

By: Representative Martinson

To: Transportation

HOUSE BILL NO. 307

1 AN ACT TO AMEND SECTION 63-3-519, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE SHERIFF AND HIS DEPUTIES IN ANY COUNTY HAVING A
3 POPULATION OF SEVENTY THOUSAND OR MORE TO USE RADAR SPEED
4 DETECTION EQUIPMENT UPON THE PUBLIC STREETS, ROADS AND HIGHWAYS OF
5 THE COUNTY LYING OUTSIDE OF THE LIMITS OF ANY INCORPORATED
6 MUNICIPALITY; TO REDUCE THE MINIMUM POPULATION REQUIREMENTS OF
7 MUNICIPALITIES WHOSE LAW ENFORCEMENT OFFICERS ARE AUTHORIZED TO
8 USE RADAR SPEED DETECTION EQUIPMENT ON FEDERALLY DESIGNATED
9 HIGHWAYS LYING WITHIN THE CORPORATE LIMITS; TO AMEND SECTION
10 63-9-11, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE FINE THAT MAY
11 BE IMPOSED UPON CONVICTION OF ANY PERSON FOR A MOTOR VEHICLE
12 SPEEDING VIOLATION WHERE A RADAR SPEED DETECTION DEVICE WAS USED
13 AS EVIDENCE OF THE VIOLATION BY A SHERIFF OR DEPUTY SHERIFF IN A
14 COUNTY HAVING A POPULATION OF SEVENTY THOUSAND OR MORE; TO AMEND
15 SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO IMPOSE AN
16 ADDITIONAL STATE ASSESSMENT UPON PERSONS CONVICTED OF A MOTOR
17 VEHICLE SPEEDING VIOLATION WHERE A RADAR SPEED DETECTION DEVICE
18 WAS USED AS EVIDENCE OF THE VIOLATION BY A SHERIFF OR DEPUTY
19 SHERIFF IN A COUNTY HAVING A POPULATION OF SEVENTY THOUSAND OR
20 MORE; TO PRESCRIBE THE MANNER BY WHICH THE AMOUNT OF THE
21 ADDITIONAL ASSESSMENT SHALL BE CALCULATED; TO PROVIDE THAT THE
22 ASSESSMENT SHALL BE DEPOSITED INTO THE STATE GENERAL FUND; AND FOR
23 RELATED PURPOSES.

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

25 **SECTION 1.** Section 63-3-519, Mississippi Code of 1972, is
26 amended as follows:

27 63-3-519. (1) It is unlawful for any person or peace
28 officer or law enforcement agency, except the Mississippi Highway
29 Safety Patrol, to purchase or use or allow to be used any type of
30 radar speed detection equipment upon any public street, road or
31 highway of this state. However, such equipment may be used:

32 (a) By municipal law enforcement officers within a
33 municipality having a population of two thousand (2,000) or more
34 upon the public streets of the municipality;

35 (b) By any college or university campus police force
36 within the confines of any campus wherein more than two thousand
37 (2,000) students are enrolled;

38 (c) By municipal law enforcement officers in any
39 municipality having a population in excess of fourteen thousand
40 (14,000) according to the latest federal census on federally
41 designated highways lying within the corporate limits; and

42 (d) By the sheriff and deputy sheriffs of any county
43 having a population of seventy thousand (70,000) or more,
44 according to the latest federal decennial census, upon the public
45 streets, roads and highways of the county lying outside of the
46 limits of any incorporated municipality. Any person convicted of
47 a motor vehicle speeding violation where a radar speed detection
48 device was used under this paragraph (d) as evidence of the
49 violation shall be punished as provided under Section 63-9-11(3).

50 (2) The Mississippi Highway Safety Patrol shall not set up
51 radar on highways within municipalities with a population in
52 excess of fourteen thousand (14,000) according to the latest
53 federal census.

54 **SECTION 2.** Section 63-9-11, Mississippi Code of 1972, is
55 amended as follows:

56 63-9-11. (1) It is a misdemeanor for any person to violate
57 any of the provisions of Chapter 3, 5 or 7 of this title, unless
58 such violation is by such chapters or other law of this state
59 declared to be a felony.

