

By: Representative Ellis (By Request)

To: Public Utilities

HOUSE BILL NO. 1628
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 77-7-13, 77-7-151, 77-7-153,
2 77-7-173, 77-7-187, 77-7-211, 77-7-213, 77-7-217, 77-7-219,
3 77-7-221, 77-7-241, 77-7-243 AND 77-7-245, MISSISSIPPI CODE OF
4 1972, TO PROVIDE THAT THE MISSISSIPPI PUBLIC SERVICE COMMISSION
5 SHALL NOT HAVE THE DUTY NOR THE POWER TO REGULATE THE RATES OF
6 COMMON CARRIERS BY MOTOR VEHICLE OR CONTRACT CARRIERS BY MOTOR
7 VEHICLE THAT TRANSPORT HOUSEHOLD GOODS; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 77-7-13, Mississippi Code of 1972, is
10 amended as follows:

11 77-7-13. (1) It shall be the duty of the commission and the
12 commission shall have the power:

13 (a) To regulate common carriers by motor vehicle and
14 contract carriers by motor vehicle not exempted in this chapter,
15 doing business in this state, and to that end, the commission may
16 establish reasonable requirements with respect to continuous and
17 adequate service, transportation of baggage and express, uniform
18 system of accounts, records and reports, preservation of records,
19 and safety of operation and equipment, including maximum hours of
20 service of employees.

21 (b) For the purpose of carrying out the provisions of
22 this chapter, to avail itself of the special information of the
23 Mississippi Transportation Commission in promulgating safety
24 requirements and in considering applications for certificates or
25 permits with particular reference to conditions of the public
26 highway or highways involved, and the ability of the said public
27 highway or highways to carry added traffic; the Mississippi
28 Transportation Commission upon request of the commission shall
29 furnish such information.

30 (c) To administer, execute and enforce all other
31 provisions of this chapter, to make necessary orders in connection
32 therewith, and to prescribe rules, regulations and procedure for
33 such administration.

34 (d) To inquire into the organization of motor carriers,
35 and into the management of their businesses, to keep itself
36 informed as to the manner and method in which the same is
37 conducted, and to transmit to the Legislature, from time to time,
38 such recommendations as to additional legislation relating to such
39 carriers as the commission may deem necessary.

40 (2) The commission may from time to time establish such just
41 and reasonable classifications of groups of carriers included in
42 the terms "common carrier by motor vehicle" and "contract carrier
43 by motor vehicle," as the special nature of the services performed
44 by such carriers shall require, and the commission may from time
45 to time establish such just and reasonable rules, regulations and
46 requirements, consistent with the provisions of this chapter, to
47 be observed by the carriers so classified or grouped, as the
48 commission deems necessary or desirable in the public interest.

49 (3) The commission may from time to time enter into joint
50 and cooperative agreements with other governmental agencies in
51 regard to safety, forms, operating procedures and regulatory
52 jurisdiction.

53 (4) The rules, regulations, requirements and classifications
54 adopted in pursuance to the power and duty of the commission by
55 this section granted and imposed shall conform as nearly as
56 practicable to the rules, regulations, requirements and
57 classifications promulgated by the Interstate Commerce Commission,
58 the United States Department of Transportation, or any other
59 appropriate governmental agency.

60 (5) The commission shall not have the duty nor the power to
61 regulate the rates of common carriers by motor vehicle which

62 undertake, whether directly or by a lease or any other
63 arrangement, to transport household goods.

64 (6) The commission shall not have the duty nor the power to
65 regulate the rate of contract carriers by motor vehicle, who or
66 which, under special and individual contracts or agreements, and
67 whether directly or by a lease or any other arrangement, transport
68 household goods.

69 **SECTION 2.** Section 77-7-151, Mississippi Code of 1972, is
70 amended as follows:

71 77-7-151. It shall be the duty of every common carrier of
72 household goods by motor vehicle to provide safe and adequate
73 service, equipment and facilities for the transportation of
74 household goods * * *.

