

By: Representative Carpenter

To: Transportation

HOUSE BILL NO. 119

1 AN ACT TO TRANSFER LAW ENFORCEMENT PERSONNEL AND LAW  
 2 ENFORCEMENT DUTIES OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION  
 3 RELATED TO THE MOTOR CARRIER REGULATORY LAW TO THE MOTOR CARRIER  
 4 DIVISION OF THE MISSISSIPPI HIGHWAY SAFETY PATROL WITHIN THE  
 5 MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTIONS 77-7-16  
 6 AND 45-3-21, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND  
 7 SECTION 25-13-3, MISSISSIPPI CODE OF 1972, TO EXCLUDE TRANSFERRED  
 8 PERSONNEL FROM THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM; TO  
 9 REPEAL SECTION 77-1-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
 10 FOR THE EMPLOYMENT OF PERSONNEL BY THE PUBLIC SERVICE COMMISSION  
 11 TO ENFORCE THE MOTOR CARRIER REGULATORY LAW; TO REPEAL SECTION  
 12 77-1-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE TRANSFER  
 13 OF LAW ENFORCEMENT PERSONNEL OF MOTOR CARRIER REGULATORY LAW TO  
 14 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION FROM THE PUBLIC  
 15 SERVICE COMMISSION; TO REPEAL SECTION 77-1-27, MISSISSIPPI CODE OF  
 16 1972, WHICH AUTHORIZES THE PUBLIC SERVICE COMMISSION TO PROVIDE  
 17 FOR THE PAYMENT OF EMPLOYEES ENFORCING THE MOTOR CARRIER  
 18 REGULATORY LAW; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** (1) The Mississippi Department of Transportation  
 21 shall transfer employees, equipment, inventory, size and weights,  
 22 permits, Unified Carrier Registration, computer systems, IFTA,  
 23 grants, stationary and portable weigh stations, support staff,  
 24 state and federal funding, and resources of the department  
 25 employed and used to enforce the Motor Carrier Regulatory Law of  
 26 1938 to the Motor Carrier Division of the Mississippi Highway



27 Safety Patrol within the Mississippi Department of Public Safety  
28 on July 1, 2018. In addition, the Department of Transportation  
29 shall consult with the Bureau of Buildings, Grounds and Real  
30 Property of the Department of Finance and Administration for the  
31 effective transfer of any office space that was assigned for the  
32 use of the enforcement of the Motor Carrier Regulatory Law of  
33 1938. The transfer of personnel shall be commensurate with the  
34 number and classification of positions allocated to that law  
35 enforcement. All salaries and benefits shall remain the same  
36 until further agreement. Rank and structure shall be revised  
37 through the Motor Carrier Safety Division as is practical for  
38 proper supervision.

39 (2) Any reference in any statute, rule or regulation to law  
40 enforcement duties being performed by the Mississippi Department  
41 of Transportation requiring the use of vehicles to enforce shall  
42 be construed to mean law enforcement duties being performed by the  
43 Motor Carrier Division of the Mississippi Highway Safety Patrol  
44 within the Mississippi Department of Public Safety.

45 (3) The Motor Carrier Safety Division in the Mississippi  
46 Highway Safety Patrol under the Department of Public Safety shall  
47 at all times have a minimum of twenty-five (25) and a maximum of  
48 one hundred seventy-five (175) patrolmen employed on a full-time  
49 basis in the Motor Carrier Safety Assistance Program. The two  
50 hundred twelve (212) pin numbers the Mississippi Department of  
51 Transportation has at the time of the transfer shall be



52 transferred over to the Department of Public Safety Division of  
53 the Mississippi Highway Safety Patrol. As these patrolmen leave  
54 their position, they shall be filled with officers who have  
55 completed a course of instruction in an authorized highway patrol  
56 training school on general law enforcement.

