

By: Representative Busby

To: Transportation

## HOUSE BILL NO. 1001

1 AN ACT TO BRING FORWARD SECTION 65-1-46, MISSISSIPPI CODE OF  
2 1972, WHICH CREATES THE APPEALS BOARD OF THE MISSISSIPPI  
3 TRANSPORTATION COMMISSION, PRESCRIBES ITS COMPOSITION AND  
4 AUTHORITY; TO ESTABLISH A PROCESS OF APPEALS FOR CERTAIN  
5 GRIEVANCES FOR ISSUANCE OF CITATION AND PENALTIES FOR CERTAIN  
6 COMMERCIAL VEHICLES IN EXCESS OF THE ALLOWABLE WEIGHT LIMITS, FOR  
7 THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 65-1-46, Mississippi Code of 1972, is  
10 brought forward as follows:

11 **[Through June 30, 2023, this section shall read as follows:]**

12 65-1-46. (1) There is created an Appeals Board of the  
13 Mississippi Transportation Commission. If any person feels  
14 aggrieved by a penalty for excess weight assessed against him by  
15 an agent or employee of the Mississippi Department of  
16 Transportation pursuant to Section 27-19-89, he may apply to the  
17 appeals board. Beginning July 1, 2021, the Appeals Board shall be  
18 administratively located within the Commercial Transportation  
19 Enforcement Division of the Mississippi Department of Public  
20 Safety and shall receive appeals with respect to penalties for



21 excess weight assessed by agents or employees of the Commercial  
22 Transportation Enforcement Division.

23       (2) The members serving on the appeals board on April 7,  
24 1995, shall continue to serve until July 1, 1995. On July 1,  
25 1995, the appeals board shall be reconstituted to be composed of  
26 five (5) qualified people. The initial appointments to the  
27 reconstituted board shall be made no later than June 30, 1995, for  
28 terms to begin July 1, 1995, as follows: One (1) member shall be  
29 appointed by the Governor for a term ending on June 30, 1996, one  
30 (1) member shall be appointed by the Lieutenant Governor for a  
31 term ending on June 30, 1997, one (1) member shall be appointed by  
32 the Attorney General for a term ending on June 30, 1998, one (1)  
33 member shall be appointed by the Chairman of the State Tax  
34 Commission for a term ending on June 30, 1999, and one (1) member  
35 shall be appointed by the Executive Director of the Mississippi  
36 Department of Transportation for a term ending on June 30, 2000.  
37 After the expiration of the initial terms of the members of the  
38 reconstituted board, all subsequent appointments shall be made for  
39 terms of four (4) years from the expiration date of the previous  
40 term. Any member serving on the appeals board before July 1,  
41 1995, may be reappointed to the reconstituted appeals board.  
42 Appointments to the board shall be with the advice and consent of  
43 the Senate; however, the advice and consent of the Senate shall  
44 not be required for the appointment of a person to the  
45 reconstituted appeals board for a term beginning on July 1, 1995,



46 if such person was serving as a member of the appeals board on  
47 June 30, 1995, and such person received the advice and consent of  
48 the Senate for that appointment. The term of the member appointed  
49 by the Executive Director of the Mississippi Department of  
50 Transportation shall end on June 30, 2021, and the vacancy shall  
51 be filled by a member appointed by the Commissioner of Public  
52 Safety for a term ending on June 30, 2024, after which the  
53 position shall be for a four-year term.

54 (3) There shall be a chairman and vice chairman of the board  
55 who shall be elected by and from the membership of the board. Any  
56 member who fails to attend three (3) consecutive regular meetings  
57 of the board shall be subject to removal by a majority vote of the  
58 board. A majority of the members of the board shall constitute a  
59 quorum. The chairman, or a majority of the members of the board,  
60 may call meetings as may be required for the proper discharge of  
61 the board's duties. Members of the board, except a member who is  
62 an officer or employee of the Mississippi Department of  
63 Transportation or, beginning July 1, 2021, is an officer or  
64 employee of the Department of Public Safety, shall receive per  
65 diem in the amount authorized by Section 25-3-69, for each day  
66 spent in the actual discharge of their duties and shall be  
67 reimbursed for mileage and actual expenses incurred in the  
68 performance of their duties in accordance with the provisions of  
69 Section 25-3-41.



