

By: Senator(s) Furniss

To: Judiciary;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2737

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE AUTHORITY OF THE GOVERNOR TO DECLARE A STATE OF
3 ALERT; TO CREATE THE OFFENSE OF A TERRORISTIC THREAT OR ACT; TO
4 PRESCRIBE THE ELEMENTS THEREOF AND THE PENALTIES THEREFOR; TO
5 CODIFY SECTION 97-27-10, MISSISSIPPI CODE OF 1972, TO DEFINE
6 CERTAIN TERMS; TO AMEND SECTION 97-27-11, MISSISSIPPI CODE OF
7 1972, TO PROHIBIT THE INTRODUCTION OF HARMFUL BIOLOGICAL
8 SUBSTANCES INTO MISSISSIPPI, TO PROHIBIT THE UNLAWFUL POSSESSION
9 OF SUCH HARMFUL BIOLOGICAL SUBSTANCES, AND TO INCREASE THE
10 PENALTIES ASSOCIATED WITH SUCH PROHIBITED ACTS; TO CODIFY SECTION
11 97-27-12, MISSISSIPPI CODE OF 1972, TO MAKE UNLAWFUL THE
12 PERFORMING OF AN ACT INTENDED TO CAUSE A PERSON TO FALSELY BELIEVE
13 THAT THE PERSON HAS BEEN EXPOSED TO A HARMFUL BIOLOGICAL, CHEMICAL
14 OR RADIOLOGICAL SUBSTANCE OR DEVICE, TO PROVIDE CRIMINAL PENALTIES
15 AND TO IMPOSE THE COSTS OF INDIVIDUAL AND GOVERNMENTAL RESPONSE TO
16 SUCH UNLAWFUL ACTS; TO ENACT A DEFINITION OF "TERRORISM"; TO AMEND
17 SECTION 13-1-21, MISSISSIPPI CODE OF 1972, TO PERMIT DISCLOSURE OF
18 MEDICAL INFORMATION IN THE EVENT OF AN EMERGENCY DECLARATION BY
19 THE GOVERNOR; TO AMEND SECTION 13-1-23, MISSISSIPPI CODE OF 1972,
20 TO ALLOW DECLARATION OF PRESUMPTION OF DEATH IN SITUATIONS OF MASS
21 CASUALTIES; TO AMEND SECTION 41-23-1, MISSISSIPPI CODE OF 1972, TO
22 EXPAND THE CLASSIFICATION OF DISEASES, CONDITIONS OR THREATS WHICH
23 ARE REPORTABLE, TO REQUIRE VETERINARIANS AND OTHER PERSONS WORKING
24 IN THE ANIMAL HEALTH FIELD TO REPORT, AND TO REQUIRE PHARMACIST
25 REPORTING OF UNUSUAL PRESCRIPTIONS OR RATES OF PRESCRIPTIONS; TO
26 AMEND SECTION 41-23-2, MISSISSIPPI CODE OF 1972, TO REVISE THE
27 PENALTY FOR ANY PERSON VIOLATING A LAWFUL ORDER OF THE COUNTY,
28 DISTRICT OR STATE HEALTH OFFICER; TO AMEND SECTION 41-23-5,
29 MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE STATE
30 OFFICER TO PROTECT THE PUBLIC HEALTH; TO AMEND SECTION 41-3-15,
31 MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE
32 DEPARTMENT OF HEALTH TO INSPECT ANY PLACE RATHER THAN ONLY A
33 PUBLIC PLACE; TO CREATE NEW SECTION 41-39-55, MISSISSIPPI CODE OF
34 1972, TO PROVIDE EMERGENCY MEASURES TO HANDLE LARGE NUMBERS OF
35 CORPSES OR HUMAN REMAINS; TO AMEND SECTION 41-29-133, MISSISSIPPI
36 CODE OF 1972, TO CREATE A CENTRAL REPORTING BUREAU FOR PHARMACISTS
37 TO REPORT CERTAIN INFORMATION CONCERNING UNUSUAL PRESCRIPTIONS OR
38 RATES OF PRESCRIPTIONS; TO AMEND SECTIONS 45-35-7, 63-1-43,
39 63-1-47 AND 63-1-82, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
40 DRIVERS' LICENSES, IDENTIFICATION CARDS ISSUED BY THE DEPARTMENT
41 OF PUBLIC SAFETY AND ALL COMMERCIAL DRIVERS' LICENSES ISSUED TO
42 PERSONS WHO ARE NOT UNITED STATES CITIZENS SHALL EXPIRE ONE YEAR
43 AFTER DATE OF ISSUE; TO AMEND SECTION 11-46-9, MISSISSIPPI CODE OF
44 1972, TO PROVIDE GOVERNMENTAL IMMUNITY FOR RESPONSE TO A
45 TERRORISTIC THREAT OR ACT; TO AMEND SECTION 65-1-8, MISSISSIPPI
46 CODE OF 1972, TO PROVIDE THAT WHEN THE GOVERNOR DECLARES A STATE
47 OF EMERGENCY OR STATE OF ALERT, THE MISSISSIPPI TRANSPORTATION
48 COMMISSION MAY TEMPORARILY ASSIGN ITS WEIGHT ENFORCEMENT OFFICERS
49 TO THE DEPARTMENT OF PUBLIC SAFETY TO AUGMENT THE MANPOWER NEEDS
50 OF THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION 65-1-71,
51 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIRECTOR OF THE
52 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO CLOSE HIGHWAYS WHEN



53 THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY OR A STATE OF ALERT
54 AND THE HIGHWAY TO BE CLOSED IS A POTENTIAL TERRORIST TARGET; TO
55 AMEND SECTION 65-1-85, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
56 MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO DEVIATE FROM ITS
57 NORMAL PROCEDURE WHEN CONTRACTING TO REPAIR DAMAGE TO PUBLIC ROADS
58 CAUSED BY A TERRORIST ATTACK; AND FOR RELATED PURPOSES.

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

60 **SECTION 1.** Section 33-15-11, Mississippi Code of 1972, is
61 amended as follows:

62 33-15-11. (a) The Governor shall have general direction and
63 control of the activities of the Emergency Management Agency and
64 Council and shall be responsible for the carrying out of the
65 provisions of this article, and in the event of a man-made,
66 technological or natural disaster or emergency beyond local
67 control, may assume direct operational control over all or any
68 part of the emergency management functions within this state.

69 (b) In performing his duties under this article, the
70 Governor is further authorized and empowered:

71 (1) To make, amend, and rescind the necessary orders,
72 rules and regulations to carry out the provisions of this article
73 with due consideration of the plans of the federal government, and
74 to enter into disaster assistance grants and agreements with the
75 federal government under the terms as may be required by federal
76 law.

77 (2) To work with the Mississippi Emergency Management
78 Agency in preparing a comprehensive plan and program for the
79 emergency management of this state, such plan and program to be
80 integrated into and coordinated with the emergency management
81 plans of the federal government and of other states to the fullest
82 possible extent, and to coordinate the preparation of plans and
83 programs for emergency management by the political subdivisions of
84 this state, such local plans to be integrated into and coordinated
85 with the emergency management plan and program of this state to
86 the fullest possible extent.

87 (3) In accordance with such plan and program for
88 emergency management of this state, to ascertain the requirements



89 of the state or the political subdivisions thereof for food or
90 clothing or other necessities of life in the event of attack or
91 natural or man-made or technological disasters and to plan for and
92 procure supplies, medicines, materials, and equipment, and to use
93 and employ from time to time any of the property, services, and
94 resources within the state, for the purposes set forth in this
95 article; to make surveys of the industries, resources and
96 facilities within the state as are necessary to carry out the
97 purposes of this article; to institute training programs and
98 public information programs, and to take all other preparatory
99 steps, including the partial or full mobilization of emergency
100 management organizations in advance of actual disaster, to insure
101 the furnishing of adequately trained and equipped forces of
102 emergency management personnel in time of need.

103 (4) To cooperate with the President and the heads of
104 the Armed Forces, and the Emergency Management Agency of the
105 United States, and with the officers and agencies of other states
106 in matters pertaining to the emergency management of the state and
107 nation and the incidents thereof; and in connection therewith, to
108 take any measures which he may deem proper to carry into effect
109 any request of the President and the appropriate federal officers
110 and agencies, for any action looking to emergency management,
111 including the direction or control of (a) blackouts and practice
112 blackouts, air raid drills, mobilization of emergency management
113 forces, and other tests and exercises, (b) warnings and signals
114 for drills or attacks and the mechanical devices to be used in
115 connection therewith, (c) the effective screening or extinguishing
116 of all lights and lighting devices and appliances, (d) shutting
117 off water mains, gas mains, electric power connections and the
118 suspension of all other utility services, (e) the conduct of
119 civilians and the movement and cessation of movement of
120 pedestrians and vehicular traffic during, prior, and subsequent to
121 drills or attack, (f) public meetings or gatherings under



122 emergency conditions, and (g) the evacuation and reception of the
123 civilian population.

124 (5) To take such action and give such directions to
125 state and local law enforcement officers and agencies as may be
126 reasonable and necessary for the purpose of securing compliance
127 with the provisions of this article and with the orders, rules and
128 regulations made pursuant thereto.

129 (6) To employ such measures and give such directions to
130 the state or local boards of health as may be reasonably necessary
131 for the purpose of securing compliance with the provisions of this
132 article or with the findings or recommendations of such boards of
133 health by reason of conditions arising from enemy attack or the
134 threat of enemy attack or natural, man-made or technological
135 disaster.

136 (7) To utilize the services and facilities of existing
137 officers and agencies of the state and of the political
138 subdivisions thereof; and all such officers and agencies shall
139 cooperate with and extend their services and facilities to the
140 Governor as he may request.

141 (8) To establish agencies and offices and to appoint
142 executive, technical, clerical, and other personnel as may be
143 necessary to carry out the provisions of this article including,
144 with due consideration to the recommendation of the local
145 authorities, part-time or full-time state and regional area
146 directors.

147 (9) To delegate any authority vested in him under this
148 article, and to provide for the subdelegation of any such
149 authority.

150 (10) On behalf of this state to enter into reciprocal
151 aid agreements or compacts with other states and the federal
152 government, either on a statewide basis or local political
153 subdivision basis or with a neighboring state or province of a
154 foreign country. Such mutual aid arrangements shall be limited to



155 the furnishings or exchange of food, clothing, medicine, and other
156 supplies; engineering services; emergency housing; police
157 services; national or state guards while under the control of the
158 state; health, medical and related services; fire fighting,
159 rescue, transportation, and construction services and equipment;
160 personnel necessary to provide or conduct these services; and such
161 other supplies, equipment, facilities, personnel, and services as
162 may be needed; the reimbursement of costs and expenses for
163 equipment, supplies, personnel, and similar items for mobile
164 support units, fire fighting, and police units and health units;
165 and on such terms and conditions as are deemed necessary.

166 (11) To sponsor and develop mutual aid plans and
167 agreements between the political subdivisions of the state,
168 similar to the mutual aid arrangements with other states referred
169 to above.

170 (12) Authorize any agency or arm of the state to create
171 a special emergency management revolving fund, accept donations,
172 contributions, fees, grants, including federal funds, as may be
173 necessary for such agency or arm of the state to administer its
174 functions of this article as set forth in the executive order of
175 the Governor.

