

By: Representative Ellzey

To: Transportation

HOUSE BILL NO. 395

1 AN ACT TO AMEND SECTIONS 27-19-81 AND 27-19-89, MISSISSIPPI  
 2 CODE OF 1972, TO PROVIDE THAT THE FEES COLLECTED BY THE  
 3 MISSISSIPPI DEPARTMENT OF TRANSPORTATION FOR THE ISSUANCE OF  
 4 HARVEST PERMITS TO OPERATORS OF VEHICLES HAULING CERTAIN PRODUCTS,  
 5 AND THE FINES AND PENALTIES COLLECTED BY THE MISSISSIPPI  
 6 DEPARTMENT OF TRANSPORTATION FOR VIOLATIONS OF THE VEHICLE WEIGHT  
 7 LIMITS AUTHORIZED ON STATE HIGHWAYS, SHALL BE DEPOSITED INTO A  
 8 SPECIAL FUND CREATED IN THE STATE TREASURY; TO EXTEND THE DATE OF  
 9 REPEAL FOR THE PROVISIONS OF LAW THAT ESTABLISH THE HARVEST  
 10 PERMIT; TO PROVIDE THAT MONIES IN THE SPECIAL FUND SHALL BE  
 11 ALLOCATED AND DISTRIBUTED TO EACH OF THE COUNTIES IN THE STATE IN  
 12 ACCORDANCE WITH THE STATE AID ROAD FORMULA AND MAY BE EXPENDED BY  
 13 THE COUNTIES FOR COUNTY ROAD AND BRIDGE CONSTRUCTION AND REPAIR;  
 14 AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 27-19-81, Mississippi Code of 1972, is  
 17 amended as follows:

18 27-19-81. (1) No vehicle shall be registered by the State  
 19 Tax Commission or by a tax collector, and no license tag  
 20 whatsoever shall be issued therefor, where the gross weight of  
 21 such vehicle exceeds the limits provided by law. In the event of  
 22 an emergency requiring the hauling of a greater gross weight than  
 23 permitted by law, the owner or operator of such vehicle shall  
 24 obtain an excess weight authorization from the Mississippi  
 25 Department of Transportation or local authority having  
 26 jurisdiction of the particular road, street or highway before  
 27 operating such vehicle on the highways of this state to haul such  
 28 a gross weight over a route to be designated by the aforesaid  
 29 department. It shall then be necessary for the owner or operator  
 30 of the vehicle to obtain a permit from the Transportation  
 31 Department, which shall be issued by the department under the same  
 32 provisions as are provided for the issuance of trip permits under  
 33 Section 27-19-79, but which permit shall likewise be obtained



34 prior to the operation of such vehicle on the highways. No  
35 persons or agencies other than the Mississippi Department of  
36 Transportation shall have authority to issue the permits provided  
37 for in this section. The fee to be charged for such permits shall  
38 be computed in the same manner provided in Section 27-19-79 for  
39 each one thousand (1,000) pounds, or fractional part thereof, of  
40 gross weight above the licensed capacity of the vehicle, up to the  
41 maximum legal weights provided by this article on the roads to be  
42 traveled.

43 This subsection shall apply, but not be limited, to any  
44 tractor, road roller or road machinery used solely and  
45 specifically in road building or other highway construction or  
46 maintenance work.

47 For each one thousand (1,000) pounds, or fractional part  
48 thereof, in excess of the weight authorized by Sections 63-5-29  
49 and 63-5-33 for any such vehicle or in excess of the limits set by  
50 the Transportation Department for specified roads and bridges, the  
51 fee shall be Five Cents (5¢) per one thousand (1,000) pounds, or  
52 fractional part thereof, for each mile traveled upon the highways  
53 of the state, except that the fee for manufactured housing modular  
54 units, residential or commercial, shall be Two Cents (2¢) per one  
55 thousand (1,000) pounds, or fractional part thereof, for each mile  
56 traveled upon the highways of the state. Provided, however, no  
57 permit shall be issued for a fee of less than Ten Dollars  
58 (\$10.00).

