v) "Motor home" means a motor vehicle that is designed
355 and constructed primarily to provide temporary living quarters for
356 recreational, camping or travel use.

357 (w) "Dealer-operator" means the individual designated
358 in the franchise agreement as the operator of the motor vehicle
359 dealership.

360 (x) "Franchise" or "franchise agreement" means a
361 written contract or agreement between a motor vehicle dealer and a
362 manufacturer or its distributor or factory branch by which the
363 motor vehicle dealer is authorized to engage in the business of
364 selling or leasing the specific makes, models or classifications



365 of new motor vehicles marketed or leased by the manufacturer and
366 designated in the agreement or any addendum to such agreement.

367 (y) "Net cost" means the price the motor vehicle dealer
368 pays for new motor vehicles, supplies, parts, equipment, signs,
369 furnishings and special tools, minus any applicable discounts or
370 subsidies obtained by the motor vehicle dealer.

371 (z) "Line or make" means a collection of models,
372 series, or groups of motor vehicles manufactured by or for a
373 particular manufacturer, distributor or importer offered for sale,
374 lease or distribution pursuant to a common trademark, service mark
375 or brand name; however:

376 (i) Multiple brand names or marks may constitute a
377 single line or make, but only when included in a common motor
378 vehicle dealer agreement and the manufacturer, distributor or
379 importer offers such vehicles bearing the multiple names of marks
380 together only, and not separately, to its authorized motor vehicle
381 dealers.

382 (ii) Motor vehicles bearing a common brand name or
383 mark may constitute separate line or makes when such vehicles are
384 of different vehicle types or are intended for different types of
385 use, provided that either:

386 1. The manufacturer has expressly defined or
387 covered the subject line or makes of vehicles as separate and
388 distinct line or makes in the applicable dealer agreements; or



389 2. The manufacturer has consistently
390 characterized the subject vehicles as constituting separate and
391 distinct line or makes to its dealer network.

392 (aa) "Site-control agreement" or "exclusive use
393 agreement" means an agreement that, regardless of its name, title,
394 form or the parties entering into it, has the effect of:

395 (i) Controlling the use and development of the
396 premises of a motor vehicle dealer's franchise or facilities;

397 (ii) Requiring a motor vehicle dealer to establish
398 or maintain an exclusive motor vehicle dealership facility on the
399 premises of the motor vehicle dealer's franchise or facility;

400 (iii) Restricting the power or authority of the
401 dealer or the lessor, if the motor vehicle dealer leases the
402 dealership premises, to transfer, sell, lease, develop, redevelop
403 or change the use of the dealership premises, whether by sublease,
404 lease, collateral pledge of lease, right of first refusal to
405 purchase or lease, option to purchase or lease or any similar
406 arrangement; or

407 (iv) Establishing a valuation process or formula
408 for the motor vehicle dealership premises that does not allow for
409 the motor vehicle dealership premises to be transferred, sold or
410 leased by the motor vehicle dealer at the highest and best use
411 valuation for the motor vehicle dealership premises.

412 (bb) "Market area" means the area of responsibility set
413 forth in the franchise agreement.



414 (cc) "Core parts" means those original vehicle
415 manufacturer parts that are listed in the original vehicle
416 manufacturer's or distributor's current parts catalog, for which
417 there is a core charge and which are returnable to the
418 manufacturer or distributor.

419 **SECTION 7.** Section 63-17-155, Mississippi Code of 1972, is
420 amended as follows:

421 63-17-155. As used in Sections 63-17-151 through 63-17-165,
422 the following terms shall have the following meanings:

423 (a) "Collateral charges" means those additional charges
424 to a consumer which are not directly attributable to the
425 manufacturer's suggested retail price label for the motor vehicle.
426 Collateral charges shall include, but not be limited to, dealer
427 preparation charges, undercoating charges, transportation charges,
428 towing charges, replacement car rental costs and title charges.

429 (b) "Comparable motor vehicle" means an identical or
430 reasonably equivalent motor vehicle.

431 (c) "Consumer" means the purchaser, other than for
432 purposes of resale, of a motor vehicle, primarily used for
433 personal, family, or household purposes, and any person to whom
434 such motor vehicle is transferred for the same purposes during the
435 duration of an express warranty applicable to such motor vehicle,
436 and any other person entitled by the terms of such warranty to
437 enforce the obligations of the warranty.



438 (d) "Express warranty" means any written affirmation of
439 fact or promise made in connection with the sale of a motor
440 vehicle by a supplier to a consumer which relates to the nature of
441 the material or workmanship and affirms or promises that such
442 material or workmanship is defect-free or will meet a specified
443 level of performance over a specified period of time. For the
444 purposes of Section 63-17-151 et seq., express warranties do not
445 include implied warranties.

446 (e) "Manufacturer" means a manufacturer or distributor
447 as defined in Section 63-17-55.

448 (f) "Motor vehicle" means a vehicle propelled by power
449 other than muscular power which is sold in this state, is operated
450 over the public streets and highways of this state and is used as
451 a means of transporting persons or property, including autocycles
452 but * * * not * * * including vehicles run only upon tracks,
453 off-road vehicles, motorcycles, mopeds, electric personal
454 assistive mobility devices as defined in Section 63-3-103 or parts
455 and components of a motor home which were added on and/or
456 assembled by the manufacturer of the motor home. "Motor vehicle"
457 shall include demonstrators or lease-purchase vehicles as long as
458 a manufacturer's warranty was issued as a condition of sale.

459 (g) "Purchase price" means the price which the consumer
460 paid to the manufacturer to purchase the motor vehicle in a cash
461 sale or, if the motor vehicle is purchased in a retail installment
462 transaction, the cash sale price as defined in Section 63-19-3.



463 **SECTION 8.** This act shall take effect and be in force from
464 and after July 1, 2015.