176 (13) To authorize the Commissioner of Public Safety to
177 select, train, organize, and equip a ready reserve of auxiliary
178 highway patrolmen.

179 (14) To suspend or limit the sale, dispensing or
180 transportation of alcoholic beverages, firearms, explosives and
181 combustibles.

182 (15) To control, restrict and regulate by rationing,
183 freezing, use of quotas, prohibitions on shipments, price fixing,
184 allocation or other means, the use, sale or distribution of food,
185 feed, fuel, clothing, and other commodities, materials, goods or
186 services.



187 (16) To proclaim a state of emergency or state of alert
188 in an area affected or likely to be affected thereby when he finds
189 that the conditions described in Section 33-15-5(g) exist, or when
190 he is requested to do so by the mayor of a municipality or by the
191 president of the board of supervisors of a county, or when he
192 finds that a local authority is unable to cope with the emergency.
193 Such proclamation shall be in writing and shall take effect
194 immediately upon its issuance. As soon thereafter as possible,
195 such proclamation shall be filed with the Secretary of State and
196 be given widespread notice and publicity. The Governor, upon
197 advise of the director, shall review the need for continuing the
198 state of emergency at least every thirty (30) days until the
199 emergency is terminated and shall proclaim the termination of the
200 state of emergency at the earliest possible date that conditions
201 warrant.

202 (c) In addition to the powers conferred upon the Governor in
203 this section, the Legislature hereby expressly delegates to the
204 Governor the following powers and duties in the event of an
205 impending enemy attack, an enemy attack, or a man-made,
206 technological or natural disaster where such disaster is beyond
207 local control:

208 (1) To suspend the provisions of any regulatory statute
209 prescribing the procedures for conduct of state business, or the
210 orders, rules or regulations of any state agency, if strict
211 compliance with the provisions of any statute, order, rule or
212 regulation would in any way prevent, hinder or delay necessary
213 action in coping with a disaster or emergency.

214 (2) To transfer the direction, personnel or functions
215 of state agencies, boards, commissions or units thereof for the
216 purpose of performing or facilitating disaster or emergency
217 services.

218 (3) To commandeer or utilize any private property if
219 necessary to cope with a disaster or emergency, provided that such



220 private property so commandeered or utilized shall be paid for
221 under terms and conditions agreed upon by the participating
222 parties. The owner of said property shall immediately be given a
223 receipt for the said private property and said receipt shall serve
224 as a valid claim against the Treasury of the State of Mississippi
225 for the agreed upon market value of said property.

226 (4) To perform and exercise such other functions,
227 powers and duties as may be necessary to promote and secure the
228 safety and protection of the civilian population in coping with a
229 disaster or emergency.

230 **SECTION 2.** (1) A person commits the offense of a
231 terroristic threat when he threatens to commit any crime of
232 violence or to burn or damage property with the purpose of
233 terrorizing another or of causing the evacuation of a building,
234 place of assembly, or facility of public transportation or
235 otherwise causing serious public inconvenience, or in reckless
236 disregard of the risk of causing such terror or inconvenience. No
237 person shall be convicted under this subsection on the
238 uncorroborated testimony of the party to whom the threat is
239 communicated. A person convicted of the offense of a terroristic
240 threat shall be guilty of a misdemeanor and shall be punished by a
241 fine of not more than Five Thousand Dollars (\$5,000.00) or by
242 imprisonment for not more than one (1) year, or both.

243 (2) A person commits the offense of a terroristic act when:

244 (a) He uses a bomb, burning or flaming cross or other
245 burning or flaming symbol or flambeau or other incendiary device
246 with the intent to terrorize; or

247 (b) While not in the commission of a lawful act, he
248 shoots at or throws an object at any conveyance which is being
249 operated or which is occupied by passengers or at any occupied
250 building with the intent to terrorize one or more occupants of the
251 conveyance or building.



252 (c) A person convicted of the offense of a terroristic
253 act shall be guilty of a felony and shall be punished by a fine of
254 not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment
255 for not more than five (5) years, or both.

256 **SECTION 3.** The following shall be codified as Section
257 97-27-10, Mississippi Code of 1972:

258 97-27-10. As used in Sections 97-27-10 through 97-27-12:

259 (a) "Harmful biological substance" means a bacteria,
260 virus, or other microorganism or a toxic substance derived from or
261 produced by an organism that can be used to cause death, injury or
262 disease in humans, animals or plants.

263 (b) "Harmful biological device" means a device designed
264 or intended to release a harmful biological substance.

265 (c) "Harmful chemical substance" means a solid, liquid
266 or gas that through its chemical or physical properties, along or
267 in combination with one or more other chemical substances, can be
268 used to cause death, injury or disease in humans, animals or
269 plants.

270 (d) "Harmful radioactive material" means material that
271 is radioactive and that can be used to cause death, injury or
272 disease in humans, animals or growing plants by its radioactivity.

273 (e) "Harmful chemical device" means a device that is
274 designed or intended to release a harmful chemical substance.

275 (f) "Harmful radioactive device" means a device that is
276 designed or intended to release a harmful radioactive material.

277 **SECTION 4.** Section 97-27-11, Mississippi Code of 1972, is
278 amended as follows:

279 97-27-11. (1) It shall be unlawful for any person to
280 willfully and knowingly import, bring or send into this state a
281 harmful biological substance including smallpox, anthrax or any
282 other contagious or infectious disease * * *, with the design to
283 unlawfully spread the same or assist in spreading the same with
284 intent to cause harm to human, animal or plant life and it shall



285 likewise be unlawful for any person to develop, manufacture or
286 possess such harmful biological substances, except for purposes
287 authorized by law.

288 (2) A person convicted of subsection (1) shall be guilty of
289 a felony and, upon conviction, shall be fined not more than One
290 Hundred Thousand Dollars (\$100,000.00), or be imprisoned not more
291 than twenty (20) years in the State Penitentiary, or both.

292 **SECTION 5.** The following shall be codified as Section
293 97-27-12, Mississippi Code of 1972:

294 97-27-12. (1) It shall be unlawful for any person to commit
295 an act intended to cause another person or persons to falsely
296 believe that said person or persons have been exposed to a harmful
297 biological substance, harmful biological device, harmful chemical
298 substance, harmful chemical device, harmful radioactive material
299 or harmful radioactive device.

300 (2) Any person convicted of subsection (1) of this section
301 shall be guilty of a felony, and, upon conviction, shall be
302 punished by imprisonment in the State Penitentiary for not more
303 than five (5) years or shall be fined not more than Ten Thousand
304 Dollars (\$10,000.00), or both.

305 (3) In addition to any such imprisonment and/or fine which
306 may be imposed upon a violation of subsection (1) of this section,
307 the court shall also order that any person convicted for such
308 violation shall reimburse any individual or governmental agency
309 for the expenses incurred as a result of the violation.

310 **SECTION 6.** The term "terrorism" means activities that
311 involve violent acts or acts dangerous to human life that are
312 intended to and do put another person in fear of serious bodily
313 harm under circumstances manifesting extreme indifference to the
314 value of human life that appear to be intended to intimidate or
315 coerce a civilian population or to affect the conduct of
316 government through the activities.



317 **SECTION 7.** Section 13-1-21, Mississippi Code of 1972, is
318 amended as follows:

319 13-1-21. (1) All communications made to a physician,
320 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,
321 optometrist or chiropractor by a patient under his charge or by
322 one seeking professional advice are hereby declared to be
323 privileged, and such party shall not be required to disclose the
324 same in any legal proceeding except at the instance of the patient
325 or, in case of the death of the patient, at the instance of his
326 personal representative or legal heirs in case there be no
327 personal representative, or except, if the validity of the will of
328 the decedent is in question, at the instance of the personal
329 representative or any of the legal heirs or any contestant or
330 proponent of the will.

331 (2) There shall be waiver of the medical privilege of
332 patients regarding the release of medical information to health
333 care personnel, the State Board of Health or local health
334 departments, made to comply with Sections 41-3-15, 41-23-1 and
335 41-23-2 and related rules * * *. The medical privilege likewise
336 shall be waived to allow any physician, osteopath, dentist,
337 hospital, nurse, pharmacist, podiatrist, optometrist or
338 chiropractor to report to the State Department of Health necessary
339 information regarding any person afflicted with any communicable
340 disease or infected with the causative agent thereof who neglects
341 or refuses to comply with accepted protective measures to prevent
342 the transmission of the communicable disease or in cases of
343 actual, threatened or reasonably suspected chemical or biological
344 terrorism.

345 (3) Willful violations of the provisions of this section
346 shall constitute a misdemeanor and shall be punishable as provided
347 for by law. Any physician, osteopath, dentist, hospital, nurse,
348 pharmacist, podiatrist, optometrist, or chiropractor shall be



349 civilly liable for damages for any willful or reckless and wanton
350 acts or omissions constituting such violations.

351 (4) In any action commenced or claim made after July 1,
352 1983, against a physician, hospital, hospital employee, osteopath,
353 dentist, nurse, pharmacist, podiatrist, optometrist or
354 chiropractor for professional services rendered or which should
355 have been rendered, the delivery of written notice of such claim
356 or the filing of such an action shall constitute a waiver of the
357 medical privilege and any medical information relevant to the
358 allegation upon which the cause of action or claim is based shall
359 be disclosed upon the request of the defendant, or his or her
360 counsel.

361 (5) In any disciplinary action commencing on or after July
362 1, 1987, against a medical physician, an osteopathic physician or
363 a podiatrist pursuant to the provisions of Sections 73-25-1
364 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through
365 73-25-95 and 73-27-1 through 73-27-19, waiver of the medical
366 privilege of a patient to the extent of any information other than
367 that which would identify the patient shall be implied.

368 **SECTION 8.** Section 41-23-1, Mississippi Code of 1972, is
369 amended as follows:

370 41-23-1. (1) The State Board of Health shall adopt rules
371 and regulations (a) defining and classifying communicable diseases
372 and other diseases, conditions and threats that are a danger to
373 health based upon the characteristics of the disease, condition or
374 threat; and (b) establishing reporting, monitoring, examination,
375 treatment and preventive procedures for those diseases, conditions
376 or threats.

377 (2) Upon the death of any person who has been diagnosed as
378 having Human Immunodeficiency Virus/Acquired Immune Deficiency
379 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the
380 State Board of Health, in a hospital or other health care
381 facility, in all other cases where there is an attending



382 physician, and in cases in which the medical examiner, as defined
383 in Section 41-61-53(f), investigates and certifies the cause of
384 death, the attending physician, the person in charge of the
385 hospital or health care facility, or the medical examiner, as the
386 case may be, shall report as soon as practicable to the Executive
387 Officer of the State Board of Health or to other authorities the
388 cause or contributing cause of death as required by the State
389 Board of Health. Such reporting shall be according to procedures
390 as required by the State Board of Health.

391 (3) Upon the death of any person who has been diagnosed as
392 having Human Immunodeficiency Virus/Acquired Immune Deficiency
393 Syndrome (HIV/AIDS), where there is not an attending physician,
394 any family member or other person making disposition of the body
395 who knows that such decedent had been diagnosed as having HIV/AIDS
396 shall report this fact to the medical examiner as defined in
397 Section 41-61-53(f), who shall report as soon as practicable to
398 the Executive Officer of the State Board of Health or to other
399 authorities the cause or contributing cause of death as required
400 by the State Board of Health. Such reporting shall be according
401 to procedures as required by the State Board of Health.