59 The Transportation Department may provide for an annual  
60 permit which will allow pre-approved vehicles and loads to travel  
61 predesignated routes with self-issued permits. Under such  
62 self-issuance authority, the owner of the vehicle shall complete  
63 the permit in a format designated by the department,  
64 electronically transmit a copy to the department prior to the  
65 move, and ensure that a copy is in the possession of the operator.  
66 Vehicles having a gross weight exceeding the limits provided by



67 law that have a nondivisible gross vehicle weight of ninety-five  
68 thousand (95,000) pounds or less, which are otherwise legal, shall  
69 not be restricted as to the hours of the day such vehicles may be  
70 operated on predesignated routes. The department shall bill the  
71 vehicle owner according to the provisions of the preceding  
72 paragraph. The department is authorized to modify predesignated  
73 routes at any time for cause, such as highway construction or  
74 hazardous highway conditions. The annual fee for the  
75 self-issuance permit authority obtained pursuant to this paragraph  
76 shall be Five Hundred Dollars (\$500.00) per owner, regardless of  
77 the number of vehicles which he will operate pursuant to such  
78 permit, in addition to any other fees required by this section.  
79 Any vehicle and load being operated pursuant to this paragraph for  
80 which the operator does not have the permit or a copy thereof in  
81 his possession, or for which a copy of the permit was not  
82 electronically transmitted to the department, shall be deemed not  
83 to have a permit and shall be penalized accordingly.

84 (2) Before operating a vehicle where the size of the load  
85 being hauled is in excess of that permitted by law, the owner or  
86 operator of such vehicle shall obtain excess size authorization  
87 from the Transportation Department or proper local authority and  
88 an excess size permit from the Transportation Department. Such  
89 excess size permit shall be issued by the Mississippi Department  
90 of Transportation under the same provisions as are provided for  
91 the issuance of trip permits under Section 27-19-79, and it shall  
92 be obtained prior to the operation of such vehicle on the  
93 highways. The fee to be charged for such excess size permit shall  
94 be Ten Dollars (\$10.00) per trip. Such permits may be issued for  
95 an extended period of time and must coincide with the expiration  
96 date and other provisions of the carrier's permit or authorization  
97 issued by the Transportation Department or local authority. The  
98 fee for such extended permits shall be based upon an annual fee of  
99 One Hundred Dollars (\$100.00) per carrier. No permit shall be



100 issued under this subsection if the issuance of the permit would  
101 violate federal law or would cause the State of Mississippi to  
102 lose federal aid funds. This subsection shall not apply to any  
103 tractor, road roller or road machinery used solely and  
104 specifically in road building or other highway construction or  
105 maintenance work or to any machinery or equipment operated on the  
106 highways or transported thereon in the course of normal farming  
107 activities, including cotton module transporters.

108 (3) The Executive Director of the Mississippi Department of  
109 Transportation may authorize certain carriers of property to issue  
110 overweight and/or oversize permits for vehicles owned or operated  
111 by such carriers, provided such carriers have blanket  
112 authorization from the Transportation Commission and also meet  
113 other requirements established by the Transportation Commission.

114 (4) The owner or operator of a vehicle hauling sand, gravel,  
115 fill dirt, agricultural products or unprocessed forestry products  
116 may apply to the Mississippi Department of Transportation for a  
117 harvest permit for the purpose of authorizing any such vehicles to  
118 operate on the highways in this state (other than the federal  
119 interstate system or those highways designated by the Mississippi  
120 Department of Transportation as not capable of carrying more than  
121 fifty-seven thousand six hundred fifty (57,650) pounds at the  
122 maximum gross weight specified in Section 63-5-33). Harvest  
123 permits may be issued and are valid to permit any such vehicle to  
124 be operated on a highway in this state that has been designated by  
125 the Mississippi Department of Transportation as not capable of  
126 carrying more than fifty-seven thousand six hundred fifty (57,650)  
127 pounds only if such vehicle operates in compliance with the  
128 provisions of Section 63-5-29(3)(b). A fee of Twenty-five Dollars  
129 (\$25.00) shall be charged for each permit issued. The permit  
130 shall be in the form of a decal which shall be affixed to each  
131 permitted vehicle on the upper left corner of the windshield on  
132 the driver's side. Each permit shall expire one (1) year from its



133 date of issue. The fees collected under this subsection shall be  
134 deposited into the special fund that is created under Section 3 of  
135 this act. This subsection (4) shall stand repealed from and after  
136 July 1, 2003.

137 (5) Any owner or operator who has met the requirements set  
138 by the Mississippi Transportation Commission may defer payment of  
139 permits issued by the department until the end of the current  
140 month. If full payment is not received by the twentieth of the  
141 following month, there may be added as damages to the total amount  
142 of the delinquency or deficiency the following percentages: ten  
143 percent (10%) for the first offense; fifteen percent (15%) for the  
144 second offense and twenty-five percent (25%) for the third and any  
145 subsequent offense. Upon the third offense, the department may  
146 suspend the privilege to defer payment. The balance due shall  
147 become payable upon notice and demand by the department.

148 (6) The permit fee monies collected under this section,  
149 except as provided for in subsection (4) of this section, shall be  
150 deposited into the State Highway Fund for the construction,  
151 maintenance and reconstruction of highways and roads of the State  
152 of Mississippi or the payment of interest and principal on bonds  
153 authorized by the Legislature for construction and reconstruction  
154 of highways.