57 **SECTION 2.** Section 77-7-16, Mississippi Code of 1972, is  
58 amended as follows:

59 77-7-16. (1) Supervision and inspection of the safe  
60 operation and the safe use of equipment of motor vehicles  
61 operating in the state shall be a specified duty of \* \* \* the  
62 Motor Carrier Division of the Mississippi Highway Safety Patrol  
63 within the Mississippi Department of Public Safety. \* \* \* The  
64 Mississippi Transportation Commission shall promulgate as its own  
65 the rules, regulations, requirements and classifications of the  
66 United States Department of Transportation or any successor  
67 federal agency thereof charged with the regulation of motor  
68 vehicle safety \* \* \*. The Motor Carrier Division of the  
69 Mississippi Highway Safety Patrol, shall enforce such rules,  
70 regulations, requirements and classifications. \* \* \* The  
71 Mississippi Transportation Commission shall establish a system of  
72 reciprocity with other states to facilitate the inspection of  
73 motor vehicles provided for in this subsection.

74 (2) The \* \* \* Motor Carrier Division of the Mississippi  
75 Highway Safety Patrol within the Mississippi Department of Public



76 Safety shall have the authority to inspect for safe operation and  
77 safe use of equipment the following motor vehicles:

78 (a) Each holder of a certificate of convenience and  
79 necessity, a permit to operate as a contract carrier or interstate  
80 permit;

81 (b) Any individual, corporation or partnership engaged  
82 in a commercial enterprise operating (i) a single motor vehicle or  
83 those in combination with a manufacturer's gross vehicle rating of  
84 more than ten thousand (10,000) pounds, and (ii) a single motor  
85 vehicle or those in combination with a manufacturer's gross  
86 vehicle rating of more than twenty-six thousand (26,000) pounds in  
87 intrastate commerce; and

88 (c) Any individual, corporation or partnership  
89 operating a motor vehicle of any gross weight transporting  
90 hazardous material that requires placarding under the Federal  
91 Hazardous Material Regulations.

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

93 (a) Motor vehicles employed to transport school  
94 children and teachers;

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

98 (c) Motor vehicles engaged in the occasional  
99 transportation of personal property without compensation by



100 individuals which is not in the furtherance of a commercial  
101 enterprise;

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

104 (e) Motor vehicles engaged in emergency or related  
105 operations;

106 (f) Motor vehicles engaged in the private  
107 transportation of passengers;

108 (g) Motor vehicles, including pickup trucks, that have  
109 a GVWR or GCWR of Twenty-six Thousand (26,000) pounds or less,  
110 operating intrastate only, provided that such vehicle does not:

111 (i) Transport hazardous material requiring a  
112 placard; or

113 (ii) Transport sixteen (16) or more passengers,  
114 including the driver.

115 (h) Motor vehicles owned and operated by any farmer  
116 who:

117 (i) Is using the vehicle to transport agricultural  
118 products from a farm owned by the farmer, or to transport farm  
119 machinery or farm supplies to or from a farm owned by the farmer;

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



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

127 (i) Motor vehicles engaged in the transportation of  
128 logs and pulpwood between the point of harvest and the first point  
129 of processing the harvested product;

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

132 (k) As to hours of service only, utility service  
133 vehicles owned or operated by public utilities subject to  
134 regulation by the commission, while in intrastate commerce within  
135 this state, with a manufacturer's gross vehicle rating of less  
136 than twenty-six thousand one (26,001) pounds, unless the vehicle:

137 (i) Transports hazardous materials requiring a  
138 placard; or

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

141 (4) Anyone who violates or fails to comply with this section  
142 shall be subject to the penalties as provided for in Section  
143 77-7-311, Mississippi Code of 1972.

144 **SECTION 3.** Section 45-3-21, Mississippi Code of 1972, is  
145 amended as follows:

146 45-3-21. (1) The powers and duties of the Highway Safety  
147 Patrol shall be, in addition to all others prescribed by law, as  
148 follows:



149           (a) To enforce all of the traffic laws, rules and  
150 regulations of the State of Mississippi upon all highways of the  
151 state highway system and the rights-of-way of such highways;  
152 provided, however, that if any person commits an offense upon the  
153 state highway system and be pursued by a member of the Highway  
154 Safety Patrol, such patrol officer may pursue and apprehend such  
155 offender upon any of the highways or public roads of this state,  
156 or to any other place to which such offender may flee.