402 (4) Every practicing or licensed physician, or person in
403 charge of a hospital, health care facility, insurance company
404 which causes to be performed blood tests for underwriting purposes
405 or laboratory, shall report immediately to the Executive Officer
406 of the State Board of Health or to other authorities as required
407 by the State Board of Health every case of such diseases and
408 conditions as shall be required to be reported by the State Board
409 of Health. Such reporting shall be according to procedures, and
410 shall include such information about the case, as shall be
411 required by the State Board of Health. Insurance companies having
412 such blood test results shall report immediately to the Executive
413 Officer of the State Board of Health or to other authorities as
414 required by the State Board of Health every case of such diseases



415 and conditions as shall be required to be reported by the State
416 Board of Health. The insurance company shall notify the
417 individual on whom the blood test was performed in writing by
418 certified mail of an adverse underwriting decision based upon the
419 results of such individual's blood test but shall not disclose the
420 specific results of such blood tests to the individual. The
421 insurance company shall also inform the individual on whom the
422 blood test was performed that the results of the blood test will
423 be sent to the physician designated by the individual at the time
424 of application and that such physician should be contacted for
425 information regarding the blood test results. If a physician was
426 not designated at the time of application, the insurance company
427 shall request that the individual name a physician to whom a copy
428 of the blood test can be sent.

429 (5) Any practicing or licensed physician, or person in
430 charge of a hospital or health care facility, who knows that a
431 patient has a medical condition specified by the Department of
432 Health as requiring special precautions by health care providers,
433 shall report this fact and the need for appropriate precautions to
434 any other institution or provider of health care services to whom
435 such patient is transferred or referred, according to regulations
436 established by the State Board of Health.

437 (6) Any practicing or licensed physician or person in charge
438 of a hospital, health care facility or laboratory who fails to
439 make the reports required under this section regarding Human
440 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
441 (HIV/AIDS) or any Class 1 disease or condition as designated by
442 the State Board of Health shall be reported to the Board of
443 Medical Licensure, in the case of a physician, or to the
444 applicable licensing agency in the case of institutions, and such
445 failure shall be grounds for suspension of license.

446 (7) Every veterinarian, livestock owner, veterinary
447 diagnostic laboratory director or other person having the care of



448 animals shall report animals having or suspected of having any
449 disease that may be caused by bioterrorism, epidemic or pandemic
450 disease, or novel and highly fatal infections agents or biological
451 or other toxins that might pose a substantial risk of a
452 significant number of human or animal fatalities or incidents of
453 permanent or long-term disability.

454 (8) Any person other than a practicing or licensed
455 physician, or person in charge of a hospital or health care
456 facility, willfully failing to make the reports required under
457 this section shall be guilty of a misdemeanor and, upon
458 conviction, shall be punished by a fine of not more than Five
459 Hundred Dollars (\$500.00) or by confinement in the county jail for
460 not more than thirty (30) days, or both.

461 (9) The provisions of this section are cumulative and
462 supplemental to any other provision of law, and a conviction or
463 penalty imposed under this section shall not preclude any other
464 action at law, proceedings for professional discipline or other
465 criminal proceedings.

466 (10) Notwithstanding any law of this state to the contrary,
467 the State Board of Health is authorized to establish the rules by
468 which exceptions may be made to the confidentiality provisions of
469 the laws of this state for the notification of third parties of an
470 individual's infection with any Class 1 or Class 2 disease, as
471 designated by the State Board of Health, when exposure is
472 indicated or there exists a threat to the public health and
473 welfare. All notifications authorized by this section shall be
474 within the rules established according to this subsection. All
475 persons who receive notification of the infectious condition of an
476 individual under this subsection and the rules established under
477 this subsection shall hold such information in the strictest of
478 confidence and privilege, shall not reveal the information to
479 others, and shall take only those actions necessary to protect the



480 health of the infected person or other persons where there is a
481 foreseeable, real or probable risk of transmission of the disease.

482 (11) Each public or private correctional facility housing
483 state offenders, federal offenders or offenders from any other
484 jurisdiction shall require all offenders in the facility to be
485 tested for tuberculosis and Human Immunodeficiency Virus (HIV) in
486 conjunction with the rules and regulations of the State Department
487 of Health. The reporting shall be according to procedures and
488 shall include any information about the case that is required by
489 the State Board of Health. In order to carry out the provisions
490 of this section, the following shall apply:

491 (a) Any such public or private correctional facility
492 may contract with the Mississippi Department of Corrections, the
493 Mississippi State Department of Health, or other such appropriate
494 state, federal or local entity for the inspection, monitoring or
495 provision of any assistance necessary or desirable to maintain
496 appropriate facilities for the purpose of identification,
497 prevention, and treatment of communicable diseases and other
498 conditions considered prejudicial to public health; and

499 (b) Any such public or private correctional facility
500 shall grant representatives of the State Department of Health, in
501 the discharge of its duties, access to all areas of the facility
502 and to the offenders and staff at all times. The facility shall
503 reimburse the State Department of Health for all costs incurred
504 for the control of communicable diseases or other conditions
505 prejudicial to public health in the facility and for the costs
506 incurred for the control of communicable diseases or other
507 conditions prejudicial to public health spreading from the
508 facility, staff or inmates to other individuals or property in the
509 county or state.

510 **SECTION 9.** Section 41-23-2, Mississippi Code of 1972, is
511 amended as follows:



512 41-23-2. Any person who shall knowingly and willfully
513 violate the lawful order of the county, district or State Health
514 Officer where that person is afflicted with a life-threatening
515 communicable disease or condition or the causative agent thereof,
516 or who shall knowingly and willfully violate the lawful order of
517 the county, district or State Health Officer subsequent to the
518 issuance by the Governor of an order declaring a state of alert or
519 emergency due to the health threat where such order is intended to
520 prevent the spread of a disease, condition or threat which poses a
521 clear and present danger to the public health, shall be guilty of
522 a felony and, upon conviction, shall be punished by a fine not
523 exceeding Five Thousand Dollars (\$5,000.00) or by imprisonment in
524 the Penitentiary for not more than five (5) years, or by both.

525 **SECTION 10.** Section 41-23-5, Mississippi Code of 1972, is
526 amended as follows:

527 41-23-5. (1) The State Department of Health shall have the
528 authority to investigate and control the causes of epidemic,
529 infectious and other disease, condition or threat affecting the
530 public health, including the authority to establish, maintain and
531 enforce isolation and quarantine and decontaminate buildings, and
532 in pursuance thereof, to exercise such physical control over
533 property and individuals as the department may find necessary for
534 the protection of the public health.

535 (2) Notwithstanding any other provision of law to the
536 contrary, following a declaration of emergency or war emergency by
537 the Governor, the State Health Officer may exercise such authority
538 as he deems proper and necessary to protect the public health,
539 including investigation and certification as to the cause of
540 death, and may appoint private physicians to conduct said
541 investigations into and certifications of the cause of death.

542 **SECTION 11.** Section 13-1-23, Mississippi Code of 1972, is
543 amended as follows:



544 13-1-23. (1) Any person who shall remain beyond the sea, or
545 absent himself from this state, or conceal himself in this state,
546 for seven (7) years successively without being heard of, shall be
547 presumed to be dead in any case where his death shall come in
548 question, unless proof be made that he was alive within that time.
549 Any property or estate recovered in any such case shall be
550 restored to the person evicted or deprived thereof, if, in a
551 subsequent action, it shall be proved that the person so presumed
552 to be dead is living.

553 (2) In the event the Governor declares a state of emergency
554 due to terrorism or other disaster resulting in mass casualties,
555 the chancery court may order presumption of death in the absence
556 of recovery of a corpse after a reasonable period of less than
557 seven (7) years should the person be unable to be located with
558 whereabouts unknown, and it reasonably appears to the court that
559 the person died as a result of the event causing the mass
560 casualties.

561 **SECTION 12.** Section 41-3-15, Mississippi Code of 1972, is
562 amended as follows:

563 41-3-15. (1) There shall be a State Department of Health
564 which shall be organized into such bureaus and divisions as are
565 considered necessary by the executive officer, and shall be
566 assigned appropriate functions as are required of the State Board
567 of Health by law, subject to the approval of the board.

568 (2) The State Board of Health shall have the authority to
569 establish an Office of Rural Health within the department. The
570 duties and responsibilities of this office shall include the
571 following:

572 (a) To collect and evaluate data on rural health
573 conditions and needs;

574 (b) To engage in policy analysis, policy development
575 and economic impact studies with regard to rural health issues;



576 (c) To develop and implement plans and provide
577 technical assistance to enable community health systems to respond
578 to various changes in their circumstances;

579 (d) To plan and assist in professional recruitment and
580 retention of medical professionals and assistants; and

581 (e) To establish information clearinghouses to improve
582 access to and sharing of rural health care information.

583 (3) The State Board of Health shall have general supervision
584 of the health interests of the people of the state and to exercise
585 the rights, powers and duties of those acts which it is authorized
586 by law to enforce.

587 (4) The State Board of Health shall have authority:

588 (a) To make investigations and inquiries with respect
589 to the causes of disease and death, and to investigate the effect
590 of environment, including conditions of employment and other
591 conditions which may affect health, and to make such other
592 investigations as it may deem necessary for the preservation and
593 improvement of health.

594 (b) To make such sanitary investigations as it may,
595 from time to time, deem necessary for the protection and
596 improvement of health and to investigate nuisance questions which
597 affect the security of life and health within the state.

598 (c) To direct and control sanitary and quarantine
599 measures for dealing with all diseases within the state possible
600 to suppress same and prevent their spread.

601 (d) To obtain, collect and preserve such information
602 relative to mortality, morbidity, disease and health as may be
603 useful in the discharge of its duties or may contribute to the
604 prevention of disease or the promotion of health in this state.

605 (e) To enter into contracts or agreements with any
606 other state or federal agency, or with any private person,
607 organization or group capable of contracting, if it finds such
608 action to be in the public interest.



609 (f) To charge and collect reasonable fees for health
610 services, including immunizations, inspections and related
611 activities, and the board shall charge fees for such services;
612 provided, however, if it is determined that a person receiving
613 services is unable to pay the total fee, the board shall collect
614 any amount such person is able to pay.

615 (g) To accept gifts, trusts, bequests, grants,
616 endowments or transfers of property of any kind.

617 (h) To receive monies coming to it by way of fees for
618 services or by appropriations.

619 (i) (i) To establish standards for, issue permits and
620 exercise control over, any cafes, restaurants, food or drink
621 stands, sandwich manufacturing establishments, and all other
622 establishments, other than churches, church-related and private
623 schools, and other nonprofit or charitable organizations, where
624 food or drink is regularly prepared, handled and served for pay;
625 and

626 (ii) To require that a permit be obtained from the
627 Department of Health before such persons begin operation.

628 (j) To promulgate rules and regulations and exercise
629 control over the production and sale of milk pursuant to the
630 provisions of Sections 75-31-41 through 75-31-49.

631 (k) On presentation of proper authority, to enter into
632 or onto and inspect any * * * place or building where the State
633 Health Officer or his representative deems it necessary and proper
634 to enter for the discovery and suppression of disease and for the
635 enforcement of any health or sanitary laws and regulations in the
636 state.