75 **SECTION 3.** Section 77-7-153, Mississippi Code of 1972, is
76 amended as follows:

77 77-7-153. It shall be unlawful for any common carrier by
78 motor vehicle, the rates of which are subject to regulation under
79 the provisions of this chapter, to make, give or cause any undue
80 or unreasonable preference or advantage to any particular person,
81 port, gateway, locality or description of traffic in any respect
82 whatsoever, or to subject any particular persons, port, gateway,
83 locality or description of traffic to any unjust discrimination or
84 any undue or unreasonable prejudice or disadvantage in any respect
85 whatsoever. However, this section shall not be construed to apply
86 to discriminations, prejudice or disadvantage to the traffic of
87 any other carrier of whatever description.

88 **SECTION 4.** Section 77-7-173, Mississippi Code of 1972, is
89 amended as follows:

90 77-7-173. Common carriers by motor vehicle, the rates of
91 which are subject to regulation under the provisions of this
92 chapter, shall, before making a change in their schedules, give
93 proper notice to the commission of such proposed change. The
94 operation under such changed schedule shall thereafter be lawful

95 unless otherwise ordered by the commission upon objection of an
96 interested party or the commission itself.

97 **SECTION 5.** Section 77-7-187, Mississippi Code of 1972, is
98 amended as follows:

99 77-7-187. (1) Common carriers of passengers by motor
100 vehicle may establish reasonable through routes and joint rates
101 with other such common carriers, and shall provide safe and
102 adequate service, equipment and facilities for the transportation
103 of passengers, and shall establish, observe and enforce just and
104 reasonable regulations and practices relating thereto, and to the
105 issuance, form and substance of tickets, the carrying of personal,
106 sample and excess baggage, and the facilities for transportation
107 of passengers. In case of joint rates, fares and charges, it
108 shall be the duty of the carriers party thereto to establish just,
109 reasonable and equitable divisions thereof as between the carriers
110 participating therein which shall not unduly prefer or prejudice
111 any of such participating carriers.

112 (2) * * * Common carriers of passengers by motor vehicle may
113 establish reasonable through routes and joint rates, fares or
114 charges with common carriers by railroad or water. In case of
115 such joint rates, fares or charges, it shall be the duty of the
116 carriers party thereto to establish just and reasonable
117 regulations and practices in connection therewith, and just,
118 reasonable and equitable divisions thereof as between the carriers
119 participating therein which shall not unduly prefer or prejudice
120 any of such participating carriers.

121 **SECTION 6.** Section 77-7-211, Mississippi Code of 1972, is
122 amended as follows:

123 77-7-211. Every common carrier of passengers shall file with
124 the commission, and print and keep open for public inspection,
125 tariffs showing all the rates, fares and charges for
126 transportation, and all services in connection therewith, * * *
127 between points on its own route, and between points on its own

128 route and points on the route of any other such carrier, or on the
129 route of any common carrier by railroad, express or water, when a
130 through route and joint rate shall have been established. Such
131 rates, fares and charges shall be stated in terms of lawful money
132 of the United States. The tariffs required by this section shall
133 be published, filed and posted in such form and manner, and shall
134 contain such information as the commission by regulation shall
135 prescribe. The commission is authorized to reject any tariff
136 filed with it which is not in consonance with this section and
137 with such regulations. Any tariff so rejected by the commission
138 shall be void and its use shall be unlawful.

139 No common carrier of passengers, unless otherwise provided by
140 this chapter, shall engage in the transportation of passengers or
141 household goods unless the rates, fares and charges upon which the
142 same are transported by said carrier have been filed and published
143 in accordance with the provisions of this chapter.