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

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

162           (d) Upon the request of the \* \* \* Department of  
163 Revenue, and with the approval of the Governor, to enforce all of  
164 the provisions of law with reference to the registration, license  
165 and taxation of vehicles using the highways of this state, and  
166 relative to the sizes, weights and load limits of such vehicles,  
167 and to enforce the provisions of all other laws administered by  
168 the \* \* \* Department of Revenue upon any of the highways or public  
169 roads of this state; and for such purpose the Highway Safety  
170 Patrol shall have the authority to collect and receive all taxes  
171 which may be due under any of such laws, and to report and remit  
172 same to the \* \* \* Department of Revenue in the manner required by  
173 law, or the rules and regulations of the commission.



174           (e)   \* \* \* To enforce the Mississippi Motor Carrier  
175 Regulatory Law of 1938 and rules and regulations promulgated  
176 thereunder.

177           (f)   To arrest without warrant any person or persons  
178 committing or attempting to commit any misdemeanor, felony or  
179 breach of the peace within their presence or view, and to pursue  
180 and so arrest any person committing such an offense to and at any  
181 place in the State of Mississippi where he may go or be. Nothing  
182 herein shall be construed as granting the Mississippi Highway  
183 Safety Patrol general police powers.

184           (g)   To aid and assist any law enforcement officer whose  
185 life or safety is in jeopardy. Additionally, officers of the  
186 Highway Safety Patrol may arrest without warrant any fugitive from  
187 justice who has escaped or who is using the highways of the state  
188 in an attempt to flee. With the approval of the commissioner or  
189 his designee, officers of the Highway Safety Patrol may assist  
190 other law enforcement agencies in manhunts for convicted felons  
191 who have escaped and/or for alleged felons where there is probable  
192 cause to believe that the person being sought committed the felony  
193 and a felony had actually been committed.

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

196           (i)   Upon request of the sheriff or his designee, or  
197 board of supervisors of any county or the chief of police or mayor  
198 of any municipality, and when so instructed by the commissioner or





199 his designee, to respond to calls for assistance in a law  
200 enforcement incident; such request and action shall be noted and  
201 clearly reflected on the radio logs of both the Mississippi  
202 Highway Safety Patrol district substation and that of the  
203 requesting agency, entered on the local NCIC terminal, if  
204 available, and a request in writing shall follow within  
205 forty-eight (48) hours. Additionally, the time of commencement  
206 and termination of the specific law enforcement incident shall be  
207 clearly noted on the radio logs of both law enforcement agencies.

208 (2) The Legislature declares that the primary law  
209 enforcement officer in any county in the State of Mississippi is  
210 the duly qualified and elected sheriff thereof, but for the  
211 purposes of this subsection there is hereby vested in the  
212 Department of Public Safety, in addition to the powers hereinabove  
213 mentioned and the other provisions of this section under the terms  
214 and limitations hereinafter mentioned and for the purpose of  
215 insuring domestic tranquility and for the purpose of preventing or  
216 suppressing, or both, crimes of violence, acts and conduct  
217 calculated to, or which may, provoke or lead to violence and/or  
218 incite riots, mobs, mob violence, a breach of the peace, and acts  
219 of intimidation or terror, the powers and duties to include the  
220 enforcement of all the laws of the State of Mississippi relating  
221 to such purposes, to investigate any violation of the laws of the  
222 State of Mississippi and to aid in the arrest and prosecution of  
223 persons charged with violating the laws of the State of



224 Mississippi which relate to such purposes. Investigators of the  
225 Bureau of Investigation of the Department of Public Safety shall  
226 have general police powers to enforce all the laws of the State of  
227 Mississippi. All officers of the Department of Public Safety  
228 charged with the enforcement of the laws administered by that  
229 agency, for the purposes herein set forth, shall have full power  
230 to investigate, prevent, apprehend and arrest law violators  
231 anywhere in the state, and shall be vested with the power of  
232 general police officers in the performance of their duties. The  
233 officers of the Department of Public Safety are authorized and  
234 empowered to carry and use firearms and other weapons deemed  
235 necessary in the discharge of their duties as such and are also  
236 empowered to serve warrants and subpoenas issued under the  
237 authority of the State of Mississippi. The Governor shall be  
238 authorized to offer and pay suitable rewards to persons aiding in  
239 the investigation, apprehension and conviction of persons charged  
240 with acts of violence, or threats of violence or intimidation or  
241 acts of terrorism. The additional powers herein granted to or  
242 vested in the Department of Public Safety or any of its officers  
243 or employees by this section, excepting investigating powers, and  
244 those powers of investigators who shall have general police power,  
245 being the investigators in the Bureau of Investigation of the  
246 Department of Public Safety, shall not be exercised by the  
247 Department of Public Safety, or any of its officers or employees,  
248 except upon authority and direction of the Governor or Acting