70 Application shall be made by petition in writing, within  
71 thirty (30) days after assessment of the penalty, for a hearing  
72 and a review of the amount of the assessment. At the hearing the  
73 appeals board shall try the issues presented according to the law  
74 and the facts and within guidelines set by the Transportation  
75 Commission or, beginning July 1, 2021, by the Department of Public  
76 Safety. Upon due consideration of all the facts relating to the  
77 assessment of the penalty, the appeals board, except as otherwise  
78 provided under this section or under Section 27-19-89, may require  
79 payment of the full amount of the assessment, may reduce the  
80 amount of the assessment or may dismiss imposition of the penalty  
81 entirely. The appeals board shall dismiss in its entirety the  
82 imposition of any penalty imposed against the holder of a harvest  
83 permit if the permittee proves to the appeals board, by clear and  
84 convincing evidence, that the average load transported by the  
85 permittee during the permittee's last five (5) haul days  
86 immediately preceding the day upon which the penalty appealed from  
87 was assessed did not exceed eighty thousand (80,000) pounds. The  
88 appeals board shall reduce the penalty assessed against the holder  
89 of a harvest permit to a maximum of Two Cents (2¢) per pound of  
90 overweight if the permittee proves to the appeals board, by clear  
91 and convincing evidence, that the average load transported by the  
92 permittee during the permittee's last five (5) haul days  
93 immediately preceding the day upon which the penalty appealed from  
94 was assessed exceeded seventy-nine thousand nine hundred



95 ninety-nine (79,999) pounds but did not exceed eighty-four  
96 thousand (84,000) pounds. The board shall make such orders in the  
97 matter as appear to it just and lawful and shall furnish copies  
98 thereof to the petitioner. If the appeals board orders the  
99 payment of the penalty, the petitioner shall pay the penalty,  
100 damages and interest, if any, within ten (10) days after the order  
101 is issued unless there is an application for appeal from the  
102 decision of the board as provided in the succeeding paragraph.  
103 Interest shall accrue on the penalty at the rate of one percent  
104 (1%) per month, or part of a month, beginning immediately after  
105 the expiration of the ten-day period.

106 If any person feels aggrieved by the decision of the appeals  
107 board, he may appeal the decision to the Chancery Court of the  
108 First Judicial District of Hinds County.

109 **[From and after July 1, 2023, this section shall read as**  
110 **follows:]**

111 65-1-46. (1) There is created an Appeals Board of the  
112 Mississippi Transportation Commission. If any person feels  
113 aggrieved by a penalty for excess weight assessed against him by  
114 an agent or employee of the Mississippi Department of  
115 Transportation pursuant to Section 27-19-89, he may apply to the  
116 appeals board. Beginning July 1, 2021, the Appeals Board shall be  
117 administratively located within the Commercial Transportation  
118 Enforcement Division of the Mississippi Department of Public  
119 Safety and shall receive appeals with respect to penalties for



excess weight assessed by agents or employees of the Commercial Transportation Enforcement Division.

(2) The members serving on the appeals board on April 7, 1995, shall continue to serve until July 1, 1995. On July 1, 1995, the appeals board shall be reconstituted to be composed of five (5) qualified people. The initial appointments to the reconstituted board shall be made no later than June 30, 1995, for terms to begin July 1, 1995, as follows: One (1) member shall be appointed by the Governor for a term ending on June 30, 1996, one (1) member shall be appointed by the Lieutenant Governor for a term ending on June 30, 1997, one (1) member shall be appointed by the Attorney General for a term ending on June 30, 1998, one (1) member shall be appointed by the Chairman of the State Tax Commission for a term ending on June 30, 1999, and one (1) member shall be appointed by the Executive Director of the Mississippi Department of Transportation for a term ending on June 30, 2000. After the expiration of the initial terms of the members of the reconstituted board, all subsequent appointments shall be made for terms of four (4) years from the expiration date of the previous term. Any member serving on the appeals board before July 1, 1995, may be reappointed to the reconstituted appeals board. Appointments to the board shall be with the advice and consent of the Senate; however, the advice and consent of the Senate shall not be required for the appointment of a person to the reconstituted appeals board for a term beginning on July 1, 1995,



