

House Amendments to Senate Bill No. 2991

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 * * * 77-7-153, 77-7-187, 77-7-211
165 through 77-7-215. The provisions of this section shall not apply
166 to 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.

HR03\SB2991A.J

Don Richardson
Clerk of the House of Representatives