249 Governor, by proclamation duly signed, in the following instances,  
250 to wit:

251 (a) When requested by the sheriff or board of  
252 supervisors of any county or the mayor of any municipality on the  
253 grounds that mob violence, crimes of violence, acts and conduct of  
254 terrorism, riots or acts of intimidation, or either, calculated to  
255 or which may provoke violence or incite riots, mobs, mob violence,  
256 violence, or lead to any breach of the peace, or either, and acts  
257 of intimidation or terror are anticipated, and when such acts or  
258 conduct in the opinion of the Governor or Acting Governor would  
259 provoke violence or any of the foregoing acts or conduct set out  
260 in this subsection, and the sheriff or mayor, as the case may be,  
261 lacks adequate police force to prevent or suppress the same.

262 (b) Acting upon evidence submitted to him by the  
263 Department of Public Safety, or other investigating agency  
264 authorized by the Governor or Acting Governor to make such  
265 investigations, because of the failure or refusal of the sheriff  
266 of any county or mayor of any municipality to take action or  
267 employ such means at his disposal, to prevent or suppress the  
268 acts, conduct or offenses provided for in subsection (1) of this  
269 section, the Governor or Acting Governor deems it necessary to  
270 invoke the powers and authority vested in the Department of Public  
271 Safety.

272 (c) The Governor or Acting Governor is hereby  
273 authorized and empowered to issue his proclamation invoking the



274 powers and authority vested by this paragraph, as provided in  
275 paragraphs (a) and (b) of this subsection, and when the Governor  
276 or Acting Governor issues said proclamation in accordance  
277 herewith, said proclamation shall become effective upon the  
278 signing thereof and shall continue in full force and effect for a  
279 period of ninety (90) days, or for a shorter period if otherwise  
280 ordered by the Governor or Acting Governor. At the signing of the  
281 proclamation by the Governor or Acting Governor, the Department of  
282 Public Safety and its officers and employees shall thereupon be  
283 authorized to exercise the additional power and authority vested  
284 in them by this paragraph. The Governor and Acting Governor may  
285 issue additional proclamations for periods of ninety (90) days  
286 each under the authority of paragraphs (a) and (b) of this  
287 subsection (2).

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

291 (4) It is not the intention of this section to vest the wide  
292 powers and authority herein provided for, as general powers of the  
293 Department of Public Safety, and the same are not hereby so  
294 vested, but to limit these general powers to cases and incidents  
295 wherein it is deemed necessary to prevent or suppress the offenses  
296 and conditions herein mentioned in this and other subsections of  
297 this section, and under the terms and conditions hereinabove  
298 enumerated, it being the sense of the Legislature that the prime



299 duties of the Department of Public Safety are to patrol the  
300 highways of this state and enforce the highway safety laws.

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

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

308 **SECTION 4.** Section 25-13-3, Mississippi Code of 1972, is  
309 amended as follows:

310 25-13-3. As used in this chapter, unless the context clearly  
311 indicates otherwise, the term "Highway Patrol or Highway Safety  
312 Patrol" for the purpose of establishing membership in this system  
313 for persons presently employed by the Highway Safety Patrol shall  
314 mean and include all the officers of the Mississippi Highway  
315 Safety Patrol who have completed a course of instruction in an  
316 authorized highway patrol training school on general law  
317 enforcement, and who have served for a period of at least five (5)  
318 years prior to July 1, 1958, as a uniformed officer of the Highway  
319 Safety Patrol in the enforcement of the traffic laws of the State  
320 of Mississippi, or in the driver's license division, or who are  
321 now engaged in such service. New members shall include all the  
322 officers of the Mississippi Highway Safety Patrol who have  
323 completed a course of instruction in an authorized highway patrol



324 training school on general law enforcement, and who serve as sworn  
325 officers of the Highway Patrol in the enforcement of the laws of  
326 the State of Mississippi; however, new members shall not include  
327 personnel in positions transferred from the Mississippi Department  
328 of Transportation under Section 1 of this act.