144 **SECTION 7.** Section 77-7-213, Mississippi Code of 1972, is
145 amended as follows:

146 77-7-213. No common carrier by motor vehicle, the rates of
147 which are subject to regulation under the provisions of this
148 chapter, shall charge, demand, collect or receive a greater, less
149 or different compensation for transportation or for any service in
150 connection therewith between the points enumerated in its tariff
151 than the rates, fares and charges specified in the tariffs in
152 effect at the time. No such carrier shall refund or remit in any
153 manner or by any device, directly or indirectly, or through any
154 agent, or otherwise, any portion of the rates, fares or charges so
155 specified, or extend to any person any privileges or facilities
156 for transportation except such as are specified in its tariffs.

157 **SECTION 8.** Section 77-7-217, Mississippi Code of 1972, is
158 amended as follows:

159 77-7-217. Any person, state board, organization or body
160 politic may make complaint in writing to the commission that any

161 such rate, fare, charge, classification, rule, regulation or
162 practice in effect, or proposed to be put into effect, is or will
163 be in violation of Sections * * * 77-7-153, 77-7-187, 77-7-211
164 through 77-7-215. The provisions of this section shall not apply
165 to common carriers of household goods.

166 Whenever, after hearing, upon complaint or in an
167 investigation on its own initiative, the commission shall be of
168 the opinion that any individual or joint rate, fare or charge,
169 demanded, charged or collected by any common carrier or carriers
170 by motor vehicle or by any common carrier or carriers by motor
171 vehicle in conjunction with any common carrier or carriers by
172 railroad or express, or water, or any classification, rule,
173 regulation or practice whatsoever of such carrier or carriers
174 affecting such rate, fare or charge or the value of the service
175 thereunder, is or will be unjust or unreasonable, or unjustly
176 discriminatory or unduly preferential or unduly prejudicial, it
177 shall determine and prescribe the lawful rate, fare or charge
178 thereunder to be observed, or the lawful classification, rule,
179 regulation or practice thereafter to be made effective.

180 The commission shall, whenever deemed by it to be necessary
181 or desirable in the public interest, after hearing, upon complaint
182 or upon its own initiative without a complaint, establish through
183 routes, and joint rates, fares, charges, regulations or practices,
184 applicable to the transportation of passengers by common carriers
185 by motor vehicle, or the maxima or minima, to be charged, and the
186 terms and conditions under which such through routes shall be
187 operated.

188 Whenever, after hearing, upon complaint or upon its own
189 initiative, the commission is of opinion that the divisions of
190 joint rates, fares or charges, applicable to the transportation of
191 passengers or property by common carriers by motor vehicle or by
192 such carriers in conjunction with common carriers by railroad or
193 express, or water are, or will be unjust, unreasonable,

194 inequitable or unduly preferential or prejudicial as between the
195 carriers parties thereto (whether agreed upon by such carriers, or
196 any of them, or otherwise established), the commission shall by
197 order prescribe the just, reasonable and equitable divisions
198 thereof to be received by the several carriers. In cases where
199 the joint rate, fare or charge was established pursuant to a
200 finding or order of the commission and the divisions thereof are
201 found by it to have been unjust, unreasonable or inequitable, or
202 unduly preferential or prejudicial, the commission may also by
203 order determine what would have been the just, reasonable and
204 equitable divisions thereof to be received by the several
205 carriers, and require adjustment to be made in accordance with the
206 order, from the date of filing the complaint or entry of order of
207 investigation or such other date subsequent as the commission
208 finds justified and, in the case of joint rates prescribed by the
209 commission, the order as to divisions may be made effective as a
210 part of the original order.

