MISSISSIPPI LEGISLATURE REGULAR SESSION 2004

By: Senator(s) Robertson To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3042

AN ACT TO AMEND SECTIONS 27-19-3 AND 27-19-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PRIVATE COMMERCIAL CARRIERS OF PROPERTY AND PRIVATE NONCOMMERCIAL CARRIERS OF PROPERTY SHALL BE TREATED THE SAME FOR PURPOSES OF THE MOTOR VEHICLE PRIVILEGE TAX LAW; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-19-3, Mississippi Code of 1972, is amended as follows:

27-19-3. (a) The following words and phrases when used in this article for the purpose of this article have the meanings respectively ascribed to them in this section, except in those instances where the context clearly describes and indicates a different meaning:

(1) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by muscular power or used exclusively upon stationary rails or tracks.

(2) "Commercial vehicle" means every vehicle used or operated upon the public roads, highways or bridges in connection with any business function.

(3) "Motor vehicle" means every vehicle as *** * *** defined in this section which is self-propelled, including trackless street or trolley cars. The term "motor vehicle" shall not include electric personal assistive mobility devices as defined in Section 63-3-103.

(4) "Tractor" means every vehicle designed, constructed or used for drawing other vehicles.

(5) "Motorcycle" <u>means</u> every vehicle designed to travel on not more than three (3) wheels in contact with the ground, except <u>vehicles</u> * * * included within the term "tractor" as herein classified and defined.

(6) "Truck tractor" <u>means</u> every motor vehicle designed and used for drawing other vehicles and so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn and has a gross vehicle weight (GVW) in excess of ten thousand (10,000) pounds.

(7) "Trailer" <u>means</u> every vehicle without motive power, designed to carry property or passengers wholly on its structure and which is drawn by a motor vehicle.

(8) "Semitrailer" <u>means</u> every vehicle (of the trailer type) so designed and used in conjunction with a truck tractor.

(9) "Foreign vehicle" <u>means</u> every motor vehicle, trailer or semitrailer, which shall be brought into the state otherwise than by or through a manufacturer or dealer for resale and which has not been registered in this state.

(10) "Pneumatic tires" <u>means</u> all tires inflated with compressed air.

(11) "Solid rubber tires" <u>means</u> every tire made of rubber other than pneumatic tires.

(12) "Solid tires" <u>means</u> all tires, the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(13) "Person" <u>means</u> every natural person, firm, copartnership, corporation, joint-stock or other association or organization.

(14) "Owner" <u>means</u> a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale, lease or transfer of the possession, * * * <u>the person</u> with the right of purchase upon performance of conditions stated in the agreement, and with an

immediate right of possession vested in the conditional vendee, lessee, possessor or in the event such or similar transaction is had by means of a mortgage, and the mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, possessor or mortgagor shall be deemed the owner for the purposes of this article.

(15) "School bus" <u>means</u> every motor vehicle engaged solely in transporting school children or school children and teachers to and from schools; *** * *** however, *** * *** such vehicles may transport passengers on weekends and legal holidays and during summer months between the terms of school for compensation when the transportation of *** * *** passengers is over a route of which not more than fifty percent (50%) traverses the route of a common carrier of passengers by motor vehicle and when no passengers are picked up on the route of any such carrier.

(16) "Dealer" <u>means</u> every person engaged regularly in the business of buying, selling or exchanging motor vehicles, trailers, semitrailers, trucks, tractors or other character of commercial or industrial motor vehicles in this state, and having an established place of business in this state.

(17) "Highway" <u>means</u> and include every way or place of whatever nature, including public roads, streets and alleys of this state generally open to the use of the public or to be opened or reopened to the use of <u>the</u> public for the purpose of vehicular travel, and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair.

(18) "State Tax Commission" <u>means</u> the Chairman of the State Tax Commission of this state, acting directly or through his duly authorized officers, agents, representatives and employees.