60 (2) Except as otherwise provided under subsection (3) of
61 this section, every person convicted of a misdemeanor for a
62 violation of any of the provisions of such chapters for which
63 another penalty is not provided shall, for a first conviction
64 thereof, be punished by a fine of not more than One Hundred
65 Dollars (\$100.00) or by imprisonment for not more than ten (10)
66 days; for a second such conviction within one (1) year thereafter
67 such person shall be punished by a fine of not more than Two
68 Hundred Dollars (\$200.00) or by imprisonment for not more than
69 twenty (20) days or by both such fine and imprisonment; upon a
70 third or subsequent conviction within one (1) year after the first

71 conviction such person shall be punished by a fine of not more
72 than Five Hundred Dollars (\$500.00) or by imprisonment for not
73 more than six (6) months or by both such fine and imprisonment.

74 (3) Any person convicted for a motor vehicle speeding
75 violation where a radar speed detection device was used under
76 Section 63-3-519(1)(d) as evidence of the violation shall be
77 punished by a fine in the amount of Ten Dollars (\$10.00) and/or
78 any applicable imprisonment as authorized for the offense under
79 subsection (2) of this section.

80 (4) (a) Whenever a person not covered under Section 63-1-55
81 is charged with a misdemeanor violation of any of the provisions
82 of Chapter 3, 5 or 7 of this title, the person shall be eligible
83 to participate in not less than four (4) hours of a traffic safety
84 violator course and thereby have no record of the violation on the
85 person's driving record if the person meets all the following
86 conditions:

87 (i) The defendant has a valid Mississippi driver's
88 license or permit.

89 (ii) The defendant has not had a conviction of a
90 violation under Chapter 3, 5 or 7 of this title within three (3)
91 years before the current offense; any conviction entered before
92 October 1, 2002, does not constitute a prior offense for the
93 purposes of this subsection (4).

94 (iii) The defendant's public and nonpublic driving
95 record as maintained by the Department of Public Safety does not
96 indicate successful completion of a traffic safety violator course
97 under this section in the three-year period before the offense.

98 (iv) The defendant files an affidavit with the
99 court stating that this is the defendant's first conviction in
100 more than three (3) years or since October 1, 2002, whichever is
101 the lesser period of time; the defendant is not in the process of
102 taking a course under this section; and the defendant has not

103 completed a course under this section that is not yet reflected on
104 the defendant's public or nonpublic driving record.

105 (v) The offense charged is for a misdemeanor
106 offense under Chapter 3, 5 or 7 of this title.

107 (vi) The defendant pays the applicable fine, costs
108 and any assessments required by law to be paid upon conviction of
109 such an offense.

110 (vii) The defendant pays to the court an
111 additional fee of Ten Dollars (\$10.00) to elect to proceed under
112 the provisions of this subsection (4).

113 (b) (i) 1. An eligible defendant may enter a plea of
114 nolo contendere or guilty in person or in writing and present to
115 the court, in person or by mail postmarked on or before the
116 appearance date on the citation, an oral or written request to
117 participate in a course under this subsection (4).

118 2. The court shall withhold acceptance of the
119 plea and defer sentencing in order to allow the eligible defendant
120 ninety (90) days to successfully complete not less than four (4)
121 hours of a court-approved traffic safety violator course at the
122 cost of the defendant. Upon proof of successful completion
123 entered with the court, the court shall dismiss the prosecution
124 and direct that the case be closed. The only record maintained
125 thereafter shall be the nonpublic record required under Section
126 63-9-17 solely for use by the courts in determining eligibility
127 under this subsection (4).

128 (ii) If a person pleads not guilty to a
129 misdemeanor offense under any of the provisions of Chapter 3, 5 or
130 7 of this title but is convicted, and the person meets all the
131 requirements under paragraph (a) of this subsection, upon request
132 of the defendant the court shall suspend the sentence for such
133 offense to allow the defendant forty-five (45) days to
134 successfully complete not less than four (4) hours of a
135 court-approved traffic safety violator course at his own cost.

