

By: Senator(s) Williamson

To: Highways and
Transportation;
Appropriations

SENATE BILL NO. 2367

1 AN ACT TO AMEND SECTION 27-19-89, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CERTAIN FINES COLLECTED BY THE MISSISSIPPI
3 DEPARTMENT OF TRANSPORTATION BE ALLOCATED TO THE LOCAL SYSTEM ROAD
4 PROGRAM; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-19-89, Mississippi Code of 1972, is
7 amended as follows:

8 27-19-89. (a) If any nonresident owner or operator or other
9 nonresident person eligible for a temporary permit as provided in
10 Section 27-19-79, who has not elected to register and pay the
11 annual privilege taxes prescribed, shall enter or go upon the
12 public highways of the state and shall fail or refuse to obtain
13 the permit required by Section 27-19-79, such person shall be
14 liable, for the first such offense, for the full amount of the
15 permit fee required, plus a penalty thereon of five hundred
16 percent (500%). For the second and all subsequent offenses, such
17 person who fails or refuses to obtain such permits shall be liable
18 for the pro rata part of the annual tax for the balance of the tag
19 year for the maximum legal gross weight of the vehicle plus a
20 penalty thereon of twenty-five percent (25%). Any weight in
21 excess of the maximum legal gross weight of the vehicle, or in
22 excess of the maximum highway weight limit, shall be penalized
23 according to subsection (c) of this section. In either case the
24 excess weight shall be removed by the operator before the vehicle
25 can be allowed to proceed. In order to constitute a "second or
26 subsequent offense" under the provisions hereof, it shall not be
27 necessary that the same or identical vehicle be involved, it being
28 the declared purpose hereof to provide that such penalties shall

29 run against the owner or operator rather than against the
30 specified vehicle. It is further provided that, in order for such
31 owner or operator to become liable for the penalties herein
32 provided, it shall not be necessary to show that such owner or
33 operator was guilty of willfulness, gross negligence or
34 wantonness, but the offense shall be complete upon the failure or
35 refusal to obtain the required permit.

36 (b) If any person who has registered his vehicle in
37 Mississippi shall operate such vehicle upon the public highways,
38 having a gross weight greater than the licensed gross weight of
39 such vehicle, and shall fail or refuse to obtain a permit therefor
40 as required by Section 27-19-79, or if any person shall operate
41 any such registered vehicle upon the public highways in a higher
42 classification than that for which it is registered, and shall
43 fail or refuse to obtain a permit therefor as required by Section
44 27-19-79, then such person shall be liable for the pro rata part
45 of the annual tax for the balance of the tag year for the legal
46 gross weight of such vehicle and in the classification in which
47 same is being operated, plus a penalty thereon of twenty-five
48 percent (25%), after having been given credit for the unexpired
49 part of the privilege tax paid, as provided in Section 27-19-75.
50 In order that such owner or operator shall become liable for the
51 penalties herein provided, it shall not be necessary to show that
52 such owner or operator was guilty of willfulness, gross negligence
53 or wantonness, but the offense shall be complete upon the failure
54 or refusal to obtain the required permit.

55 (c) If any person shall operate upon a highway of this state
56 a vehicle which has a greater vehicle gross weight than the
57 maximum gross weight limit established by law for that highway and
58 shall have failed to obtain an overload permit as required by
59 Section 27-19-81, or if any person shall operate a vehicle with a
60 greater load on any axle or axle grouping than allowed by law,
61 then such person, owner or operator shall be assessed a penalty on

62 such axle load weight or vehicle gross weight as exceeds the legal
63 limit in accordance with the following schedule:

64	AMOUNT IN EXCESS OF	
65	LEGAL HIGHWAY WEIGHT	
66	LIMITS IN POUNDS	PENALTY
67	1 to 999	\$10.00 minimum penalty
68	1,000 to 1,999	1¢ per pound in excess of legal limit
69	2,000 to 2,999	2¢ per pound in excess of legal limit
70	3,000 to 3,999	3¢ per pound in excess of legal limit
71	4,000 to 4,999	4¢ per pound in excess of legal limit
72	5,000 to 5,999	5¢ per pound in excess of legal limit
73	6,000 to 6,999	6¢ per pound in excess of legal limit
74	7,000 to 7,999	7¢ per pound in excess of legal limit
75	8,000 to 8,999	8¢ per pound in excess of legal limit
76	9,000 to 9,999	9¢ per pound in excess of legal limit
77	10,000 to 10,999	10¢ per pound in excess of legal limit
78	11,000 or more	11¢ per pound in excess of legal limit