145 if such person was serving as a member of the appeals board on  
146 June 30, 1995, and such person received the advice and consent of  
147 the Senate for that appointment. The term of the member appointed  
148 by the Executive Director of the Mississippi Department of  
149 Transportation shall end on June 30, 2021, and the vacancy shall  
150 be filled by a member appointed by the Commissioner of Public  
151 Safety for a term ending on June 30, 2024, after which the  
152 position shall be for a four-year term.

153 (3) There shall be a chairman and vice chairman of the board  
154 who shall be elected by and from the membership of the board. Any  
155 member who fails to attend three (3) consecutive regular meetings  
156 of the board shall be subject to removal by a majority vote of the  
157 board. A majority of the members of the board shall constitute a  
158 quorum. The chairman, or a majority of the members of the board,  
159 may call meetings as may be required for the proper discharge of  
160 the board's duties. Members of the board, except a member who is  
161 an officer or employee of the Mississippi Department of  
162 Transportation or, beginning July 1, 2021, is an officer or  
163 employee of the Department of Public Safety, shall receive per  
164 diem in the amount authorized by Section 25-3-69, for each day  
165 spent in the actual discharge of their duties and shall be  
166 reimbursed for mileage and actual expenses incurred in the  
167 performance of their duties in accordance with the provisions of  
168 Section 25-3-41.



Application shall be made by petition in writing, within thirty (30) days after assessment of the penalty, for a hearing and a review of the amount of the assessment. At the hearing the appeals board shall try the issues presented according to the law and the facts and within guidelines set by the Transportation Commission or, beginning July 1, 2021, by the Department of Public Safety. Upon due consideration of all the facts relating to the assessment of the penalty, the appeals board, except as otherwise provided under this section or under Section 27-19-89, may require payment of the full amount of the assessment, may reduce the amount of the assessment or may dismiss imposition of the penalty entirely. The appeals board shall dismiss in its entirety the imposition of any penalty imposed against the holder of a harvest permit if the permittee proves to the appeals board, by clear and convincing evidence, that the average load transported by the permittee during the permittee's last five (5) haul days immediately preceding the day upon which the penalty appealed from was assessed did not exceed eighty thousand (80,000) pounds. The appeals board shall reduce the penalty assessed against the holder of a harvest permit to a maximum of Two Cents (2¢) per pound of overweight if the permittee proves to the appeals board, by clear and convincing evidence, that the average load transported by the permittee during the permittee's last five (5) haul days immediately preceding the day upon which the penalty appealed from was assessed exceeded seventy-nine thousand nine hundred



194 ninety-nine (79,999) pounds but did not exceed a gross vehicle  
195 weight tolerance of ten percent (10%), not to exceed eighty-eight  
196 thousand (88,000) pounds. The board shall make such orders in the  
197 matter as appear to it just and lawful and shall furnish copies  
198 thereof to the petitioner. If the appeals board orders the  
199 payment of the penalty, the petitioner shall pay the penalty,  
200 damages and interest, if any, within ten (10) days after the order  
201 is issued unless there is an application for appeal from the  
202 decision of the board as provided in the succeeding paragraph.  
203 Interest shall accrue on the penalty at the rate of one percent  
204 (1%) per month, or part of a month, beginning immediately after  
205 the expiration of the ten-day period.

206 If any person feels aggrieved by the decision of the appeals  
207 board, he may appeal the decision to the Chancery Court of the  
208 First Judicial District of Hinds County.

209 **SECTION 2.** This act shall take effect and be in force from  
210 and after July 1, 2023.

