

By: Senator(s) King

To: Public Utilities

SENATE BILL NO. 2991

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

283       No reduction shall be made in any such charge, either  
284 directly or by means of any change in any rule, regulation or  
285 practice affecting such charge or the value of service thereunder,  
286 except after thirty (30) days' notice of the proposed change filed  
287 in the aforesaid form and manner. However, the commission may, in  
288 its discretion and for good cause shown, allow such change upon  
289 less notice, or modify the requirements of this section with  
290 respect to posting and filing of such schedules or copies of  
291 contracts, either in particular instances, or by general order  
292 applicable to special or peculiar circumstances or conditions.

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

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

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

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

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

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

334 77-7-245. Whenever there shall be filed with the commission  
335 by any contract carrier any schedule or contract stating a reduced  
336 charge directly, or by means of any rule, regulation or practice,  
337 for the transportation of passengers \* \* \* in intrastate commerce,  
338 the commission is hereby authorized and empowered, upon complaint  
339 of interested parties or upon its own initiative at once and, if  
340 it so orders, without answer or other formal pleading by the  
341 interested party, but upon reasonable notice, to enter upon a  
342 hearing concerning the lawfulness of such charge, or such rule,  
343 regulation or practice, and pending such hearing and the decision  
344 thereon the commission, by filing with such schedule or contract  
345 and delivering to the carrier affected thereby, a statement in  
346 writing of its reasons for such suspension, may suspend the  
347 operation of such schedule or contract and defer the use of such  
348 charge, or such rule, regulation or practice, for a period of  
349 ninety (90) days. If the proceeding has not been concluded and a  
350 final order made within such period, the commission may, from time  
351 to time, extend the period of suspension, but not for a longer  
352 period in the aggregate than one hundred eighty (180) days beyond  
353 the time when it would otherwise go into effect. After hearing,  
354 whether completed before or after the charge, or rule, regulation  
355 or practice goes into effect, the commission may make such order  
356 with reference thereto as would be proper in proceeding instituted  
357 after it had become effective. If the proceeding has not been  
358 concluded and an order made within the period of suspension, the

359 proposed change in any charge or rule, regulation or practice  
360 shall go into effect at the end of such period. The carrier may  
361 voluntarily suspend such schedule, rule, regulation or practice  
362 for further periods beyond the one hundred eighty (180) days and  
363 until the proceeding be concluded.

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