

By: Representatives Miles, Rotenberry

To: Transportation

HOUSE BILL NO. 838
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 77-7-16, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MOTOR CARRIER DIVISION OF THE MISSISSIPPI HIGHWAY
3 SAFETY PATROL WITHIN THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY,
4 ALONG WITH THE MISSISSIPPI TRANSPORTATION COMMISSION, TO ENFORCE
5 THE MISSISSIPPI MOTOR CARRIER REGULATORY LAW OF 1938 AND RULES AND
6 REGULATIONS PROMULGATED THEREUNDER; TO REQUIRE THE DEPARTMENT OF
7 PUBLIC SAFETY TO PROVIDE TRAINING TO ITS LAW ENFORCEMENT OFFICERS
8 AND LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF TRANSPORTATION
9 CHARGED WITH THE DUTY OF ENFORCING THE MISSISSIPPI MOTOR CARRIER
10 REGULATORY LAW TO THE EXTENT THAT FUNDS ARE MADE AVAILABLE AND
11 TRAINING IS APPROVED UNDER FEDERAL LAW; TO EXEMPT CERTAIN VEHICLES
12 FROM REGULATION UNDER THE MISSISSIPPI MOTOR CARRIER REGULATORY LAW
13 OF 1938; TO AMEND SECTION 45-3-21, MISSISSIPPI CODE OF 1972, IN
14 CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO FURTHER AMEND TO
15 CORRECT THE REFERENCE TO THE BUREAU OF INVESTIGATION OF THE
16 DEPARTMENT OF PUBLIC SAFETY; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 77-7-16, Mississippi Code of 1972, is
19 amended as follows:

20 77-7-16. (1) Supervision and inspection of the safe
21 operation and the safe use of equipment of motor vehicles
22 operating in the state shall be a specified duty of the
23 Mississippi Transportation Commission and the Motor Carrier
24 Division of the Mississippi Highway Safety Patrol within the
25 Mississippi Department of Public Safety. In accordance therewith,
26 the Mississippi Transportation Commission shall promulgate as its
27 own * * * the rules, regulations, requirements and classifications
28 of the United States Department of Transportation or any successor
29 federal agency thereof charged with the regulation of motor
30 vehicle safety and, along with the Motor Carrier Division of the
31 Mississippi Highway Safety Patrol, shall enforce such rules,
32 regulations, requirements and classifications. The Department of
33 Public Safety shall provide training to its law enforcement
34 officers and to law enforcement officers of the Mississippi

35 Department of Transportation charged with the duty of enforcing
36 the Mississippi Motor Carrier Regulatory Law of 1938 to the extent
37 that funds are made available and training is approved under the
38 Motor Carrier Safety Assistance Program of the Federal Motor
39 Carrier Safety Administration. The Mississippi Transportation
40 Commission shall establish a system of reciprocity with other
41 states to facilitate the inspection of motor vehicles provided for
42 in this subsection.

43 (2) The Mississippi Transportation Commission and the Motor
44 Carrier Division of the Mississippi Highway Safety Patrol within
45 the Mississippi Department of Public Safety shall have the
46 authority to inspect for safe operation and safe use of equipment
47 the following motor vehicles:

48 (a) Each holder of a certificate of convenience and
49 necessity, a permit to operate as a contract carrier or interstate
50 permit;

51 (b) Any individual, corporation or partnership engaged
52 in a commercial enterprise operating a single motor vehicle or
53 those in combination with a manufacturer's gross vehicle rating of
54 more than ten thousand (10,000) pounds; and

55 (c) Any individual, corporation or partnership
56 operating a motor vehicle of any gross weight transporting
57 hazardous material that requires placarding under the Federal
58 Hazardous Material Regulations.

59 (3) This section shall not apply to the following:

60 (a) Motor vehicles employed to transport school
61 children and teachers;

62 (b) Motor vehicles owned and operated by the United
63 States, District of Columbia or any state or any municipality or
64 any other political subdivision of this state;

65 (c) Motor vehicles engaged in the occasional
66 transportation of personal property without compensation by

67 individuals which is not in the furtherance of a commercial
68 enterprise;

69 (d) Motor vehicles engaged in the transportation of
70 human corpses or sick or injured persons;

71 (e) Motor vehicles engaged in emergency or related
72 operations;

73 (f) Motor vehicles engaged in the private
74 transportation of passengers;

75 (g) Motor vehicles, including pick-up trucks, that have
76 a GVWR or GCWR of Twenty-six Thousand (26,000) pounds or less,
77 operating intrastate only, provided that such vehicle does not:

78 (i) Transport hazardous material requiring a
79 placard; or

80 (ii) Transport sixteen (16) or more passengers,
81 including the driver.