211 **SECTION 9.** Section 77-7-219, Mississippi Code of 1972, is
212 amended as follows:

213 77-7-219. Whenever there shall be filed with the commission
214 any schedule stating a new individual or joint rate, fare, charge
215 or classification for the transportation of passengers * * * by a
216 common carrier or carriers by motor vehicle, or by any such
217 carrier or carriers in conjunction with a common carrier or
218 carriers by railroad, express or water, or any rule, regulation or
219 practice affecting such rate, fare or charge, or the value of the
220 service thereunder, the commission is hereby authorized and
221 empowered, upon complaint of any interested party or upon its own
222 initiative, if it so orders, without answer or other formal
223 pleading by the interested carrier or carriers, but upon
224 reasonable notice, to enter upon a hearing concerning the
225 lawfulness of such rate, fare or charge, or such rule, regulation
226 or practice, and pending such hearing and the decision thereon the

227 commission, by filing with such schedule and delivering to the
228 carrier or carriers affected thereby, a statement in writing of
229 its reasons for such suspension, may suspend the operation of such
230 schedule and defer the use of such rate, fare or charge, or such
231 rule, regulation or practice, for a period of ninety (90) days.
232 If the proceeding has not been concluded and a final order made
233 within such period, the commission may, from time to time, extend
234 the period of suspension by order, but not for a longer period in
235 the aggregate than one hundred eighty (180) days beyond the time
236 when it would otherwise go into effect. After hearing, whether
237 completed before or after the rate, fare, charge, classification,
238 rule, regulation or practice goes into effect, the commission may
239 make such order with reference thereto as would be proper in a
240 proceeding instituted after it had become effective. If the
241 proceeding has not been concluded and an order made within the
242 period of suspension, the proposed change of rate, fare or charge,
243 or classification, rule, regulation or practice shall go into
244 effect at the end of such period.

245 **SECTION 10.** Section 77-7-221, Mississippi Code of 1972, is
246 amended as follows:

247 77-7-221. In the exercise of its power to prescribe just and
248 reasonable rates for the transportation of passengers * * * by
249 common carriers by motor vehicle, the commission shall give due
250 consideration, among other factors, to the inherent advantages of
251 transportation by such carriers; to the effect of rates upon the
252 movement of traffic by such carriers; to the need, in the public
253 interest, of adequate and efficient transportation service by such
254 carriers at the lowest cost consistent with the furnishing of such
255 services; and to the need of revenues sufficient to enable such
256 carriers, under honest, economical and efficient management, to
257 provide such service.

258 In any proceeding to determine the justness or reasonableness
259 of any rate, fare or charge of any such carrier, there shall not

260 be taken into consideration or allowed as evidence or elements of
261 value of the property of such carrier, either good will, earning
262 power, or the certificate under which such carrier is operating.
263 In applying for and receiving a certificate under this chapter,
264 any such carrier shall be deemed to have agreed to the provisions
265 of this paragraph, on its own behalf and on behalf of all
266 transferees or lessees of such certificate.

267 **SECTION 11.** Section 77-7-241, Mississippi Code of 1972, is
268 amended as follows:

269 77-7-241. It shall be the duty of every contract carrier by
270 motor vehicle to file with the commission, publish, and keep open
271 for public inspection, in the form and manner prescribed by the
272 commission, schedules, or in the discretion of the commission,
273 copies of contracts containing the minimum charges of such carrier
274 for the transportation of passengers * * * in intrastate commerce,
275 and any rule, regulation, or practice affecting such charges and
276 the value of the service thereunder. No such contract carrier,
277 unless otherwise provided by this chapter, shall engage in the
278 transportation of passengers * * * in intrastate commerce unless
279 the minimum charges for such transportation by said carrier have
280 been published, filed and posted in accordance with the provisions
281 of this chapter.

282 No reduction shall be made in any such charge, either
283 directly or by means of any change in any rule, regulation, or
284 practice affecting such charge or the value of service thereunder,
285 except after thirty days' notice of the proposed change filed in
286 the aforesaid form and manner. However, the commission may, in
287 its discretion and for good cause shown, allow such change upon
288 less notice, or modify the requirements of this section with
289 respect to posting and filing of such schedules or copies of
290 contracts, either in particular instances, or by general order
291 applicable to special or peculiar circumstances or conditions.