155 (7) The department may waive the permits, taxes and fees set  
156 forth in this section whenever a motor vehicle is operated upon  
157 the public highways in this state in response to an emergency, a  
158 major disaster or the threat of a major disaster.

159 **SECTION 2.** Section 27-19-89, Mississippi Code of 1972, is  
160 amended as follows:

161 27-19-89. (a) If any nonresident owner or operator or other  
162 nonresident person eligible for a temporary permit as provided in  
163 Section 27-19-79, who has not elected to register and pay the  
164 annual privilege taxes prescribed, shall enter or go upon the  
165 public highways of the state and shall fail or refuse to obtain



166 the permit required by Section 27-19-79, such person shall be  
167 liable, for the first such offense, for the full amount of the  
168 permit fee required, plus a penalty thereon of five hundred  
169 percent (500%). For the second and all subsequent offenses, such  
170 person who fails or refuses to obtain such permits shall be liable  
171 for the pro rata part of the annual tax for the balance of the tag  
172 year for the maximum legal gross weight of the vehicle plus a  
173 penalty thereon of twenty-five percent (25%). Any weight in  
174 excess of the maximum legal gross weight of the vehicle, or in  
175 excess of the maximum highway weight limit, shall be penalized  
176 according to subsection (c) of this section. In either case the  
177 excess weight shall be removed by the operator before the vehicle  
178 can be allowed to proceed. In order to constitute a "second or  
179 subsequent offense" under the provisions hereof, it shall not be  
180 necessary that the same or identical vehicle be involved, it being  
181 the declared purpose hereof to provide that such penalties shall  
182 run against the owner or operator rather than against the  
183 specified vehicle. It is further provided that, in order for such  
184 owner or operator to become liable for the penalties herein  
185 provided, it shall not be necessary to show that such owner or  
186 operator was guilty of willfulness, gross negligence or  
187 wantonness, but the offense shall be complete upon the failure or  
188 refusal to obtain the required permit.

189 (b) If any person who has registered his vehicle in  
190 Mississippi shall operate such vehicle upon the public highways,  
191 having a gross weight greater than the licensed gross weight of  
192 such vehicle, and shall fail or refuse to obtain a permit therefor  
193 as required by Section 27-19-79, or if any person shall operate  
194 any such registered vehicle upon the public highways in a higher  
195 classification than that for which it is registered, and shall  
196 fail or refuse to obtain a permit therefor as required by Section  
197 27-19-79, then such person shall be liable for the pro rata part  
198 of the annual tax for the balance of the tag year for the legal



199 gross weight of such vehicle and in the classification in which  
200 same is being operated, plus a penalty thereon of twenty-five  
201 percent (25%), after having been given credit for the unexpired  
202 part of the privilege tax paid, as provided in Section 27-19-75.  
203 In order that such owner or operator shall become liable for the  
204 penalties herein provided, it shall not be necessary to show that  
205 such owner or operator was guilty of willfulness, gross negligence  
206 or wantonness, but the offense shall be complete upon the failure  
207 or refusal to obtain the required permit.

208 (c) If any person shall operate upon a highway of this state  
209 a vehicle which has a greater vehicle gross weight than the  
210 maximum gross weight limit established by law for that highway and  
211 shall have failed to obtain an overload permit as required by  
212 Section 27-19-81, or if any person shall operate a vehicle with a  
213 greater load on any axle or axle grouping than allowed by law,  
214 then such person, owner or operator shall be assessed a penalty on  
215 such axle load weight or vehicle gross weight as exceeds the legal  
216 limit in accordance with the following schedule:

217	AMOUNT IN EXCESS OF	
218	LEGAL HIGHWAY WEIGHT	
219	LIMITS IN POUNDS	PENALTY
220	1 to 999	\$10.00 minimum penalty
221	1,000 to 1,999	1¢ per pound in excess of legal limit
222	2,000 to 2,999	2¢ per pound in excess of legal limit
223	3,000 to 3,999	3¢ per pound in excess of legal limit
224	4,000 to 4,999	4¢ per pound in excess of legal limit
225	5,000 to 5,999	5¢ per pound in excess of legal limit
226	6,000 to 6,999	6¢ per pound in excess of legal limit
227	7,000 to 7,999	7¢ per pound in excess of legal limit
228	8,000 to 8,999	8¢ per pound in excess of legal limit
229	9,000 to 9,999	9¢ per pound in excess of legal limit
230	10,000 to 10,999	10¢ per pound in excess of legal limit
231	11,000 or more	11¢ per pound in excess of legal limit



232 Any vehicle in violation of the tolerance allowed pursuant to  
233 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)  
234 for all weight in excess of the legal highway gross weight limit  
235 authorized for such vehicle or for all weight in excess of the  
236 legal tandem axle load weight limit of forty thousand (40,000)  
237 pounds and the legal single axle load limit of twenty thousand  
238 (20,000) pounds, whichever the case may be.