82 (h) Motor vehicles owned and operated by any farmer
83 who:

84 (i) Is using the vehicle to transport agricultural
85 products from a farm owned by the farmer, or to transport farm
86 machinery or farm supplies to or from a farm owned by the farmer;

87 (ii) Is not using the vehicle to transport
88 hazardous materials of a type or quantity that requires the
89 vehicle to be placarded in accordance with the Federal Hazardous
90 Material Regulations in CFR 49 part 177.823; and

91 (iii) Is using the vehicle within one hundred
92 fifty (150) air miles of the farmer's farm, and the vehicle is a
93 private motor carrier of property.

94 (i) Motor vehicles engaged in the transportation of
95 logs and pulpwood between the point of harvest and the first point
96 of processing the harvested product;

97 (j) Motor vehicles engaged exclusively in hauling
98 gravel, soil or other unmanufactured road building materials;

99 (k) As to hours of service only, utility service
100 vehicles owned or operated by public utilities subject to
101 regulation by the commission, while in intrastate commerce within
102 this state, with a manufacturer's gross vehicle rating of less
103 than twenty-six thousand one (26,001) pounds, unless the vehicle:

104 (i) Transports hazardous materials requiring a
105 placard; or

106 (ii) Is designed or used to transport sixteen (16)
107 or more people, including the driver.

108 (4) Anyone who violates or fails to comply with this section
109 shall be subject to the penalties as provided for in Section
110 77-7-311, Mississippi Code of 1972.

111 **SECTION 2.** Section 45-3-21, Mississippi Code of 1972, is
112 amended as follows:

113 45-3-21. (1) The powers and duties of the Highway Safety
114 Patrol shall be, in addition to all others prescribed by law, as
115 follows:

116 (a) To enforce all of the traffic laws, rules and
117 regulations of the State of Mississippi upon all highways of the
118 state highway system and the rights-of-way of such highways;
119 provided, however, that if any person commits an offense upon the
120 state highway system and be pursued by a member of the Highway
121 Safety Patrol, such patrol officer may pursue and apprehend such
122 offender upon any of the highways or public roads of this state,
123 or to any other place to which such offender may flee.

124 (b) To enforce all rules and regulations of the
125 commissioner promulgated pursuant to legal authority.

126 (c) When so directed by the Governor, to enforce any of
127 the laws of this state upon any of the highways or public roads
128 thereof.

129 (d) Upon the request of the State Tax Commission, and
130 with the approval of the Governor, to enforce all of the
131 provisions of law with reference to the registration, license and

132 taxation of vehicles using the highways of this state, and
133 relative to the sizes, weights and load limits of such vehicles,
134 and to enforce the provisions of all other laws administered by
135 the State Tax Commission upon any of the highways or public roads
136 of this state; and for such purpose the Highway Safety Patrol
137 shall have the authority to collect and receive all taxes which
138 may be due under any of such laws, and to report and remit same to
139 the State Tax Commission in the manner required by law, or the
140 rules and regulations of the commission.

141 (e) Upon request of the Mississippi Transportation
142 Commission * * *, and when so instructed by the commissioner, to
143 aid and assist in the enforcement of all laws which such agencies
144 are authorized or required to enforce, and in the enforcement of
145 the rules and regulations of such agencies, including the
146 Mississippi Motor Carrier Regulatory Law of 1938 and rules and
147 regulations promulgated thereunder.

148 (f) To arrest without warrant any person or persons
149 committing or attempting to commit any misdemeanor, felony or
150 breach of the peace within their presence or view, and to pursue
151 and so arrest any person committing such an offense to and at any
152 place in the State of Mississippi where he may go or be. Nothing
153 herein shall be construed as granting the Mississippi Highway
154 Safety Patrol general police powers.

155 (g) To aid and assist any law enforcement officer whose
156 life or safety is in jeopardy. Additionally, officers of the
157 Highway Safety Patrol may arrest without warrant any fugitive from
158 justice who has escaped or who is using the highways of the state
159 in an attempt to flee. With the approval of the commissioner or
160 his designee, officers of the Highway Safety Patrol may assist
161 other law enforcement agencies in manhunts for convicted felons
162 who have escaped and/or for alleged felons where there is probable
163 cause to believe that the person being sought committed the felony
164 and a felony had actually been committed.

165 (h) To cooperate with the State Forest Service by
166 reporting all forest fires.

167 (i) Upon request of the sheriff or his designee, or
168 board of supervisors of any county or the chief of police or mayor
169 of any municipality, and when so instructed by the commissioner or
170 his designee, to respond to calls for assistance in a law
171 enforcement incident; such request and action shall be noted and
172 clearly reflected on the radio logs of both the Mississippi
173 Highway Safety Patrol district substation and that of the
174 requesting agency, entered on the local NCIC terminal, if
175 available, and a request in writing shall follow within
176 forty-eight (48) hours. Additionally, the time of commencement
177 and termination of the specific law enforcement incident shall be
178 clearly noted on the radio logs of both law enforcement agencies.