(19) "Common carrier by motor vehicle" <u>means</u> any person who or which undertakes, whether directly or by a lease or any other arrangement, to transport passengers or property or any

class or classes of property for the general public in interstate or intrastate commerce on the public highways of this state by motor vehicles for compensation, whether over regular or irregular routes. The term "common carrier by motor vehicle" shall not include passenger buses operating within the corporate limits of a municipality in this state or not exceeding five (5) miles beyond the corporate limits of the municipality, and hearses, ambulances, school buses as such. In addition, this definition shall not include taxicabs.

(20) "Contract carrier by motor vehicle" means any person who or which under the special and individual contract or agreements, and whether directly or by a lease or any other arrangement, transports passengers or property in interstate or intrastate commerce on the public highways of this state by motor vehicle for compensation. The term "contract carrier by motor vehicle" shall not include passenger buses operating wholly within the corporate limits of a municipality in this state or not exceeding five (5) miles beyond the corporate limits of the municipality, and hearses, ambulances, school buses as such. In addition, this definition shall not include taxicabs.

(21) "Private commercial and noncommercial carrier of property by motor vehicle" means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle," who or which transports in interstate or intrastate commerce on the public highways of this state by motor vehicle, property of which such person is the owner, lessee, or bailee, other than for hire * * *. The term "private commercial and noncommercial carrier of private property by motor vehicle" shall not include passenger buses operated wholly within the corporate limits of a municipality of this state, or not exceeding five (5) miles beyond the corporate limits of the municipality, and hearses, ambulances, school buses as such. In addition, this definition shall not include taxicabs.

Haulers of fertilizer shall be classified as private commercial carriers of property by motor vehicle.

(22) "Private carrier of passengers" means all other passenger motor vehicle carriers not included in the above definitions. The term "private carrier of passengers" shall not include passenger buses operating wholly within the corporate limits of a municipality in this state, or not exceeding five (5) miles beyond the corporate limits of the municipality, and hearses, ambulances, and school buses as such. In addition, this definition shall not include taxicabs.

(23) "Operator" means any person, partnership, joint-stock company or corporation operating on the public highways of the state one or more motor vehicles as the beneficial owner or lessee.

(24) "Driver" means the person actually driving or operating such motor vehicle at any given time.

(25) "Private carrier of property" means any person transporting property on the highways of this state as defined below:

(a) Any person transporting farm products produced on his own farm and also farm supplies, materials and equipment used in the growing or production of his agricultural products in his own truck.

(b) Any person transporting his own fish, including shellfish, in his own truck.

(c) Any person transporting unprocessed forest products, wherein ownership remains the same, in his own truck.

(26) "Taxicab" means any passenger motor vehicle for hire with a seating capacity not greater than ten (10) passengers. For purposes of this paragraph (26), seating capacity shall be determined according to the manufacturer's suggested seating capacity for a vehicle. If there is no manufacturer's suggested seating capacity for a vehicle, the seating capacity for the

vehicle shall be determined according to regulations established by the State Tax Commission.

(27) "Passenger coach" means any passenger motor vehicle with a seating capacity greater than ten (10) passengers, operating wholly within the corporate limits of a municipality of this state or within five (5) miles of the corporate limits of the municipality, or motor vehicles substituted for abandoned electric railway systems in or between municipalities. For purposes of this paragraph (27), seating capacity shall be determined according to the manufacturer's suggested seating capacity for a vehicle. If there is no manufacturer's suggested seating capacity for a vehicle, the seating capacity for the vehicle shall be determined according to regulations established by the State Tax Commission.

(28) "Empty weight" means the actual weight of a vehicle including fixtures and equipment necessary for the transportation of load hauled or to be hauled.

(29) "Gross weight" means the empty weight of the vehicle, as defined herein, plus any load being transported or to be transported.

(30) "Ambulance and hearse" * * * shall have the meaning generally ascribed to them. A hearse or funeral coach shall be classified as a light carrier of property, as defined in Section 27-51-101.