239 The penalty to be assessed for operations of a vehicle with a  
240 greater load on any axle or axle grouping than the legal axle load  
241 weight limits shall be one-half (1/2) the penalty for operation in  
242 excess of the legal gross weight limit.

243 In instances where both the legal highway gross weight limit  
244 and the legal axle load weight limit(s) are exceeded, the fine  
245 that shall be levied shall be either the penalty amount for the  
246 excess vehicle gross weight or the total of the penalty amounts of  
247 all overloaded axles, whichever is the larger amount.

248 Notwithstanding any other provisions of this section to the  
249 contrary, the fine assessed against the holder of a harvest permit  
250 for exceeding a gross vehicle weight of eighty-four thousand  
251 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen  
252 Cents (15¢) per pound for exceeding a gross vehicle weight of one  
253 hundred thousand (100,000) pounds.

254 Notwithstanding any other provision of this subsection (c) to  
255 the contrary, upon an appeal to the Appeals Board of the  
256 Mississippi Transportation Commission by an owner or operator of a  
257 vehicle hauling without a harvest permit any of the products or  
258 materials described in subsection (3) of Section 63-5-33 and upon  
259 whom a penalty has been assessed under this subsection (c) for  
260 exceeding the legal weight limit(s) on a highway having a legal  
261 weight limit of eighty thousand (80,000) pounds or less, the  
262 appeals board shall reduce the penalty assessed against such  
263 owner/operator to an amount not to exceed ten percent (10%) of the  
264 amount which would otherwise be due without the reduction





265 authorized under this paragraph. A reduction shall not be  
266 authorized under this paragraph if the gross weight of the vehicle  
267 for which an owner/operator has been charged with a violation of  
268 this section exceeds eighty-four thousand (84,000) pounds; and, in  
269 any event, no reduction shall be authorized under this paragraph  
270 unless a penalty assessed under this section is appealed to the  
271 appeals board and unless the board determines, based upon its  
272 records, that such owner/operator has not been granted a penalty  
273 reduction under this paragraph within a period of twelve (12)  
274 months immediately preceding the date of filing an appeal with the  
275 board for a penalty reduction under this paragraph.

276 (d) If any nonresident owner or operator who has not  
277 registered his vehicle and paid the annual privilege taxes  
278 prescribed shall operate his vehicle upon the highways of this  
279 state when such vehicle has a greater gross weight than permitted  
280 by law for the highway traveled upon, and for which such excess  
281 gross weight a permit was not or could not be procured from the  
282 transportation department as required by Section 27-19-81, such  
283 person shall be liable upon his second and all subsequent offenses  
284 for the pro rata part of the annual tax for the balance of the tag  
285 year for the legal gross weight of the vehicle, and in addition  
286 thereto the penalty fee on the excess weight as specified in  
287 subsection (c) of this section. In order that such owner or  
288 operator shall become liable for the penalties herein provided, it  
289 shall not be necessary that the same or identical vehicle be  
290 involved, it being the declared purpose hereof to provide that  
291 such penalties shall run against the owner or operator rather than  
292 against the specific vehicle.

293 (e) All fines and penalties imposed and collected by the  
294 Mississippi Department of Transportation for violations of the  
295 maximum legal vehicle weight limits authorized on the highways of  
296 this state shall be deposited into the special fund that is  
297 created under Section 3 of this act. \* \* \*



298           **SECTION 3.** (1) There is created in the State Treasury a  
299 special fund to be designated as the "2001 Feeder Road Improvement  
300 Fund." The fund shall consist of the monies required to be  
301 deposited therein under Sections 27-19-81(4) and 27-19-89(e) and  
302 such other monies as the Legislature appropriates or otherwise  
303 designates for deposit into the fund. Monies in the fund shall be  
304 allocated and distributed to each of the counties in the state  
305 upon requisition of the State Aid Engineer on October 1 of each  
306 year in accordance with the state aid road formula as prescribed  
307 in Section 65-9-3. Unexpended amounts remaining in the fund at  
308 the end of a fiscal year shall not lapse into the State General  
309 Fund, and any interest earned on amounts in the fund shall be  
310 deposited to the credit of the fund.

311           (2) A county may expend funds allocated and distributed to  
312 it under this section to construct, reconstruct, repair or  
313 maintain roads, streets, highways and bridges of the county that  
314 are not included on the state highway system or the state aid road  
315 system. Monies allocated and distributed to a county under this  
316 section may also be used to match any federal funds that may be  
317 available for the same or similar purposes.

318           **SECTION 4.** This act shall take effect and be in force from  
319 and after July 1, 2002.