136 Upon successful completion by the defendant of the course, the
137 court shall set the conviction aside, dismiss the prosecution and
138 direct that the case be closed. The court on its own motion shall
139 expunge the record of the conviction, and the only record
140 maintained thereafter shall be the nonpublic record required under
141 Section 63-9-17 solely for use by the courts in determining an
142 offender's eligibility under this subsection (4).

143 (c) An out-of-state resident shall be allowed to
144 complete a substantially similar program in his home state,
145 province or country provided the requirements of this subsection
146 (4) are met, except that the necessary valid driver's license or
147 permit shall be one issued by the home jurisdiction.

148 (d) A court shall not approve a traffic safety violator
149 course under this subsection (4) that does not supply at least
150 four (4) hours of instruction, an instructor's manual setting
151 forth an appropriate curriculum, student workbooks, some
152 scientifically verifiable analysis of the effectiveness of the
153 curriculum and provide minimum qualifications for instructors.

154 (e) A court shall inform a defendant making inquiry or
155 entering a personal appearance of the provisions of this
156 subsection (4).

157 (f) The Department of Public Safety shall cause notice
158 of the provisions of this subsection (4) to be available on its
159 official website.

160 (g) Failure of a defendant to elect to come under the
161 provisions of this subsection (4) for whatever reason, in and of
162 itself, shall not invalidate a conviction.

163 (h) No employee of the sentencing court shall
164 personally benefit from a defendant's attendance of a traffic
165 safety violator course. Violation of this prohibition shall
166 result in termination of employment.

167 (i) The additional fee of Ten Dollars (\$10.00) imposed
168 under this subsection (4) shall be forwarded by the court clerk to

169 the State Treasurer for deposit into a special fund created in the
 170 State Treasury. Monies in the special fund may be expended by the
 171 Department of Public Safety, upon legislative appropriation, to
 172 defray the costs incurred by the department in maintaining the
 173 nonpublic record of persons who are eligible for participation
 174 under the provisions of this subsection (4).

175 **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, is
 176 amended as follows:

177 99-19-73. (1) **Traffic Violations.**

178 (a) In addition to any monetary penalties and any other
 179 penalties imposed by law, there shall be imposed and collected the
 180 following state assessment from each person upon whom a court
 181 imposes a fine or other penalty for any violation in Title 63,
 182 Mississippi Code of 1972, except offenses relating to the
 183 Mississippi Implied Consent Law (Section 63-11-1 et seq.),
 184 offenses relating to vehicular parking or registration and
 185 violations described under paragraph (b) of this subsection:

186 FUND	AMOUNT
187 State Court Education Fund.....	\$ 1.50
188 State Prosecutor Education Fund.....	1.00
189 Driver Training Penalty Assessment Fund.....	7.00
190 Law Enforcement Officers Training Fund.....	5.00
191 Spinal Cord and Head Injury Trust Fund	
192 (for all moving violations).....	4.00
193 Emergency Medical Services Operating Fund.....	10.00
194 Mississippi Leadership Council on Aging Fund.....	1.00
195 Law Enforcement Officers and Fire Fighters Death	
196 Benefits Trust Fund.....	.50
197 State Prosecutor Compensation Fund for the purpose	
198 of providing additional compensation for legal	
199 assistants to district attorneys.....	1.00
200 Crisis Intervention Mental Health Fund.....	10.00
201 Drug Court Fund.....	10.00

202 TOTAL STATE ASSESSMENT..... \$ 51.00

203 (b) In addition to the penalties imposed under Section
204 63-9-11, and the state assessments imposed under paragraph (a) of
205 this subsection, there shall be imposed and collected a state
206 assessment from each person convicted of a motor vehicle speeding
207 violation where a radar speed detection device was used under
208 Section 63-3-519(1)(d) as evidence of the violation. The amount
209 of the additional assessment shall be calculated in the same
210 manner as fines imposed for speeding violations under Section
211 63-9-11(2) are calculated, and shall be deposited into the State
212 General Fund.

