

By: Representative Rogers (61st)

To: Appropriations

HOUSE BILL NO. 616

1 AN ACT TO AMEND SECTION 25-1-77, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT THE MISSISSIPPI MILITARY DEPARTMENT FROM FLEET MANAGEMENT
3 REGULATION; TO AMEND SECTION 25-53-191, MISSISSIPPI CODE OF 1972,
4 TO EXEMPT THE MISSISSIPPI MILITARY DEPARTMENT AND ITS EMPLOYEES
5 FROM THE REGULATION OF STATE-ISSUED WIRELESS COMMUNICATION
6 DEVICES; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 25-1-77, Mississippi Code of 1972, is
9 amended as follows:

10 25-1-77. (1) There is hereby created the Bureau of Fleet
11 Management within the Office of Purchasing, Travel and Fleet
12 Management, Department of Finance and Administration, for the
13 purposes of coordinating and promoting efficiency and economy in
14 the purchase, lease, rental, acquisition, use, maintenance and
15 disposal of vehicles by state agencies. The Executive Director of
16 the Department of Finance and Administration may employ a Fleet
17 Management Officer to manage the bureau and carry out its
18 purposes. The bureau may employ other suitable and competent
19 personnel as necessary. The bureau shall encourage the use of
20 fuel efficient or hybrid vehicles appropriate for the state
21 agency's intended purpose and, when feasible, the use of
22 alternative fuels, including, but not limited to, ethanol or
23 biodiesel.

24 (2) The Bureau of Fleet Management shall perform the
25 following duties:

26 (a) To hold title in the name of the State of
27 Mississippi to all vehicles currently in possession of state
28 agencies as defined in Section 25-9-107(d) and to assign vehicles
29 to such agencies for use; however, the bureau shall exempt any

30 agency or agency vehicles from the provisions of this paragraph
31 (a) if it determines that state or federal law requires that title
32 be vested only in the agency;

33 (b) To establish rules and regulations for state agency
34 use of vehicles;

35 (c) To gather information and specify proper fleet
36 management practices for state agencies;

37 (d) To acquire fleet management software and require
38 agencies to provide necessary information for the bureau to
39 properly monitor the size, use, maintenance and disposal of the
40 state's fleet of vehicles; the bureau shall communicate regularly
41 with the fleet managers of each state agency to determine
42 strengths and weaknesses of the various fleet operations; the
43 bureau shall disseminate information to the agencies so that each
44 can take advantage of any beneficial practices being incorporated
45 at other entities; the bureau shall promulgate rules and
46 regulations concerning the mileage reimbursement practices of each
47 state agency;

48 (e) To carry out responsibilities relative to budget
49 recommendations as provided in Section 27-103-129;

50 (f) To reassign vehicles in the possession of any state
51 agency if the bureau believes that another state agency can make
52 more efficient use of a vehicle; provided, however, that the state
53 agency receiving the reassigned vehicle shall pay to the previous
54 agency's special fund, or if no special fund exists to the State
55 General Fund, the National Automobile Dealers Association (NADA)
56 wholesale value for the vehicle or the estimated amount for which
57 the vehicle would have sold at auction, as shall be determined by
58 the bureau, whichever is less;

59 (g) To investigate at any time the vehicle usage
60 practices of any state agency; and

61 (h) To require each agency to submit to the bureau a
62 vehicle acquisition/use/disposal plan on an annual basis. From

63 the plans received, the bureau shall evaluate the proposed plans
64 and shall submit a recommendation to the Legislature prior to
65 January 1 of each year.

66 (3) No state department, institution or agency shall
67 purchase, rent, lease or acquire any motor vehicle, regardless of
68 the source of funds from which the motor vehicle is to be
69 purchased, except under authority granted by the Department of
70 Finance and Administration. The Bureau of Fleet Management,
71 Department of Finance and Administration, shall promulgate rules
72 and regulations governing the purchase, rental, lease or
73 acquisition of any motor vehicle by a state department,
74 institution or agency with regard to the appropriateness of the
75 vehicle to its intended use. The Bureau of Fleet Management,
76 Department of Finance and Administration, shall only grant
77 authority to purchase, rent, lease or acquire a motor vehicle
78 which is the lowest cost vehicle to carry out its intended use.
79 Before the disposal or sale of any vehicle, the Bureau of Fleet
80 Management shall make a determination that the lifetime use and
81 mileage of the vehicle has been maximized and that it would not be
82 feasible for another state agency to use the vehicle.

83 (4) The department, institution or agency shall maintain
84 proper documentation which provides the intended use of the
85 vehicle and the basis for choosing the vehicle. Such
86 documentation shall show that the department, institution or
87 agency made diligent efforts to purchase, rent, lease or acquire a
88 vehicle that is the lowest cost vehicle for its intended use.
89 Such documentation shall be updated as needed when the intended
90 use of the vehicle or any other facts concerning the vehicle are
91 changed. All such documentation shall be approved by the State
92 Fleet Officer prior to purchase, rental, lease or acquisition or
93 change in use of any vehicle and shall be maintained and made
94 available for review by the State Auditor, any other reviewing
95 agency and the Legislature.