637 (l) To conduct investigations, inquiries and hearings,
638 and to issue subpoenas for the attendance of witnesses and the
639 production of books and records at any hearing when authorized and
640 required by statute to be conducted by the State Health Officer or
641 the State Board of Health.



642 (m) To employ, subject to the regulations of the State
643 Personnel Board, qualified professional personnel in the subject
644 matter or fields of each bureau, and such other technical and
645 clerical staff as may be required for the operation of the
646 department. The executive officer shall be the appointing
647 authority for the department, and shall have the power to delegate
648 the authority to appoint or dismiss employees to appropriate
649 subordinates, subject to the rules and regulations of the State
650 Personnel Board.

651 (n) To promulgate rules and regulations, and to collect
652 data and information, on (i) the delivery of services through the
653 practice of telemedicine; and (ii) the use of electronic records
654 for the delivery of telemedicine services.

655 (5) (a) The State Board of Health shall have the authority,
656 in its discretion, to establish programs to promote the public
657 health, to be administered by the State Department of Health.
658 Specifically, such programs may include, but shall not be limited
659 to, programs in the following areas:

- 660 (i) Maternal and child health;
- 661 (ii) Family planning;
- 662 (iii) Pediatric services;
- 663 (iv) Services to crippled and disabled children;
- 664 (v) Control of communicable and noncommunicable
665 disease;
- 666 (vi) Child care licensure;
- 667 (vii) Radiological health;
- 668 (viii) Dental health;
- 669 (ix) Milk sanitation;
- 670 (x) Occupational safety and health;
- 671 (xi) Food, vector control and general sanitation;
- 672 (xii) Protection of drinking water;
- 673 (xiii) Sanitation in food handling establishments
674 open to the public;



675 (xiv) Registration of births and deaths and other
676 vital events;

677 (xv) Such public health programs and services as
678 may be assigned to the State Board of Health by the Legislature or
679 by executive order.

680 (b) The State Board of Health and State Department of
681 Health shall not be authorized to sell, transfer, alienate or
682 otherwise dispose of any of the home health agencies owned and
683 operated by the department on January 1, 1995, and shall not be
684 authorized to sell, transfer, assign, alienate or otherwise
685 dispose of the license of any of those home health agencies,
686 except upon the specific authorization of the Legislature by an
687 amendment to this section. However, this paragraph (b) shall not
688 prevent the board or the department from closing or terminating
689 the operation of any home health agency owned and operated by the
690 department, or closing or terminating any office, branch office or
691 clinic of any such home health agency, or otherwise discontinuing
692 the providing of home health services through any such home health
693 agency, office, branch office or clinic, if the board first
694 demonstrates that there are other providers of home health
695 services in the area being served by the department's home health
696 agency, office, branch office or clinic that will be able to
697 provide adequate home health services to the residents of the area
698 if the department's home health agency, office, branch office or
699 clinic is closed or otherwise discontinues the providing of home
700 health services. This demonstration by the board that there are
701 other providers of adequate home health services in the area shall
702 be spread at length upon the minutes of the board at a regular or
703 special meeting of the board at least thirty (30) days before a
704 home health agency, office, branch office or clinic is proposed to
705 be closed or otherwise discontinue the providing of home health
706 services.



707 (c) The State Department of Health may undertake such
708 technical programs and activities as may be required for the
709 support and operation of such programs, including maintaining
710 physical, chemical, bacteriological and radiological laboratories,
711 and may make such diagnostic tests for diseases and tests for the
712 evaluation of health hazards as may be deemed necessary for the
713 protection of the people of the state.

714 (6) (a) The State Board of Health shall administer the
715 local governments and rural water systems improvements loan
716 program in accordance with the provisions of Section 41-3-16.

717 (b) The State Board of Health shall have authority:

718 (i) To enter into capitalization grant agreements
719 with the United States Environmental Protection Agency, or any
720 successor agency thereto;

721 (ii) To accept capitalization grant awards made
722 under the federal Safe Drinking Water Act, as amended;

723 (iii) To provide annual reports and audits to the
724 United States Environmental Protection Agency, as may be required
725 by federal capitalization grant agreements; and

726 (iv) To establish and collect fees to defray the
727 reasonable costs of administering the revolving fund or emergency
728 fund if the State Board of Health determines that such costs will
729 exceed the limitations established in the federal Safe Drinking
730 Water Act, as amended. The administration fees may be included in
731 loan amounts to loan recipients for the purpose of facilitating
732 payment to the board; however, such fees may not exceed five
733 percent (5%) of the loan amount.

734 **SECTION 13.** The following shall be codified as Section
735 41-39-55, Mississippi Code of 1972:

736 41-39-55. The Mississippi State board of Health may
737 exercise, for such period as a state of emergency or public health
738 emergency exists, the following powers regarding the safe disposal
739 of corpses:



740 (a) Adopt and enforce measures to provide for the safe
741 disposal of corpses as may be reasonably necessary for emergency
742 response. Such measures may include, but are not limited to, the
743 embalming, burial, cremation, interment, disinterment,
744 transportation and disposal of corpses.

745 (b) Take possession of or control of any corpse or
746 other remains.

747 (c) Dispose of or order the disposal of any corpse or
748 other remains of a person who has died of an infectious disease,
749 communicable disease or other condition or threat to the public
750 health, through burial or cremation within a period of time to be
751 determined by the State Health Officer.

752 (d) Compel any business or facility authorized to
753 embalm, bury, cremate, inter, disinter, transport or dispose of
754 corpses to accept any corpse or provide the use of its business or
755 facility if such actions are reasonable and necessary for
756 emergency response. The use of the business or facility may
757 include transferring the management and supervision of such
758 business or facility to the State Health Officer for a limited or
759 unlimited period of time, but shall not exceed the termination of
760 the state of emergency or public health emergency.

761 (e) To procure, by condemnation or otherwise, any
762 business or facility authorized to embalm, bury, cremate, inter,
763 disinter, transport and dispose of corpses as may be reasonable
764 and necessary for emergency response, with the right to take
765 immediate possession thereof.

766 (f) Every corpse prior to disposal shall be clearly
767 labeled with all available information to identify the decedent
768 and the circumstances of death. Any corpse of a deceased person
769 with an infectious disease shall have an external, clearly visible
770 tag indicating that the corpse is infected and, if known, the
771 infectious disease.



772 (g) Every person in charge of disposing of any corpse
773 shall maintain a written and photographic record of each corpse
774 and all available information to identify the decedent and the
775 circumstances of death and disposal. If a corpse cannot be
776 identified, prior to disposal a qualified person shall, to the
777 extent possible, take fingerprints and one or more photographs of
778 the corpse, and collect a DNA specimen. All information gathered
779 under this paragraph shall be forwarded to the
780 Department of Health.

781 **SECTION 14.** Section 41-29-133, Mississippi Code of 1972, is
782 amended as follows:

783 41-29-133. (1) Persons registered to manufacture,
784 distribute, or dispense controlled substances under this article
785 shall keep records and maintain inventories in conformance with
786 the record-keeping and inventory requirements of federal law and
787 with any additional rules the State Board of Pharmacy, the State
788 Board of Medical Licensure, the State Board of Dental Examiners or
789 the Mississippi Board of Nursing may issue.

790 (2) Persons registered to dispense controlled substances
791 under this article may report any unusual or increased
792 prescription rates, unusual types of prescriptions, or unusual
793 trends in pharmacy visits that may be caused by bioterrorism,
794 epidemic or pandemic disease, or novel and highly fatal infectious
795 agents or biological or other toxins that might pose a substantial
796 risk of a significant number of human fatalities or incidents of
797 permanent or long-term disability. Prescription-related events
798 that suggest a report include, but are not limited to: an unusual
799 increase in the number of prescriptions to treat fever,
800 respiratory or gastrointestinal complaints; an unusual increase in
801 the number of prescriptions for antibiotics; an unusual increase
802 in the number of requests for information on over-the-counter
803 pharmaceuticals to treat fever, respiratory or gastrointestinal
804 complaints; and any prescription that treats a disease that is



805 relatively uncommon and has bioterrorism potential. The report
806 may be transmitted to the State Board of Pharmacy central
807 repository and include as much of the following information as
808 possible:

809 (a) Recipient's name, when feasible to submit;

810 (b) Recipient's identification number;

811 (c) National Drug Code number of the substance
812 dispensed;

813 (d) Date of the dispensation;

814 (e) Quantity of the substance dispensed;

815 (f) Prescriber's United States Drug Enforcement
816 Administration registration number; and

817 (g) Dispenser's registration number and location.

818 (3) The information collected at the central repository
819 pursuant to subsection (2) of this section shall be confidential
820 and shall not be open to the public. Access to the information
821 shall be limited to:

822 (a) Bureau of Narcotics agents and special contract
823 agents of the bureau pursuant to Section 41-29-112;

824 (b) The United States Drug Enforcement Administration
825 Diversion Group Supervisor; and

826 (c) The executive director or chief investigator as
827 designated by each board, of the State Boards of Dental Examiners,
828 Pharmacy, Medical Licensure, Nursing and Veterinary Medical
829 Examiners, provided, however, that the executive director or chief
830 investigator of each of these boards shall be limited to access to
831 information relevant to licensees of his employing board.

832 (4) Any unauthorized disclosure of any information collected
833 at the central repository shall be a misdemeanor. Violation of
834 the provisions of this subsection (4) shall be deemed willful
835 neglect of duty and shall be grounds for removal from office.

836 (5) All access to information in the central repository
837 shall be controlled by and made through the State Board of



838 Pharmacy, which shall develop criteria for the production of
839 exception reports out of the information collected at the central
840 repository in consultation with the State Boards of Dental
841 Examiners, Medical Licensure, and Veterinary Medical Examiners,
842 and Mississippi Dental Association, Mississippi Pharmaceutical
843 Association, Mississippi State Medical Association, Mississippi
844 Veterinary Medical Association and Bureau of Narcotics in
845 developing these criteria.

846 (6) The State Board of Pharmacy shall promulgate and adopt
847 rules to implement and enforce this section.

848 **SECTION 15.** Section 45-35-7, Mississippi Code of 1972, is
849 amended as follows:

850 45-35-7. (1) Except as provided in subsection (3) of this
851 section, each applicant for an original identification card issued
852 pursuant to this chapter who is entitled to issuance of such a
853 card shall be issued a four-year card. Each card shall expire at
854 midnight on the last day of the cardholder's birth month.

855 (2) Except as provided in subsection (3) of this section,
856 all renewal identification cards shall be for four-year periods
857 and may be renewed any time during the birth month of the
858 cardholder upon application and payment of the required fee.

859 (3) (a) Any applicant who is blind, as defined in Section
860 43-6-1, upon payment of the fee prescribed in this section, shall
861 be issued an original identification card which shall remain valid
862 for a period of ten (10) years. All renewal identification cards
863 issued to such persons shall also be valid for a period of ten
864 (10) years.

865 (b) Any applicant who is not a United States citizen,
866 upon payment of the fee prescribed in this section, shall be
867 issued an original identification card which shall remain valid
868 for a period of one (1) year from date of issuance. All renewal
869 identification cards issued to such persons shall also be valid



870 for a period of one (1) year from date of issuance when
871 accompanied by required immigration documents.

872 (4) A fee of Eleven Dollars (\$11.00) plus the applicable
873 photograph fee, shall be collected for the issuance of an original
874 or renewal identification card, except that the fee for the
875 issuance of an original or renewal identification card to a person
876 who is not a United States citizen shall be Three Dollars (\$3.00)
877 plus the applicable photograph fee.