(31) "Regular seats" means each seat ordinarily and customarily used by one (1) passenger, including all temporary, emergency, and collapsible seats. Where any seats are not distinguished or separated by separate cushions and backs, a seat shall be counted for each eighteen (18) inches of space on such seats or major fraction thereof. In the case of a regular passenger-type automobile which is used as a common or contract carrier of passengers, three (3) seats shall be counted for the

rear seat of such automobile and one (1) seat shall be counted for the front seat of such automobile.

(32) "Ton" means two thousand (2,000) pounds avoirdupois.

* * *

(33) "Bus" means any passenger vehicle with a seating capacity of more than ten (10) but shall not include "private carrier of passengers" and "school bus" as defined in paragraphs (15) and (22) of this section. For purposes of this paragraph (33), seating capacity shall be determined according to the manufacturer's suggested seating capacity for a vehicle. If there is no manufacturer's suggested seating capacity for a vehicle, the seating capacity for the vehicle shall be determined according to regulations established by the State Tax Commission.

(34) "Corporate fleet" means a group of two hundred (200) or more marked private carriers of passengers or light carriers of property, as defined in Section 27-51-101, trailers, semitrailers, or motor vehicles in excess of ten thousand (10,000) pounds gross vehicle weight, except for those vehicles registered for interstate travel, owned or leased on a long-term basis by a corporation or other legal entity. In order to be considered marked, the motor vehicle must have a name, trademark or logo located either on the sides or the rear of the vehicle in sharp contrast to the background, and of a size, shape and color that is legible during daylight hours from a distance of fifty (50) feet.

(35) "Individual fleet" means a group of five (5) or more private carriers of passengers or light carriers of property, as defined in Section 27-51-101, owned or leased by the same person and principally garaged in the same county.

(b) (1) No lease shall be recognized under the provisions of this article unless it shall be in writing and shall fully define a bona fide relationship of lessor and lessee, signed by both parties, dated and be in the possession of the driver of the leased vehicle at all times.

(2) Leased vehicles shall be considered as domiciled at the place in the State of Mississippi from which they operate in interstate or intrastate commerce, and for the purposes of this article shall be considered as owned by the lessee, who shall furnish all insurance on the vehicles and the driver of the vehicles shall be considered as an agent of the lessee for all purposes of this article.

SECTION 2. Section 27-19-11, Mississippi Code of 1972, is amended as follows:

27-19-11. On each carrier of property, for each motor vehicle, truck-tractor or road tractor *** * ***, and on each bus, there is hereby levied an annual highway privilege tax in accordance with the following schedule, except that the gross vehicle weight of buses shall be the gross weight of the vehicle plus one hundred fifty (150) pounds per each regular seat.

RATE OF TAX

GROSS WEIGHT OF VEHICLE NOT TO EXCEED IN POUNDS	COMMON AND CONTRACT CARRIERS OF PROPERTY	PRIVATE COMMERCIAL AND NONCOMMERCIAL CARRIERS OF PROPERTY	PRIVATE CARRIERS OF PROPERTY
0000 - 6000	$ 7.20	$ 7.20	$ 7.20
6001 - 10000	33.60	25.20	16.80
10001 - 16000	78.40	70.70	39.20
16001 - 20000	156.00	129.00	78.00
20001 - 26000	228.00	192.00	114.00
26001 - 30000	300.00	247.00	150.00
30001 - 36000	384.00	318.00	192.00
36001 - 40000	456.00	378.00	228.00
40001 - 42000	504.00	420.00	264.00