329 Any former sworn officer of the Highway Safety Patrol who  
330 returns to service with the Highway Safety Patrol in any capacity,  
331 and who has had not less than two (2) years of prior service as a  
332 sworn officer of the Highway Safety Patrol, and who was disabled  
333 by wounds or accident in line of duty, may become a member of the  
334 Highway Safety Patrol Retirement System even though his present  
335 duties would not otherwise qualify him for membership, and he may  
336 continue membership so long as he remains in the employ of the  
337 Highway Safety Patrol.

338 Membership in the Highway Safety Patrol Retirement System  
339 shall be retroactive to the date of such patrolman's return to  
340 employment with the Highway Safety Patrol, and any funds  
341 contributed by him, previous to July 1, 1958, to the Public  
342 Employees' Retirement System shall be transferred to his credit in  
343 the Highway Safety Patrol Retirement System, and the employer's  
344 contributions made to the Public Employees' Retirement System for  
345 the patrolman shall also be transferred to the employee's credit  
346 in the Highway Safety Patrol Retirement System; and the difference  
347 between the contributions for both the employer and the employee  
348 made to the Public Employees' Retirement System, and those which



349 should have been made to the Highway Safety Patrol Retirement  
350 System by both employer and employee for the patrolman since the  
351 date of his return to the Highway Safety Patrol shall be paid into  
352 the Highway Safety Patrol Retirement System.

353 In order to be eligible for service retirement benefits under  
354 this retirement system, any member must have served at least five  
355 (5) years as a sworn officer of the Highway Patrol engaged in the  
356 enforcement of the laws of the State of Mississippi, or at least  
357 five (5) years as a sworn agent of the Mississippi Bureau of  
358 Narcotics, or a combination of at least five (5) years as a sworn  
359 agent of the Mississippi Bureau of Narcotics and as a sworn  
360 officer of the Highway Patrol. If the officer is transferred from  
361 duty making him eligible for membership in this retirement system  
362 to other duties for which credit is not allowed by this system,  
363 and he has not been credited with a minimum of five (5) years in  
364 this system as a sworn officer of the Highway Patrol engaged in  
365 the enforcement of the laws of this state, then an amount as  
366 determined by the Public Employees' Retirement System shall be  
367 transferred from this system to his account in the Public  
368 Employees' Retirement System of Mississippi to make him a member  
369 of that system with full credit for his years of service with the  
370 Mississippi Highway Safety Patrol, and he shall become a member of  
371 the Public Employees' Retirement System of Mississippi with prior  
372 service credits. The amount that is determined to be necessary to  
373 be transferred shall be paid first from the member's total



374 contributions in the Highway Safety Patrol System, plus interest,  
375 so that all of those funds are transferred, and any remainder  
376 shall be paid from the employer's accumulation account.

377       **SECTION 5.** Section 77-1-19, Mississippi Code of 1972, which  
378 provides for the employment of personnel by the Public Service  
379 Commission to enforce the Motor Carrier Regulatory Law, is  
380 repealed.

381       **SECTION 6.** Section 77-1-21, Mississippi Code of 1972, which  
382 provides for the transfer of law enforcement personnel of Motor  
383 Carrier Regulatory Law to the Mississippi Department of  
384 Transportation from the Public Service Commission, is repealed.

385       **SECTION 7.** Section 77-1-27, Mississippi Code of 1972, which  
386 authorizes the Public Service Commission to provide for the  
387 payment of employees enforcing the Motor Carrier Regulatory Law,  
388 is repealed.

389       **SECTION 8.** This act shall take effect and be in force from  
390 and after July 1, 2018.