878 The Commissioner of Public Safety, by rule or regulation,
879 shall establish a driver's license photograph fee which shall be
880 the actual cost of the photograph rounded off to the next highest
881 dollar. Monies collected for the photograph fee shall be
882 deposited into a special photograph fee account which the
883 Department of Public Safety shall use to pay the actual cost of
884 producing the photographs. Any monies collected in excess of the
885 actual costs of the photography shall be deposited to the General
886 Fund of the State of Mississippi. Such fee shall be deposited
887 into the State General Fund.

888 (5) Any person who, for medical reasons, surrenders his
889 unexpired driver's license, and any person whose unexpired
890 driver's license is suspended for medical reasons by the
891 Commissioner of Public Safety under Section 63-1-53(e), may be
892 issued an identification card without payment of a fee. The
893 identification card shall be valid for a period of four (4) years
894 from its date of issue. All renewals of such card shall be
895 subject to the fee prescribed in subsection (4) of this section.

896 (6) The department shall maintain a record of all
897 identification cards issued, except for those cards cancelled,
898 surrendered or denied renewal.

899 **SECTION 16.** Section 63-1-43, Mississippi Code of 1972, is
900 amended as follows:



901 63-1-43. (1) The fee for receiving the application and
902 issuing the driver's or operator's license and the fee for
903 renewing the license shall be:

904 (a) Eighteen Dollars (\$18.00) plus the applicable
905 photograph fee for each applicant for a four-year license;

906 (b) Three Dollars (\$3.00) plus the applicable
907 photograph fee for each applicant for a one-year license, except
908 as provided in paragraph (c) of this subsection; and

909 (c) Eight Dollars (\$8.00) plus the applicable
910 photograph fee for a one-year license for each applicant who is
911 not a United States citizen.

912 All originals and renewals of regular operators' licenses
913 shall be in compliance with Section 63-1-47.

914 (2) The fee for receiving the application and issuing a
915 motorcycle endorsement shall be Five Dollars (\$5.00). Motorcycle
916 endorsements shall be valid for the same period of time as the
917 applicant's operator's license.

918 (3) The fee for receiving the application and issuing a
919 restricted motorcycle operator's license and the fee for renewing
920 such license shall be Eleven Dollars (\$11.00) plus the applicable
921 photograph fee. All originals and renewals of restricted
922 motorcycle licenses shall be valid for a period of four (4) years,
923 in compliance with Section 63-1-47.

924 (4) From and after January 1, 1990, every person who makes
925 application for an original license or a renewal license to
926 operate a vehicle as a common carrier by motor vehicle, taxicab,
927 passenger coach, dray, contract carrier or private commercial
928 carrier as such terms are defined in Section 27-19-3, except for
929 those vehicles for which a Class A, B or C license is required
930 under Article 2 of this chapter, shall, in lieu of the regular
931 driver's license above provided for, apply for and obtain a Class
932 D commercial driver's license. Except as otherwise provided in
933 subsection (5) of this section, the fee for the issuance of a



934 Class D commercial driver's license shall be Twenty-three Dollars
935 (\$23.00) plus the applicable photograph fee for a period of four
936 (4) years; * * * however, except as required under Article 2 of
937 this chapter, no driver of a pickup truck shall be required to
938 have a commercial license regardless of the purpose for which the
939 pickup truck is used.

940 Except as otherwise provided in subsection (5) of this
941 section, all originals and renewals of commercial licenses issued
942 under this section shall be valid for a period of four (4) years,
943 in compliance with Section 63-1-47. Only persons who operate the
944 above-mentioned vehicles in the course of the regular and
945 customary business of the owner shall be required to obtain a
946 Class D commercial operator's license, and persons operating such
947 vehicles for private purposes or in emergencies shall not be
948 required to obtain such license.

949 (5) The original and each renewal of a commercial driver's
950 license issued under this section to a person who is not a United
951 States citizen shall be issued for a period of one (1) year for a
952 fee of Thirteen Dollars (\$13.00) plus the applicable photograph
953 fee and shall expire on the date the licensee's immigration
954 documents expire. A person who is not a United States citizen may
955 renew a commercial license issued under this section within two
956 (2) weeks before expiration of the license.

957 (6) The Commissioner of Public Safety, by rule or
958 regulation, shall establish a driver's license photograph fee
959 which shall be the actual cost of the photograph rounded off to
960 the next highest dollar. Monies collected for the photograph fee
961 shall be deposited into a special photograph fee account which the
962 Department of Public Safety shall use to pay the actual cost of
963 producing the photographs. Any monies collected in excess of the
964 actual costs of the photography shall be deposited to the General
965 Fund of the State of Mississippi.



966 **SECTION 17.** Section 63-1-47, Mississippi Code of 1972, is
967 amended as follows:

968 63-1-47. (1) Except as otherwise provided in this section,
969 each applicant for an original license issued pursuant to this
970 article, who is entitled to issuance of same, and who is eighteen
971 (18) years of age or older, shall be issued a four-year license
972 which will expire at midnight on the licensee's birthday.

973 (a) Except as otherwise provided in this section, all
974 renewal licenses of operators eighteen (18) years of age or older
975 shall be for four-year periods and may be renewed any time within
976 six (6) months before the expiration of the license upon
977 application and payment of the required fee, unless required to be
978 reexamined.

979 (b) From and after January 1, 1990, no commercial
980 driver's license shall be issued under the provisions of this
981 article for any commercial motor vehicle, the lawful operation of
982 which requires the driver to obtain a Class A, B or C commercial
983 driver's license under Article 2 of this chapter; however, from
984 time to time, the holder of a commercial license may apply for a
985 commercial driver's license under Article 2 of this chapter; and,
986 if he fails to pass the required test for such license, he shall
987 be entitled to an extension of his license that shall be valid for
988 one hundred twenty (120) days or until he again is tested under
989 Article 2 of this chapter, whichever occurs first. The extension
990 shall entitle the license holder to operate all vehicles which
991 such license authorized him to operate prior to taking the
992 required test. The first extension shall be without charge;
993 however, a fee of Fifteen Dollars (\$15.00) shall be imposed for
994 any subsequent extension. No extension shall be valid past March
995 31, 1992.

996 * * *

997 (2) Any commercial driver's license issued under this
998 article before January 1, 1990, which expires after March 31,



999 1992, shall be void on April 1, 1992, for the operation of any
1000 commercial vehicle requiring a commercial license to be issued
1001 under Article 2 of this chapter; however, if the holder of any
1002 such license applies for a commercial driver's license under
1003 Article 2 of this chapter, passes the required tests for such
1004 license, pays all applicable fees under Article 2 of this chapter
1005 except the Forty Dollars (\$40.00) license fee and otherwise meets
1006 all requirements for the issuance of such license, then such
1007 person shall be issued a license under Article 2 of this chapter
1008 which shall expire on the expiration date of the commercial
1009 driver's license being replaced.

1010 (3) The fee for the issuance of an original and renewals of
1011 a Class D commercial driver's license under this article to an
1012 applicant who is not a United States citizen and the period for
1013 which such license will be valid and expire shall be as prescribed
1014 in Section 63-1-43.

1015 (4) The Commissioner of Public Safety shall notify, by
1016 United States mail addressed to the last known address of record
1017 with the Department of Public Safety, all holders of a commercial
1018 driver's license issued under this article before January 1, 1990,
1019 and which expire after March 31, 1992, that such license will be
1020 void on and after April 1, 1992, for the operation of any vehicle
1021 for which a commercial driver's license is required to be issued
1022 under Article 2 of this chapter.

1023 (5) Any person holding a valid commercial driver's license
1024 issued under this article before January 1, 1990, shall continue
1025 thereafter, until expiration of such license, to be entitled to
1026 operate all vehicles which such license authorized him to operate
1027 immediately before January 1, 1990, except that from and after
1028 April 1, 1992, such license shall not entitle the licensee to
1029 operate a commercial motor vehicle the lawful operation of which
1030 requires a commercial driver's license under Article 2 of this
1031 chapter.



1032 (6) Except as otherwise provided in this article, each
1033 applicant for an original driver's license issued pursuant to this
1034 article, who is entitled to issuance of same, being under eighteen
1035 (18) years of age, shall be issued a one-year license which will
1036 expire at midnight on the licensee's birthday. Renewal drivers'
1037 licenses of operators under the age of eighteen (18) shall be for
1038 one-year periods and may be renewed any time within two (2) months
1039 before the expiration of the license upon application and payment
1040 of the required fee, unless required to be reexamined. An
1041 intermediate license shall be valid for one (1) year from its date
1042 of issue and may be renewed any time within fourteen (14) days
1043 before expiration of the license. All applications by an operator
1044 under the age of eighteen (18) must be accompanied by
1045 documentation that the applicant is in compliance with the
1046 education requirements of Section 63-1-9(1)(g); the documentation
1047 must be dated no more than thirty (30) days prior to the date of
1048 application.

1049 **SECTION 18.** Section 63-1-82, Mississippi Code of 1972, is
1050 amended as follows:

1051 63-1-82. (1) Each commercial driver's license shall be
1052 marked "Commercial Driver's License" or "CDL," and shall, to the
1053 maximum extent practicable, be tamper proof. Each such license
1054 shall include thereon, but not be limited to, the following
1055 information:

- 1056 (a) The name and residential address of the licensee;
- 1057 (b) The licensee's color photograph;
- 1058 (c) A physical description of the licensee, including
1059 his sex, height, weight, eye and hair color;
- 1060 (d) The licensee's date of birth;
- 1061 (e) Except for a nonresident commercial driver's
1062 license, the licensee's social security number; and any other
1063 identifying information which the Commissioner of Public Safety,



1064 by rule or regulation, determines necessary and essential for the
1065 purposes of complying with the provisions of this article;

1066 (f) The licensee's signature;

1067 (g) The class or type of commercial motor vehicle or
1068 vehicles which the licensee is authorized to drive together with
1069 any endorsements or restrictions;

1070 (h) The name of this state; and

1071 (i) The dates between which the license is valid.

1072 (2) The holder of a valid commercial driver's license may
1073 drive all vehicles in the class for which that license is issued
1074 and all lesser classes of vehicles, including any vehicle for
1075 which an operator's license or commercial driver's license issued
1076 under Article 1 of this chapter authorizes a person to drive.
1077 However, vehicles which require an endorsement may not be driven
1078 unless the proper endorsement appears on the license.

1079 (3) Commercial drivers' licenses may be issued with the
1080 following classifications:

1081 (a) Class A. Any combination of vehicles with a gross
1082 vehicle weight rating of twenty-six thousand one (26,001) pounds
1083 or more, provided the gross vehicle weight rating of the vehicle
1084 or vehicles being towed is in excess of ten thousand (10,000)
1085 pounds;

1086 (b) Class B. Any single vehicle with a gross vehicle
1087 weight rating of twenty-six thousand one (26,001) pounds or more,
1088 and any such vehicle towing a vehicle not in excess of ten
1089 thousand (10,000) pounds;

1090 (c) Class C. Any single vehicle with a gross vehicle
1091 weight rating of less than twenty-six thousand one (26,001) pounds
1092 or any such vehicle towing a vehicle with a gross vehicle weight
1093 rating not in excess of ten thousand (10,000) pounds comprising:

1094 (i) Vehicles designed to transport sixteen (16) or
1095 more passengers, including the driver; and



1096 (ii) Vehicles used in the transportation of
1097 hazardous materials which are required to be placarded under the
1098 Hazardous Materials Transportation Act, 49 USCS Appx., Section
1099 1801 et seq.; and

1100 (d) Class D. All other vehicles or combination of
1101 vehicles which are not included in Class A, Class B or Class C and
1102 for which a commercial license is required to be issued as
1103 provided by Section 63-1-43, Mississippi Code of 1972.