42001 - 44000	528.00	444.00	276.00
44001 - 46000	552.00	456.00	282.00
46001 - 48000	588.00	492.00	300.00
48001 - 50000	612.00	507.00	312.00
50001 - 52000	660.00	540.00	336.00
52001 - 54000	684.00	564.00	348.00
54001 - 56000	708.00	588.00	360.00
56001 - 58000	756.00	624.00	384.00
58001 - 60000	780.00	642.00	396.00
60001 - 62000	828.00	828.00	420.00
62001 - 64000	852.00	852.00	432.00
64001 - 66000	900.00	900.00	482.00
66001 - 68000	936.00	936.00	504.00
68001 - 70000	972.00	972.00	516.00
70001 - 72000	996.00	996.00	528.00
72001 - 74000	1,128.00	1,128.00	576.00
74001 - 76000	1,248.00	1,248.00	612.00
76001 - 78000	1,380.00	1,380.00	720.00
78001 - 80000	1,512.00	1,512.00	864.00

In addition to the above levied annual highway privilege tax on vehicles with a gross weight exceeding ten thousand (10,000) pounds, there is levied and shall be collected an additional privilege tax in the amount of One Thousand Three Hundred Fifty Dollars ($1,350.00) for each current or later year model vehicle based upon a licensed weight of eighty thousand (80,000) pounds. This additional privilege tax shall be reduced by the amount of One Hundred Seventy-five Dollars ($175.00) for each year of age to a minimum of Fifty Dollars ($50.00) and further reduced by the ratio of licensed weight to the maximum weight of eighty thousand (80,000) pounds. During the first year only, the privilege tax monies collected under the provisions of this paragraph shall be distributed to the various counties of the state on the basis of the ratio of the last year of annual ad valorem taxes collected by such counties on such vehicles to the total ad valorem taxes collected by all counties on such vehicles in the same year. In all subsequent years, the distribution to the counties shall be made on the basis of the ratio of the number of motor vehicles registered in excess of ten thousand (10,000) pounds, in each taxing district in each county, to the total number of such vehicles registered statewide. The counties should then distribute these proceeds as they would if these collections were ad valorem taxes. * * *

From the privilege tax monies collected under this section, Three Million Seven Hundred Thirty-two Thousand Four Hundred Three Dollars and Eleven Cents ($3,732,403.11) shall be earmarked and set aside to be apportioned and paid to the counties of the state in the manner provided by Section 27-19-159, Mississippi Code of 1972. Any excess privilege tax monies collected under this section shall be deposited into the State Highway Fund for the construction, maintenance and reconstruction of highways and roads of the State of Mississippi or the payment of interest and principal on bonds authorized by the 1972 Regular Session of the Legislature for construction and reconstruction of highways.

* * * No privilege license shall be issued for any period of time for less than One Dollar ($1.00).

The annual highway privilege tax imposed on operators engaged exclusively in the transportation of household goods shall be the same as the tax imposed upon private commercial carriers by this section. * * * In determining the amount of privilege taxes due under the provisions of this section, there shall be allowed a maximum tolerance of five hundred (500) pounds on all classes of carriers except carriers of liquefied compressed gases and in the case of carriers of liquefied compressed gases there shall be allowed a maximum tolerance of two thousand (2,000) pounds.

* * * Any owner or operator who operates a motor vehicle on the public highways, with a license tag attached to it which was

issued for another or different vehicle, shall be liable for the privilege tax on said vehicle for twelve (12) months plus a penalty thereon of twenty-five percent (25%).

*** * *** Carriers of property duly registered and licensed in another state and being used to transport farm harvesting machinery or equipment to and from a particular county in this state may, upon adoption of a resolution by the board of supervisors of the county where such machinery or equipment is being exclusively used in harvesting farm crops within the county, be exempt from the taxes herein levied when the resolution is filed with the State Tax Commission. *** * *** However, the exemption shall not exceed a period of forty (40) days for any annual period without a second resolution of approval by the board of supervisors who shall have the authority to extend the exemption not to exceed an additional period of twenty (20) days during any annual period.

*** * *** A private commercial carrier of property hauling interstate may purchase a common and contract carrier of property license plate at the prescribed fee to allow the carrier to lease on a one-way basis per trip without qualifying with the Public Service Commission.

SECTION 3. This act shall take effect and be in force from and after July 1, 2004.