213 (2) **Implied Consent Law Violations.** In addition to any
214 monetary penalties and any other penalties imposed by law, there
215 shall be imposed and collected the following state assessment from
216 each person upon whom a court imposes a fine or any other penalty
217 for any violation of the Mississippi Implied Consent Law (Section
218 63-11-1 et seq.):

219 FUND	AMOUNT
220 Crime Victims' Compensation Fund.....	\$ 10.00
221 State Court Education Fund.....	1.50
222 State Prosecutor Education Fund.....	1.00
223 Driver Training Penalty Assessment Fund.....	22.00
224 Law Enforcement Officers Training Fund.....	11.00
225 Emergency Medical Services Operating Fund.....	10.00
226 Mississippi Alcohol Safety Education Program Fund....	5.00
227 Federal-State Alcohol Program Fund.....	10.00
228 Mississippi Crime Laboratory	
229 Implied Consent Law Fund.....	25.00
230 Spinal Cord and Head Injury Trust Fund.....	25.00
231 Capital Defense Counsel Special Fund.....	1.00
232 State General Fund.....	35.00
233 Law Enforcement Officers and Fire Fighters Death	
234 Benefits Trust Fund.....	.50

235	State Prosecutor Compensation Fund for the purpose	
236	of providing additional compensation for legal	
237	assistants to district attorneys.....	1.00
238	Crisis Intervention Mental Health Fund.....	10.00
239	Drug Court Fund.....	10.00
240	TOTAL STATE ASSESSMENT.....	\$178.00

241 (3) **Game and Fish Law Violations.** In addition to any
242 monetary penalties and any other penalties imposed by law, there
243 shall be imposed and collected the following state assessment from
244 each person upon whom a court imposes a fine or other penalty for
245 any violation of the game and fish statutes or regulations of this
246 state:

247	FUND	AMOUNT
248	State Court Education Fund.....	\$ 1.50
249	State Prosecutor Education Fund.....	1.00
250	Law Enforcement Officers Training Fund.....	5.00
251	Hunter Education and Training Program Fund.....	5.00
252	State General Fund.....	30.00
253	Law Enforcement Officers and Fire Fighters Death	
254	Benefits Trust Fund.....	.50
255	State Prosecutor Compensation Fund for the purpose	
256	of providing additional compensation for legal	
257	assistants to district attorneys.....	1.00
258	Crisis Intervention Mental Health Fund.....	10.00
259	Drug Court Fund.....	10.00
260	TOTAL STATE ASSESSMENT.....	\$ 64.00

261 (4) **Litter Law Violations.** In addition to any monetary
262 penalties and any other penalties imposed by law, there shall be
263 imposed and collected the following state assessment from each
264 person upon whom a court imposes a fine or other penalty for any
265 violation of Section 97-15-29 or 97-15-30:

266	FUND	AMOUNT
267	Statewide Litter Prevention Fund.....	\$ 25.00

268	State Prosecutor Compensation Fund for the purpose	
269	of providing additional compensation for legal	
270	assistants to district attorneys.....	1.00
271	Crisis Intervention Mental Health Fund.....	10.00
272	Drug Court Fund.....	10.00
273	TOTAL STATE ASSESSMENT.....	\$ 46.00

274 (5) **Other Misdemeanors.** In addition to any monetary
275 penalties and any other penalties imposed by law, there shall be
276 imposed and collected the following state assessment from each
277 person upon whom a court imposes a fine or other penalty for any
278 misdemeanor violation not specified in subsection (1), (2) or (3)
279 of this section, except offenses relating to vehicular parking or
280 registration:

281	FUND	AMOUNT
282	Crime Victims' Compensation Fund.....	\$ 10.00
283	State Court Education Fund.....	1.50
284	State Prosecutor Education Fund.....	1.00
285	Law Enforcement Officers Training Fund.....	5.00
286	Capital Defense Counsel Special Fund.....	1.00
287	State General Fund.....	30.00
288	State Crime Stoppers Fund.....	1.50
289	Law Enforcement Officers and Fire Fighters Death	
290	Benefits Trust Fund.....	.50
291	State Prosecutor Compensation Fund for the purpose	
292	of providing additional compensation for legal	
293	assistants to district attorneys.....	1.00
294	Crisis Intervention Mental Health Fund.....	10.00
295	Drug Court Fund.....	8.00
296	Judicial Performance Fund.....	2.00
297	TOTAL STATE ASSESSMENT.....	\$ 71.50

298 (6) **Other Felonies.** In addition to any monetary penalties
299 and any other penalties imposed by law, there shall be imposed and
300 collected the following state assessment from each person upon

301 whom a court imposes a fine or other penalty for any felony
 302 violation not specified in subsection (1), (2) or (3) of this
 303 section:

304 FUND	AMOUNT
305 Crime Victims' Compensation Fund.....	\$ 10.00
306 State Court Education Fund.....	1.50
307 State Prosecutor Education Fund.....	1.00
308 Law Enforcement Officers Training Fund.....	5.00
309 Capital Defense Counsel Special Fund.....	1.00
310 State General Fund.....	60.00
311 Criminal Justice Fund.....	50.00
312 Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
314 State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.00
317 Crisis Intervention Mental Health Fund.....	10.00
318 Drug Court Fund.....	10.00
319 TOTAL STATE ASSESSMENT.....	\$150.00

320 (7) If a fine or other penalty imposed is suspended, in
 321 whole or in part, such suspension shall not affect the state
 322 assessment under this section. No state assessment imposed under
 323 the provisions of this section may be suspended or reduced by the
 324 court.

325 (8) After a determination by the court of the amount due, it
 326 shall be the duty of the clerk of the court to promptly collect
 327 all state assessments imposed under the provisions of this
 328 section. The state assessments imposed under the provisions of
 329 this section may not be paid by personal check. It shall be the
 330 duty of the chancery clerk of each county to deposit all such
 331 state assessments collected in the circuit, county and justice
 332 courts in such county on a monthly basis with the State Treasurer
 333 pursuant to appropriate procedures established by the State

334 Auditor. The chancery clerk shall make a monthly lump-sum deposit
335 of the total state assessments collected in the circuit, county
336 and justice courts in such county under this section, and shall
337 report to the Department of Finance and Administration the total
338 number of violations under each subsection for which state
339 assessments were collected in the circuit, county and justice
340 courts in such county during such month. It shall be the duty of
341 the municipal clerk of each municipality to deposit all such state
342 assessments collected in the municipal court in such municipality
343 on a monthly basis with the State Treasurer pursuant to
344 appropriate procedures established by the State Auditor. The
345 municipal clerk shall make a monthly lump-sum deposit of the total
346 state assessments collected in the municipal court in such
347 municipality under this section, and shall report to the
348 Department of Finance and Administration the total number of
349 violations under each subsection for which state assessments were
350 collected in the municipal court in such municipality during such
351 month.

352 (9) It shall be the duty of the Department of Finance and
353 Administration to deposit on a monthly basis all such state
354 assessments into the proper special fund in the State Treasury.
355 The monthly deposit shall be based upon the number of violations
356 reported under each subsection and the pro rata amount of such
357 assessment due to the appropriate special fund. The Department of
358 Finance and Administration shall issue regulations providing for
359 the proper allocation of these special funds.

360 (10) The State Auditor shall establish by regulation
361 procedures for refunds of state assessments, including refunds
362 associated with assessments imposed before July 1, 1990, and
363 refunds after appeals in which the defendant's conviction is
364 reversed. The Auditor shall provide in such regulations for
365 certification of eligibility for refunds and may require the
366 defendant seeking a refund to submit a verified copy of a court

367 order or abstract by which such defendant is entitled to a refund.
368 All refunds of state assessments shall be made in accordance with
369 the procedures established by the Auditor.

370 **SECTION 4.** This act shall take effect and be in force from
371 and after July 1, 2005.