1104 (4) Commercial drivers' licenses may be issued with the
1105 following endorsements and restrictions:

1106 (a) "H" authorizes the driver to drive a vehicle
1107 transporting hazardous materials;

1108 (b) "K" restricts the driver to vehicles not equipped
1109 with air brakes;

1110 (c) "T" authorizes driving double and triple trailers;

1111 (d) "P" authorizes driving vehicles carrying
1112 passengers;

1113 (e) "N" authorizes driving tank vehicles; * * *

1114 (f) "X" represents a combination of hazardous materials
1115 and tank vehicle endorsements; and

1116 (g) "S" restricts the driver to school buses being
1117 operated for the purpose of transporting pupils to and from school
1118 or to school-related functions and/or to all other vehicles not
1119 requiring a commercial driver's license.

1120 (5) Before issuing a commercial driver's license, the
1121 Commissioner of Public Safety shall obtain driving record
1122 information through the Commercial Driver License Information
1123 System.

1124 (6) Within ten (10) days after issuing a commercial driver's
1125 license, the Commissioner of Public Safety shall notify the
1126 Commercial Driver License Information System of that fact,
1127 providing all information required to ensure identification of the
1128 person.



1129 (7) Except as provided in subsection (10) of this section,
1130 the fee charged for the issuance of each original and each renewal
1131 of a Class A, B or C commercial driver's license shall be
1132 Thirty-eight Dollars (\$38.00) plus the applicable photograph fee.
1133 In addition, a fee of Five Dollars (\$5.00) shall be charged for
1134 each endorsement or restriction entered on a commercial driver's
1135 license under subsection (4) of this section. However, the fee
1136 charged for each original and renewal of a commercial driver's
1137 license with an "S" restriction shall be the same as the fee for a
1138 Class D commercial driver's license in addition to all application
1139 fees.

1140 (8) If a commercial driver instruction permit or commercial
1141 driver's license is lost or destroyed, or if the holder of a
1142 commercial driver's license changes his name, mailing address or
1143 residence, an application for a duplicate permit or license shall
1144 be made as provided by Section 63-1-37, Mississippi Code of 1972.

1145 (9) Except as provided in subsection (10) of this section,
1146 all commercial drivers' licenses issued under the provisions of
1147 this article shall be issued for a period of not more than four
1148 (4) years and shall expire at midnight on the last day of the
1149 licensee's month of birth.

1150 (10) The original and each renewal of a commercial driver's
1151 license issued under this section to a person who is not a United
1152 States citizen shall be issued for a period of one (1) year for a
1153 fee of Thirteen Dollars (\$13.00) plus the applicable photograph
1154 fee and shall expire on the date the licensee's immigration
1155 documents expire. Such person may renew a commercial license
1156 issued under this section within two (2) weeks before expiration
1157 of the license.

1158 (11) Every person applying for renewal of a commercial
1159 driver's license shall complete the application form required by
1160 Section 63-1-81, Mississippi Code of 1972, providing updated
1161 information and required certifications and paying the appropriate



1162 fees. If the applicant wishes to retain a hazardous materials
1163 endorsement, the written test for a hazardous materials
1164 endorsement must be taken and passed.

1165 (12) The Commissioner of Public Safety, by rule or
1166 regulation, shall establish a driver's license photograph fee
1167 which shall be the actual cost of the photograph rounded off to
1168 the next highest dollar. Monies collected for the photograph fee
1169 shall be deposited into a special photograph fee account which the
1170 Department of Public Safety shall use to pay the actual cost of
1171 producing the photographs. Any monies collected in excess of the
1172 actual costs of the photography shall be deposited to the General
1173 Fund of the State of Mississippi.

1174 **SECTION 19.** Section 11-46-9, Mississippi Code of 1972, is
1175 amended as follows:

1176 11-46-9. (1) A governmental entity and its employees acting
1177 within the course and scope of their employment or duties shall
1178 not be liable for any claim:

1179 (a) Arising out of a legislative or judicial action or
1180 inaction, or administrative action or inaction of a legislative or
1181 judicial nature;

1182 (b) Arising out of any act or omission of an employee
1183 of a governmental entity exercising ordinary care in reliance
1184 upon, or in the execution or performance of, or in the failure to
1185 execute or perform, a statute, ordinance or regulation, whether or
1186 not the statute, ordinance or regulation be valid;

1187 (c) Arising out of any act or omission of an employee
1188 of a governmental entity engaged in the performance or execution
1189 of duties or activities relating to police or fire protection
1190 unless the employee acted in reckless disregard of the safety and
1191 well-being of any person not engaged in criminal activity at the
1192 time of injury;

1193 (d) Based upon the exercise or performance or the
1194 failure to exercise or perform a discretionary function or duty on



1195 the part of a governmental entity or employee thereof, whether or
1196 not the discretion be abused;

1197 (e) Arising out of an injury caused by adopting or
1198 failing to adopt a statute, ordinance or regulation;

1199 (f) Which is limited or barred by the provisions of any
1200 other law;

1201 (g) Arising out of the exercise of discretion in
1202 determining whether or not to seek or provide the resources
1203 necessary for the purchase of equipment, the construction or
1204 maintenance of facilities, the hiring of personnel and, in
1205 general, the provision of adequate governmental services;

1206 (h) Arising out of the issuance, denial, suspension or
1207 revocation of, or the failure or refusal to issue, deny, suspend
1208 or revoke any privilege, ticket, pass, permit, license,
1209 certificate, approval, order or similar authorization where the
1210 governmental entity or its employee is authorized by law to
1211 determine whether or not such authorization should be issued,
1212 denied, suspended or revoked unless such issuance, denial,
1213 suspension or revocation, or failure or refusal thereof, is of a
1214 malicious or arbitrary and capricious nature;

1215 (i) Arising out of the assessment or collection of any
1216 tax or fee;

1217 (j) Arising out of the detention of any goods or
1218 merchandise by any law enforcement officer, unless such detention
1219 is of a malicious or arbitrary and capricious nature;

1220 (k) Arising out of the imposition or establishment of a
1221 quarantine, whether such quarantine relates to persons or
1222 property;

1223 (l) Of any claimant who is an employee of a
1224 governmental entity and whose injury is covered by the Workers'
1225 Compensation Law of this state by benefits furnished by the
1226 governmental entity by which he is employed;



1227 (m) Of any claimant who at the time the claim arises is
1228 an inmate of any detention center, jail, workhouse, penal farm,
1229 penitentiary or other such institution, regardless of whether such
1230 claimant is or is not an inmate of any detention center, jail,
1231 workhouse, penal farm, penitentiary or other such institution when
1232 the claim is filed;

1233 (n) Arising out of any work performed by a person
1234 convicted of a crime when the work is performed pursuant to any
1235 sentence or order of any court or pursuant to laws of the State of
1236 Mississippi authorizing or requiring such work;

1237 (o) Under circumstances where liability has been or is
1238 hereafter assumed by the United States, to the extent of such
1239 assumption of liability, including but not limited to any claim
1240 based on activities of the Mississippi National Guard when such
1241 claim is cognizable under the National Guard Tort Claims Act of
1242 the United States, 32 USC 715 (32 USCS 715), or when such claim
1243 accrues as a result of active federal service or state service at
1244 the call of the Governor for quelling riots and civil
1245 disturbances;

1246 (p) Arising out of a plan or design for construction or
1247 improvements to public property, including but not limited to,
1248 public buildings, highways, roads, streets, bridges, levees,
1249 dikes, dams, impoundments, drainage channels, diversion channels,
1250 harbors, ports, wharfs or docks, where such plan or design has
1251 been approved in advance of the construction or improvement by the
1252 legislative body or governing authority of a governmental entity
1253 or by some other body or administrative agency, exercising
1254 discretion by authority to give such approval, and where such plan
1255 or design is in conformity with engineering or design standards in
1256 effect at the time of preparation of the plan or design;

1257 (q) Arising out of an injury caused solely by the
1258 effect of weather conditions on the use of streets and highways;



1259 (r) Arising out of the lack of adequate personnel or
1260 facilities at a state hospital or state corrections facility if
1261 reasonable use of available appropriations has been made to
1262 provide such personnel or facilities;

1263 (s) Arising out of loss, damage or destruction of
1264 property of a patient or inmate of a state institution;

1265 (t) Arising out of any loss of benefits or compensation
1266 due under a program of public assistance or public welfare;

1267 (u) Arising out of or resulting from riots, unlawful
1268 assemblies, unlawful public demonstrations, mob violence or civil
1269 disturbances;

1270 (v) Arising out of an injury caused by a dangerous
1271 condition on property of the governmental entity that was not
1272 caused by the negligent or other wrongful conduct of an employee
1273 of the governmental entity or of which the governmental entity did
1274 not have notice, either actual or constructive, and adequate
1275 opportunity to protect or warn against; provided, however, that a
1276 governmental entity shall not be liable for the failure to warn of
1277 a dangerous condition which is obvious to one exercising due care;

1278 (w) Arising out of the absence, condition, malfunction
1279 or removal by third parties of any sign, signal, warning device,
1280 illumination device, guardrail or median barrier, unless the
1281 absence, condition, malfunction or removal is not corrected by the
1282 governmental entity responsible for its maintenance within a
1283 reasonable time after actual or constructive notice; * * *

1284 (x) Arising out of the administration of corporal
1285 punishment or the taking of any action to maintain control and
1286 discipline of students, as defined in Section 37-11-57, by a
1287 teacher, assistant teacher, principal or assistant principal of a
1288 public school district in the state unless the teacher, assistant
1289 teacher, principal or assistant principal acted in bad faith or
1290 with malicious purpose or in a manner exhibiting a wanton and
1291 willful disregard of human rights or safety; or



1292 (y) Arising out of a response to a terroristic threat
1293 or act.

1294 (2) A governmental entity shall also not be liable for any
1295 claim where the governmental entity:

1296 (a) Is inactive and dormant;

1297 (b) Receives no revenue;

1298 (c) Has no employees; and

1299 (d) Owns no property.

1300 (3) If a governmental entity exempt from liability by
1301 subsection (2) becomes active, receives income, hires employees or
1302 acquires any property, such governmental entity shall no longer be
1303 exempt from liability as provided in subsection (2) and shall be
1304 subject to the provisions of this chapter.

1305 **SECTION 20.** Section 65-1-8, Mississippi Code of 1972, is
1306 amended as follows:

1307 65-1-8. (1) The Mississippi Transportation Commission shall
1308 have the following general powers, duties and responsibilities:

1309 (a) To coordinate and develop a comprehensive, balanced
1310 transportation policy for the State of Mississippi;

1311 (b) To promote the coordinated and efficient use of all
1312 available and future modes of transportation;

1313 (c) To make recommendations to the Legislature
1314 regarding alterations or modifications in any existing
1315 transportation policies;

1316 (d) To study means of encouraging travel and
1317 transportation of goods by the combination of motor vehicle and
1318 other modes of transportation;

1319 (e) To take such actions as are necessary and proper to
1320 discharge its duties pursuant to the provisions of Laws, 1992,
1321 Chapter 496, and any other provision of law;

1322 (f) To receive and provide for the expenditure of any
1323 funds made available to it by the Legislature, the federal
1324 government, or any other source.