292 Such notice shall plainly state the change proposed to be made and
293 the time when such change will take effect.

294 No such carrier shall demand, charge or collect a less
295 compensation for such transportation than the charges filed in
296 accordance with this section, as affected by any rule, regulation,
297 or practice so filed, or as may be prescribed by the commission
298 from time to time, and it shall be unlawful for any such carrier,
299 by the furnishing of special services, facilities, or privileges,
300 or by any other device whatsoever, to charge, accept or receive
301 less than the minimum charges so filed or prescribed. Any such
302 carrier or carriers or any class or group thereof, may apply to
303 the commission for relief from the provisions of this section, and
304 the commission may, after hearing, grant such relief to such
305 extent and for such time, and in such manner as in its judgment is
306 consistent with the public interest and the policy declared in
307 Section 77-7-3.

308 **SECTION 12.** Section 77-7-243, Mississippi Code of 1972, is
309 amended as follows:

310 77-7-243. Whenever, after hearing upon complaint or its own
311 initiative, the commission finds that any charge of any contract
312 carrier or carriers by motor vehicle, or any rule, regulation, or
313 practice of any such carrier or carriers affecting such charge, or
314 the value of the service thereunder, for the transportation of
315 passengers * * * in intrastate commerce, contravenes the policy
316 declared in Section 77-7-3, the commission may prescribe such
317 minimum charge, or such rule, regulation, or practice as in its
318 judgment may be necessary or desirable in the public interest and
319 to promote the policy declared in said section. Such minimum
320 charge, or such rule, regulation or practice so prescribed by the
321 commission, shall give no advantage or preference to any such
322 carrier in competition with any common carrier by motor vehicle
323 subject to this chapter, which the commission may find to be undue
324 or inconsistent with the public interest and the policy declared

325 in said section. The commission shall give due consideration to
326 the cost of the services rendered by such carriers and to the
327 effect of such minimum charge, or such rules, regulations, or
328 practices upon the movement of traffic by such carriers. All
329 complaints shall state fully the facts complained of and the
330 reasons for such complaint and shall be made under oath.

331 **SECTION 13.** Section 77-7-245, Mississippi Code of 1972, is
332 amended as follows:

333 77-7-245. Whenever there shall be filed with the commission
334 by any contract carrier any schedule or contract stating a reduced
335 charge directly, or by means of any rule, regulation or practice,
336 for the transportation of passengers * * * in intrastate commerce,
337 the commission is hereby authorized and empowered, upon complaint
338 of interested parties or upon its own initiative at once and, if
339 it so orders, without answer or other formal pleading by the
340 interested party, but upon reasonable notice, to enter upon a
341 hearing concerning the lawfulness of such charge, or such rule,
342 regulation, or practice, and pending such hearing and the decision
343 thereon the commission, by filing with such schedule or contract
344 and delivering to the carrier affected thereby, a statement in
345 writing of its reasons for such suspension, may suspend the
346 operation of such schedule or contract and defer the use of such
347 charge, or such rule, regulation, or practice, for a period of
348 ninety days. If the proceeding has not been concluded and a final
349 order made within such period, the commission may, from time to
350 time, extend the period of suspension, but not for a longer period
351 in the aggregate than 180 days beyond the time when it would
352 otherwise go into effect. After hearing, whether completed before
353 or after the charge, or rule, regulation, or practice goes into
354 effect, the commission may make such order with reference thereto
355 as would be proper in proceeding instituted after it had become
356 effective. If the proceeding has not been concluded and an order
357 made within the period of suspension, the proposed change in any

358 charge or rule, regulation, or practice shall go into effect at
359 the end of such period. The carrier may voluntarily suspend such
360 schedule, rule, regulation or practice for further periods beyond
361 the 180 days and until the proceeding be concluded.

362 **SECTION 14.** This act shall take effect and be in force from
363 and after July 1, 2004.