79 Any vehicle in violation of the tolerance allowed pursuant to
80 Section 63-5-33(3) shall be fined pursuant to Section 27-19-89(c)
81 for all weight in excess of the legal highway gross weight limit
82 authorized for such vehicle or for all weight in excess of the
83 legal tandem axle load weight limit of forty thousand (40,000)
84 pounds and the legal single axle load limit of twenty thousand
85 (20,000) pounds, whichever the case may be.

86 The penalty to be assessed for operations of a vehicle with a
87 greater load on any axle or axle grouping than the legal axle load
88 weight limits shall be one-half (1/2) the penalty for operation in
89 excess of the legal gross weight limit.

90 In instances where both the legal highway gross weight limit
91 and the legal axle load weight limit(s) are exceeded, the fine
92 that shall be levied shall be either the penalty amount for the
93 excess vehicle gross weight or the total of the penalty amounts of
94 all overloaded axles, whichever is the larger amount.

95 Notwithstanding any other provisions of this section to the
96 contrary, the fine assessed against the holder of a harvest permit
97 for exceeding a gross vehicle weight of eighty-four thousand
98 (84,000) pounds shall be Five Cents (5¢) per pound and Fifteen
99 Cents (15¢) per pound for exceeding a gross vehicle weight of one
100 hundred thousand (100,000) pounds.

101 Notwithstanding any other provision of this subsection (c) to
102 the contrary, upon an appeal to the Appeals Board of the
103 Mississippi Transportation Commission by an owner or operator of a
104 vehicle hauling without a harvest permit any of the products or
105 materials described in subsection (3) of Section 63-5-33 and upon
106 whom a penalty has been assessed under this subsection (c) for
107 exceeding the legal weight limit(s) on a highway having a legal
108 weight limit of eighty thousand (80,000) pounds or less, the
109 appeals board shall reduce the penalty assessed against such
110 owner/operator to an amount not to exceed ten percent (10%) of the
111 amount which would otherwise be due without the reduction
112 authorized under this paragraph. A reduction shall not be
113 authorized under this paragraph if the gross weight of the vehicle
114 for which an owner/operator has been charged with a violation of
115 this section exceeds eighty-four thousand (84,000) pounds; and, in
116 any event, no reduction shall be authorized under this paragraph
117 unless a penalty assessed under this section is appealed to the
118 appeals board and unless the board determines, based upon its
119 records, that such owner/operator has not been granted a penalty
120 reduction under this paragraph within a period of twelve (12)
121 months immediately preceding the date of filing an appeal with the
122 board for a penalty reduction under this paragraph.

123 (d) If any nonresident owner or operator who has not
124 registered his vehicle and paid the annual privilege taxes
125 prescribed shall operate his vehicle upon the highways of this
126 state when such vehicle has a greater gross weight than permitted
127 by law for the highway traveled upon, and for which such excess

128 gross weight a permit was not or could not be procured from the
129 transportation department as required by Section 27-19-81, such
130 person shall be liable upon his second and all subsequent offenses
131 for the pro rata part of the annual tax for the balance of the tag
132 year for the legal gross weight of the vehicle, and in addition
133 thereto the penalty fee on the excess weight as specified in
134 subsection (c) of this section. In order that such owner or
135 operator shall become liable for the penalties herein provided, it
136 shall not be necessary that the same or identical vehicle be
137 involved, it being the declared purpose hereof to provide that
138 such penalties shall run against the owner or operator rather than
139 against the specific vehicle.

140 (e) All fines and penalties imposed and collected by the
141 Mississippi Department of Transportation for violations of the
142 maximum legal vehicle weight limits authorized on the highways of
143 this state shall be deposited into a special fund that is created
144 in the State Treasury. Monies in the fund shall be allocated and
145 distributed for use by counties under the Local System Road
146 Program. Monies distributed to the counties under this subsection
147 shall be deposited in each county's road and bridge fund and may
148 be expended, upon approval of the board of supervisors, for any
149 purpose for which local system road fund monies lawfully may be
150 expended.

151 **SECTION 2.** This act shall take effect and be in force from
152 and after July 1, 2006.