1325 (2) In addition to the general powers, duties and
1326 responsibilities listed in subsection (1) of this section, the
1327 Mississippi Transportation Commission shall have the following
1328 specific powers:

1329 (a) To make rules and regulations whereby the
1330 transportation department shall change or relocate any and all
1331 highways herein or hereafter fixed as constituting a part of the
1332 state highway system, as may be deemed necessary or economical in
1333 the construction or maintenance thereof; to acquire by gift,
1334 purchase, condemnation, or otherwise, land or other property
1335 whatsoever that may be necessary for a state highway system as
1336 herein provided, with full consideration to be given to the
1337 stimulation of local public and private investment when acquiring
1338 such property in the vicinity of Mississippi towns, cities and
1339 population centers;

1340 (b) To enforce by mandamus, or other proper legal
1341 remedies, all legal rights or rights of action of the Mississippi
1342 Transportation Commission with other public bodies, corporations
1343 or persons;

1344 (c) To make and publish rules, regulations and
1345 ordinances for the control of and the policing of the traffic on
1346 the state highways, and to prevent their abuse by any or all
1347 persons, natural or artificial, by trucks, tractors, trailers or
1348 any other heavy or destructive vehicles or machines, or by any
1349 other means whatsoever, by establishing weights of loads or of
1350 vehicles, types of tires, width of tire surfaces, length and width
1351 of vehicles, with reasonable variations to meet approximate
1352 weather conditions, and all other proper police and protective
1353 regulations, and to provide ample means for the enforcement of
1354 same. The violation of any of the rules, regulations or
1355 ordinances so prescribed by the commission shall constitute a
1356 misdemeanor. No rule, regulation or ordinance shall be made that
1357 conflicts with any statute now in force or which may hereafter be



1358 enacted, or with any ordinance of municipalities. A monthly
1359 publication giving general information to the boards of
1360 supervisors, employees and the public may be issued under such
1361 rules and regulations as the commission may determine;

1362 (d) To give suitable numbers to highways and to change
1363 the number of any highway that shall become a part of the state
1364 highway system. However, nothing herein shall authorize the
1365 number of any highway to be changed so as to conflict with any
1366 designation thereof as a U.S. numbered highway. Where, by a
1367 specific act of the Legislature, the commission has been directed
1368 to give a certain number to a highway, the commission shall not
1369 have the authority to change such number;

1370 (e) To make proper and reasonable rules, regulations,
1371 and ordinances for the placing, erection, removal or relocation of
1372 telephone, telegraph or other poles, signboards, fences, gas,
1373 water, sewerage, oil or other pipelines, and other obstructions
1374 that may, in the opinion of the commission, contribute to the
1375 hazards upon any of the state highways, or in any way interfere
1376 with the ordinary travel upon such highways, or the construction,
1377 reconstruction or maintenance thereof, and to make reasonable
1378 rules and regulations for the proper control thereof. Any
1379 violation of such rules or regulations or noncompliance with such
1380 ordinances shall constitute a misdemeanor.

1381 Whenever the order of the commission shall require the
1382 removal of, or other changes in the location of telephone,
1383 telegraph, or other poles, signboards, gas, water, sewerage, oil
1384 or other pipelines; or other similar obstructions on the
1385 right-of-way or such other places where removal is required by
1386 law, the owners thereof shall at their own expense move or change
1387 the same to conform to the order of the commission. Any violation
1388 of such rules or regulations or noncompliance with such orders
1389 shall constitute a misdemeanor;



1390 (f) To regulate and abandon grade crossings on any road
1391 fixed as a part of the state highway system, and whenever the
1392 commission, in order to avoid a grade crossing with the railroad,
1393 locates or constructs said road on one side of the railroad, the
1394 commission shall have the power to abandon and close such grade
1395 crossing, and whenever an underpass or overhead bridge is
1396 substituted for a grade crossing, the commission shall have power
1397 to abandon such grade crossing and any other crossing adjacent
1398 thereto. Included in the powers herein granted shall be the power
1399 to require the railroad at grade crossings, where any road of the
1400 state highway system crosses the same, to place signal posts with
1401 lights or other warning devices at such crossings at the expense
1402 of the railroad, and to regulate and abandon underpass or overhead
1403 bridges and, where abandoned because of the construction of a new
1404 underpass or overhead bridge, to close such old underpass or
1405 overhead bridge, or, in its discretion, to return the same to the
1406 jurisdiction of the county board of supervisors;

1407 (g) To make proper and reasonable rules and regulations
1408 to control the cutting or opening of the road surfaces for
1409 subsurface installations;

1410 (h) To make proper and reasonable rules and regulations
1411 for the removal from the public rights-of-way of any form of
1412 obstruction, to cooperate in improving their appearance, and to
1413 prescribe minimum clearance heights for seed conveyors, pipes,
1414 passageways or other structure of private or other ownership above
1415 the highways;

1416 (i) To establish, and have the Transportation
1417 Department maintain and operate, and to cooperate with the state
1418 educational institutions in establishing, enlarging, maintaining
1419 and operating a laboratory or laboratories for testing materials
1420 and for other proper highway purposes;



1421 (j) To provide, under the direction and with the
1422 approval of the Department of Finance and Administration, suitable
1423 offices, shops and barns in the City of Jackson;

1424 (k) To establish and have enforced set-back
1425 regulations;

1426 (l) To cooperate with proper state authorities in
1427 producing limerock for highway purposes and to purchase same at
1428 cost;

1429 (m) To provide for the purchase of necessary equipment
1430 and vehicles and to provide for the repair and housing of same, to
1431 acquire by gift, purchase, condemnation or otherwise, land or
1432 lands and buildings in fee simple, and to authorize the
1433 Transportation Department to construct, lease or otherwise provide
1434 necessary and proper permanent district offices for the
1435 construction and maintenance divisions of the department, and for
1436 the repair and housing of the equipment and vehicles of the
1437 department; however, in each Supreme Court district only two (2)
1438 permanent district offices shall be set up, but a permanent status
1439 shall not be given to any such offices until so provided by act of
1440 the Legislature and in the meantime, all shops of the department
1441 shall be retained at their present location. As many local or
1442 subdistrict offices, shops or barns may be provided as is
1443 essential and proper to economical maintenance of the state
1444 highway system;

1445 (n) To cooperate with the Department of Archives and
1446 History in having placed and maintained suitable historical
1447 markers, including those which have been approved and purchased by
1448 the State Historical Commission, along state highways, and to have
1449 constructed and maintained roadside driveways for convenience and
1450 safety in viewing them when necessary; however, no highway or
1451 bridge shall ever be memorialized to a man while living;

1452 (o) To cooperate, in its discretion, with the
1453 Mississippi Department of Wildlife, Fisheries and Parks in



1454 planning and constructing roadside parks upon the right-of-way of
1455 state highways, whether constructed, under construction, or
1456 planned; said parks to utilize where practical barrow pits used in
1457 construction of state highways for use as fishing ponds. Said
1458 parks shall be named for abundant flora and fauna existing in the
1459 area or for the first flora or fauna found on the site;

1460 (p) Unless otherwise prohibited by law, to make such
1461 contracts and execute such instruments containing such reasonable
1462 and necessary appropriate terms, provisions and conditions as in
1463 its absolute discretion it may deem necessary, proper or
1464 advisable, for the purpose of obtaining or securing financial
1465 assistance, grants or loans from the United States of America or
1466 any department or agency thereof, including contracts with several
1467 counties of the state pertaining to the expenditure of such funds;

1468 (q) To cooperate with the Federal Highway
1469 Administration in the matter of location, construction and
1470 maintenance of the Great River Road, to expend such funds paid to
1471 the commission by the Federal Highway Administration or other
1472 federal agency, and to authorize the Transportation Department to
1473 erect suitable signs marking this highway, the cost of such signs
1474 to be paid from state highway funds other than earmarked
1475 construction funds;

1476 (r) To cooperate, in its discretion, with the
1477 Mississippi Forestry Commission and the School of Forestry,
1478 Mississippi State University, in a forestry management program,
1479 including planting, thinning, cutting and selling, upon the
1480 right-of-way of any highway, constructed, acquired or maintained
1481 by the Transportation Department, and to sell and dispose of any
1482 and all growing timber standing, lying or being on any
1483 right-of-way acquired by the commission for highway purposes in
1484 the future; such sale or sales to be made in accordance with the
1485 sale of personal property which has become unnecessary for public
1486 use as provided for in Section 65-1-123, Mississippi Code of 1972;



1487 (s) To expend funds in cooperation with the Division of
1488 Plant Industry, Mississippi Department of Agriculture and
1489 Commerce, the United States government or any department or agency
1490 thereof, or with any department or agency of this state, to
1491 control, suppress or eradicate serious insect pests, rodents,
1492 plant parasites and plant diseases on the state highway
1493 rights-of-way;

1494 (t) To provide for the placement, erection and
1495 maintenance of motorist services business signs and supports
1496 within state highway rights-of-way in accordance with current
1497 state and federal laws and regulations governing the placement of
1498 traffic control devices on state highways, and to establish and
1499 collect reasonable fees from the businesses having information on
1500 such signs;

1501 (u) To request and to accept the use of persons
1502 convicted of an offense, whether a felony or a misdemeanor, for
1503 work on any road construction, repair or other project of the
1504 Transportation Department. The commission is also authorized to
1505 request and to accept the use of persons who have not been
1506 convicted of an offense but who are required to fulfill certain
1507 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
1508 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
1509 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
1510 of 1972. The commission is authorized to enter into any
1511 agreements with the Department of Corrections, the State Parole
1512 Board, any criminal court of this state, and any other proper
1513 official regarding the working, guarding, safekeeping, clothing
1514 and subsistence of such persons performing work for the
1515 Transportation Department. Such persons shall not be deemed
1516 agents, employees or involuntary servants of the Transportation
1517 Department while performing such work or while going to and from
1518 work or other specified areas;



1519 (v) To provide for the administration of the railroad
1520 revitalization program pursuant to Section 57-43-1 et seq.;

1521 (w) The Mississippi Transportation Commission is
1522 further authorized, in its discretion, to expend funds for the
1523 purchase of service pins for employees of the Mississippi
1524 Transportation Department;

1525 (x) To cooperate with the State Tax Commission by
1526 providing for weight enforcement field personnel to collect and
1527 assess taxes, fees and penalties and to perform all duties as
1528 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
1529 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
1530 Mississippi Code of 1972, with regard to vehicles subject to the
1531 jurisdiction of the Office of Weight Enforcement. All collections
1532 and assessments shall be transferred daily to the State Tax
1533 Commission;

1534 (y) The Mississippi Transportation Commission may
1535 delegate the authority to enter into a supplemental agreement to a
1536 contract previously approved by the commission if the supplemental
1537 agreement involves an additional expenditure not to exceed One
1538 Hundred Thousand Dollars (\$100,000.00);

1539 (z) (i) The Mississippi Transportation Commission, in
1540 its discretion, may enter into agreements with any county,
1541 municipality, county transportation commission, business,
1542 corporation, partnership, association, individual or other legal
1543 entity, for the purpose of accelerating the completion date of
1544 scheduled highway construction projects.