96 (5) The State Auditor shall make on-site visits and conduct
97 audits necessary to ensure compliance with the provisions of this
98 section and all rules and regulations adopted hereunder. On or
99 before September 1 of each year, the State Auditor shall prepare
100 and deliver to the Senate and House Appropriations Committees and
101 the Joint Legislative Budget Committee a report containing any
102 irregularities that he finds concerning purchases of state-owned
103 vehicles.

104 (6) The Department of Public Safety and the Department of
105 Wildlife, Fisheries and Parks may retain any vehicle seized
106 pursuant to the forfeiture laws of this state, and the total
107 number of vehicles assigned to each such agency shall not be
108 reduced by the number of seized vehicles which the agency retains.

109 (7) The Bureau of Fleet Management, upon request, shall
110 grant an exemption from the provisions of this section for only
111 any vehicle assigned to a sworn officer of the Department of
112 Public Safety and used in undercover operations when the bureau
113 determines that compliance could jeopardize the life, health or
114 safety of the sworn officer.

115 (8) The provisions of this section shall not apply to any
116 state institution of higher learning, nor to the Mississippi
117 Military Department.

118 **SECTION 2.** Section 25-53-191, Mississippi Code of 1972, is
119 amended as follows:

120 25-53-191. (1) For the purposes of this section, the
121 following terms shall have the meanings ascribed to them in this
122 section unless the context otherwise clearly requires:

123 (a) "Department" means the Mississippi Department of
124 Information Technology.

125 (b) "State agency" means any agency, department,
126 commission, board, bureau, institution or other instrumentality of
127 the state.

128 (c) "Wireless communication device" means a cellular
129 telephone, pager or a personal digital assistant device having
130 wireless communication capability.

131 (2) Before a wireless communication device may be assigned,
132 issued or made available to an agency officer or employee, the
133 agency head, or his designee, shall sign a statement certifying
134 the need or reason for issuing the device. No officer or employee
135 of any state agency, except for an officer or employee of the
136 Mississippi Emergency Management Agency, shall be assigned or
137 issued more than one (1) such wireless communication device.
138 No officer or employee of any state agency to whom has been
139 assigned, issued or made available the use of a wireless
140 communication device, the cost of which is paid through the use of
141 public funds, shall use such device for personal use.

142 (3) A state agency shall not reimburse any officer or
143 employee for use of his or her personal wireless communication
144 device.

145 (4) Every state agency that, at the expense of the state
146 agency, assigns, issues or makes available to any of its officers
147 or employees a wireless communication device shall obtain and
148 maintain detailed billing for every wireless communication device
149 account. A list of approved vendors for the procurement of
150 wireless communication devices and the delivery of wireless
151 communication device services shall be developed for all state
152 agencies by the Mississippi Department of Information Technology
153 Services in conjunction with the Wireless Communication Commission
154 created in Section 25-53-171. The department, in conjunction with
155 the Wireless Communication Commission, shall exercise the option
156 of selecting one (1) vendor from which to procure wireless
157 communication devices and to provide wireless communication device
158 services, or if it deems such to be most advantageous to the state
159 agencies, it may select multiple vendors. The department, in
160 conjunction with the Wireless Communication Commission, shall

161 select a vendor or vendors on the basis of lowest and best bid
162 proposals. A state agency may not procure a wireless
163 communication device from any vendor or contract for wireless
164 communication device services with any vendor unless the vendor
165 appears on the list approved by the department, in conjunction
166 with the Wireless Communication Commission. A contract entered
167 into in violation of this section shall be void and unenforceable.

168 (5) The department shall promulgate a model acceptable use
169 policy defining the appropriate use of all wireless communication
170 devices. The acceptable use policy should specify that these
171 resources, including both devices and services, are provided at
172 the state agency's expense as tools for accomplishing the business
173 missions of the state agency; that all those resources are for
174 business use; and that more than incidental personal use of those
175 resources is prohibited. The acceptable use policy should require
176 that each official and employee issued one (1) of the above
177 devices or authorized to access one (1) of the above services sign
178 the policy and that the signed copy be placed in the personnel
179 file of the official or employee. The acceptable use policy
180 should also require that the use of these resources be tracked,
181 verified and signed by the official or employee and the supervisor
182 of the official or employee at each billing cycle or other
183 appropriate interval. All state agencies shall adopt the model
184 policy or adopt a policy that is, at minimum, as stringent as the
185 model policy and shall provide a copy of the policy to the
186 department.

187 (6) All state agencies shall purchase or acquire only the
188 lowest cost cellular telephone, pager or personal digital
189 assistance device which will carry out its intended use.

190 (7) The State Auditor shall conduct necessary audits to
191 ensure compliance with the provisions of this section.

192 (8) The provisions of this section shall not apply to the
193 Mississippi Military Department and its employees.

194 **SECTION 3.** This act shall take effect and be in force from
195 and after July 1, 2007.