1545 (ii) Such an agreement may permit the cost of a
1546 highway construction project to be advanced to the commission by a
1547 county, municipality, county transportation commission, business,
1548 corporation, partnership, association, individual or other legal
1549 entity, and repaid to such entity by the commission when highway
1550 construction funds become available; provided, however, that
1551 repayment of funds advanced to the Mississippi Transportation



1552 Commission shall be made no sooner than the commission's
1553 identified projected revenue schedule for funding of that
1554 particular construction project, and no other scheduled highway
1555 construction project established by statute or by the commission
1556 may be delayed by an advanced funding project authorized under
1557 this paragraph (z). Repayments to an entity that advances funds
1558 to the Mississippi Transportation Commission under this paragraph
1559 (z) may not include interest or other fees or charges, and the
1560 total amount repaid shall not exceed the total amount of funds
1561 advanced to the commission by the entity.

1562 (iii) In considering whether to enter into such an
1563 agreement, the commission shall consider the availability of
1564 financial resources, the effect of such agreement on other ongoing
1565 highway construction, the urgency of the public's need for swift
1566 completion of the project and any other relevant factors.

1567 (iv) Such an agreement shall be executed only upon
1568 a finding by the commission, spread upon its minutes, that the
1569 acceleration of the scheduled project is both feasible and
1570 beneficial. The commission shall also spread upon its minutes its
1571 findings with regard to the factors required to be considered
1572 pursuant to item (iii) of this paragraph (z).

1573 (3) When the Governor declares a state of emergency or state
1574 of alert, the commission may, in its discretion, temporarily
1575 assign its agent and employees who are charged with the
1576 enforcement of the weight laws and motor vehicle privilege tax
1577 laws of this state, to the Department of Public Safety to augment
1578 the manpower needs of the Department of Public Safety during the
1579 state of emergency or state of alert.

1580 **SECTION 21.** Section 65-1-71, Mississippi Code of 1972, is
1581 amended as follows:

1582 65-1-71. The director is * * * authorized to close highways
1583 for construction purposes and in emergencies. The director is
1584 authorized to close highways when the Governor has declared a



1585 state of emergency or state of alert and the highway to be closed
1586 is a potential terrorist target. The director shall select, lay
1587 out, maintain, and keep in as good repair as possible suitable
1588 detours by the most practicable route, where they are necessary
1589 for the public convenience while any sections of * * * highways or
1590 roads are being improved or constructed or closed. The director
1591 shall place or cause to be placed explicit directions to the
1592 traveling public during repair of said highway or road under
1593 process of construction. As far as practical roads already laid
1594 out shall be connected with and used for * * * detours.

1595 The director is * * * authorized, subject to the approval of
1596 the commission, to enter into agreements, spread on the minutes of
1597 both boards, with the local road authorities of the county or
1598 counties in which construction or maintenance work is to be done,
1599 to pay all or any part of the cost of laying out or
1600 maintaining * * * detours. All expenses to the state of laying
1601 out and maintaining * * * detours shall be paid out of the state
1602 highway funds. The director is also authorized, subject to the
1603 approval of the commission, to make reasonable rules and
1604 regulations to keep highways under construction open to traffic
1605 where such action is deemed to be practical and desirable.

1606 If any county-maintained road or municipally maintained
1607 street is used temporarily as a part of a state highway detour, it
1608 shall be the duty of the highway department, when the detour is
1609 abandoned * * *, to place the same in as good condition as said
1610 road or street was when its use as a detour began.

1611 **SECTION 22.** Section 65-1-85, Mississippi Code of 1972, is
1612 amended as follows:

1613 65-1-85. All contracts by or on behalf of the Mississippi
1614 Transportation Commission for the purchase of materials, equipment
1615 and supplies shall be made in compliance with Section 31-7-1 et
1616 seq. All contracts by or on behalf of the Mississippi
1617 Transportation Commission for construction, reconstruction or



1618 other public work authorized to be done under the provisions of
1619 this chapter, except maintenance, shall be made by the executive
1620 director, subject to the approval of the commission, only upon
1621 competitive bids after due advertisement as follows, to wit:

1622 Such advertisement for bids shall be in accordance with such
1623 rules and regulations, in addition to those herein provided, as
1624 may be adopted therefor by the Mississippi Transportation
1625 Commission, and said commission is hereby authorized and empowered
1626 to make and promulgate such rules and regulations as it may deem
1627 proper, to provide and adopt standard specifications for road and
1628 bridge construction, and to amend the same from time to time.

1629 Such advertisement shall be inserted twice, being once a week for
1630 two (2) successive weeks in a newspaper published at the seat of
1631 government in Jackson, Mississippi, having a general circulation
1632 throughout the state, and no letting shall be less than fourteen
1633 (14) days nor more than sixty (60) days after the publication of
1634 the first notice thereof, and notices of such letting may be
1635 placed in a metropolitan paper or national trade publication.

1636 Before advertising for such work, the executive director shall
1637 cause to be prepared and filed in the Mississippi Department of
1638 Transportation detailed plans and specifications covering the work
1639 proposed to be done, copies of which plans and specifications
1640 shall be subject to inspection by any citizen during all office
1641 hours and made available to all prospective bidders upon such
1642 reasonable terms and conditions as may be required by the
1643 Mississippi Transportation Commission; provided, that there shall
1644 be a fee equal to the cost of producing a copy of any such plans
1645 and specifications. All such contracts shall be let to the lowest
1646 responsible bidder, and a record of all bids received for
1647 construction and reconstruction shall be preserved. In letting
1648 such contracts, each bid for construction and reconstruction must
1649 be accompanied by a cashier's check, a certified check or bidders
1650 bond executed by a surety company authorized to do business in the



1651 State of Mississippi, in the principal amount of not less than
1652 five percent (5%) of the bid, guaranteeing that the bidder will
1653 give bond and enter into a contract for the faithful performance
1654 of the contract according to plans and specifications on file.

1655 Bonds shall be required of the successful bidder in an amount
1656 equal to the contract price. The contract price shall mean the
1657 entire cost of the particular contract let. In the event change
1658 orders are made after the execution of a contract which results in
1659 increasing the total contract price, additional bond in the amount
1660 of the increased cost may be required. The surety or sureties on
1661 such bonds shall be a surety company or surety companies
1662 authorized to do business in the State of Mississippi, all bonds
1663 to be payable to the State of Mississippi and to be conditioned
1664 for the prompt, faithful and efficient performance of the contract
1665 according to plans and specifications, and for the prompt payment
1666 of all persons furnishing labor, material, equipment and supplies
1667 therefor. Such bonds shall be subject to the additional
1668 obligation that the principal and surety or sureties executing the
1669 same shall be liable to the state in a civil action instituted by
1670 the state at the instance of the Mississippi Transportation
1671 Commission or any officer of the state authorized in such cases,
1672 for double any amount in money or property the state may lose or
1673 be overcharged or otherwise defrauded of by reason of any wrongful
1674 or criminal act, if any, of the contractor, his agent or
1675 employees.

1676 With respect to equipment used in the construction,
1677 reconstruction or other public work authorized to be done under
1678 the provisions of this chapter: the word "equipment," in addition
1679 to all equipment incorporated into or fully consumed in connection
1680 with such project, shall include the reasonable value of the use
1681 of all equipment of every kind and character and all accessories
1682 and attachments thereto which are reasonably necessary to be used
1683 and which are used in carrying out the performance of the



1684 contract, and the reasonable value of the use thereof, during the
1685 period of time the same are used in carrying out the performance
1686 of the contract, shall be the amount as agreed upon by the persons
1687 furnishing the equipment and those using the same to be paid
1688 therefor, which amount, however, shall not be in excess of the
1689 maximum current rates and charges allowable for leasing or renting
1690 as specified in Section 65-7-95; the word "labor" shall include
1691 all work performed in repairing equipment used in carrying out the
1692 performance of the contract, which repair labor is reasonably
1693 necessary to the efficient operation of said equipment; and the
1694 words "materials" and "supplies" shall include all repair parts
1695 installed in or on equipment used in carrying out the performance
1696 of the contract, which repair parts are reasonably necessary to
1697 the efficient operation of said equipment.

1698 The executive director, subject to the approval of the
1699 Mississippi Transportation Commission, shall have the right to
1700 reject any and all bids, whether such right is reserved in the
1701 notice or not. Any contract for construction or paving of any
1702 highway may be entered into for any cost which does not exceed the
1703 amount of funds that may be made available therefor through bond
1704 issues or from other sources of revenue, and the letting of
1705 contracts for such construction or paving shall not necessarily be
1706 delayed until the funds are actually on hand, provided
1707 authorization for the issuance of necessary bonds has been granted
1708 by law to supplement other anticipated revenue or when the
1709 Mississippi Department of Transportation certifies to the
1710 Department of Finance and Administration and the Legislative
1711 Budget Office that projected receipts of funds by the department
1712 will be sufficient to pay such contracts as they become due and
1713 the Department of Finance and Administration determines that the
1714 projections are reasonable and receipts will be sufficient to pay
1715 the contracts as they become due. The Department of Finance and
1716 Administration shall spread such determination on its minutes



1717 prior to the letting of any contracts based on projected receipts.
1718 Nothing herein shall prohibit the issuance of bonds, which have
1719 been authorized, at any time in the discretion of the State Bond
1720 Commission, nor to prevent investment of surplus funds in United
1721 States government bonds or State of Mississippi bonds as presently
1722 authorized by Section 12, Chapter 312, Laws of 1956.

1723 All other contracts for work to be done under the provisions
1724 of this chapter and for the purchase of materials, equipment and
1725 supplies to be used as provided for in this chapter shall be made
1726 in compliance with Section 31-7-1 et seq.

1727 The Mississippi Transportation Commission shall not empower
1728 or authorize the executive director, or any one or more of its
1729 members, or any engineer or other person to let or make contracts
1730 for the construction or repair of public roads, or building
1731 bridges, or for the purchase of material, equipment or supplies
1732 contrary to the provisions of this chapter as above set forth,
1733 except in cases of flood, damage to public roads caused by a
1734 terrorist attack or other cases of emergency where the public
1735 interest requires that the work be done or the materials,
1736 equipment or supplies be purchased without the delay incident to
1737 advertising for competitive bids. Such emergency contracts may be
1738 made without advertisement under such rules and regulations as the
1739 Mississippi Transportation Commission may prescribe.

1740 The executive director, subject to the approval of the
1741 Mississippi Transportation Commission, is authorized to negotiate
1742 and make agreements with communities and/or civic organizations
1743 for landscaping, beautification and maintenance of highway
1744 rights-of-way; provided, however, that nothing herein shall be
1745 construed as authorization for the executive director or
1746 commission to participate in such a project to an extent greater
1747 than the average cost for maintenance of shoulders, backslopes and
1748 median areas with respect thereto. The executive director may
1749 negotiate and enter into contracts with private parties for the



1750 mowing of grass and trimming of vegetation on the rights-of-way of
1751 state highways whenever such practice is possible and cost
1752 effective.

1753 **SECTION 23.** This act shall take effect and be in force from
1754 and after July 1, 2002.