179 (2) The Legislature declares that the primary law
180 enforcement officer in any county in the State of Mississippi is
181 the duly qualified and elected sheriff thereof, but for the
182 purposes of this subsection there is hereby vested in the
183 Department of Public Safety, in addition to the powers hereinabove
184 mentioned and the other provisions of this section under the terms
185 and limitations hereinafter mentioned and for the purpose of
186 insuring domestic tranquility and for the purpose of preventing or
187 suppressing, or both, crimes of violence, acts and conduct
188 calculated to, or which may, provoke or lead to violence and/or
189 incite riots, mobs, mob violence, a breach of the peace, and acts
190 of intimidation or terror, the powers and duties to include the
191 enforcement of all the laws of the State of Mississippi relating
192 to such purposes, to investigate any violation of the laws of the
193 State of Mississippi and to aid in the arrest and prosecution of
194 persons charged with violating the laws of the State of
195 Mississippi which relate to such purposes. Investigators of
196 the * * * Bureau of Investigation of the Department of Public
197 Safety shall have general police powers to enforce all the laws of

198 the State of Mississippi. All officers of the Department of
199 Public Safety charged with the enforcement of the laws
200 administered by that agency, for the purposes herein set forth,
201 shall have full power to investigate, prevent, apprehend and
202 arrest law violators anywhere in the state, and shall be vested
203 with the power of general police officers in the performance of
204 their duties. The officers of the Department of Public Safety are
205 authorized and empowered to carry and use firearms and other
206 weapons deemed necessary in the discharge of their duties as such
207 and are also empowered to serve warrants and subpoenas issued
208 under the authority of the State of Mississippi. The Governor
209 shall be authorized to offer and pay suitable rewards to persons
210 aiding in the investigation, apprehension and conviction of
211 persons charged with acts of violence, or threats of violence or
212 intimidation or acts of terrorism. The additional powers herein
213 granted to or vested in the Department of Public Safety or any of
214 its officers or employees by this section, excepting investigating
215 powers, and those powers of investigators who shall have general
216 police power, being the investigators in the * * * Bureau of
217 Investigation of the Department of Public Safety, shall not be
218 exercised by the Department of Public Safety, or any of its
219 officers or employees, except upon authority and direction of the
220 Governor or Acting Governor, by proclamation duly signed, in the
221 following instances, to wit:

222 (a) When requested by the sheriff or board of
223 supervisors of any county or the mayor of any municipality on the
224 grounds that mob violence, crimes of violence, acts and conduct of
225 terrorism, riots or acts of intimidation, or either, calculated to
226 or which may provoke violence or incite riots, mobs, mob violence,
227 violence, or lead to any breach of the peace, or either, and acts
228 of intimidation or terror are anticipated, and when such acts or
229 conduct in the opinion of the Governor or Acting Governor would
230 provoke violence or any of the foregoing acts or conduct set out

231 in this subsection, and the sheriff or mayor, as the case may be,
232 lacks adequate police force to prevent or suppress the same.

233 (b) Acting upon evidence submitted to him by the
234 Department of Public Safety, or other investigating agency
235 authorized by the Governor or Acting Governor to make such
236 investigations, because of the failure or refusal of the sheriff
237 of any county or mayor of any municipality to take action or
238 employ such means at his disposal, to prevent or suppress the
239 acts, conduct or offenses provided for in subsection (1) of this
240 section, the Governor or Acting Governor deems it necessary to
241 invoke the powers and authority vested in the Department of Public
242 Safety.

243 (c) The Governor or Acting Governor is hereby
244 authorized and empowered to issue his proclamation invoking the
245 powers and authority vested by this paragraph, as provided in
246 paragraphs (a) and (b) of this subsection, and when the Governor
247 or Acting Governor issues said proclamation in accordance
248 herewith, said proclamation shall become effective upon the
249 signing thereof and shall continue in full force and effect for a
250 period of ninety (90) days, or for a shorter period if otherwise
251 ordered by the Governor or Acting Governor. At the signing of the
252 proclamation by the Governor or Acting Governor, the Department of
253 Public Safety and its officers and employees shall thereupon be
254 authorized to exercise the additional power and authority vested
255 in them by this paragraph. The Governor and Acting Governor may
256 issue additional proclamations for periods of ninety (90) days
257 each under the authority of paragraphs (a) and (b) of this
258 subsection (2).

259 (3) All proclamations issued by the Governor or Acting
260 Governor shall be filed in the Office of the Secretary of State on
261 the next succeeding business day.

262 (4) It is not the intention of this section to vest the wide
263 powers and authority herein provided for, as general powers of the

264 Department of Public Safety, and the same are not hereby so
265 vested, but to limit these general powers to cases and incidents
266 wherein it is deemed necessary to prevent or suppress the offenses
267 and conditions herein mentioned in this and other subsections of
268 this section, and under the terms and conditions hereinabove
269 enumerated, it being the sense of the Legislature that the prime
270 duties of the Department of Public Safety are to patrol the
271 highways of this state and enforce the highway safety laws.

272 (5) Patrol officers shall have no interest in any costs in
273 the prosecution of any case through any court; nor shall any
274 patrol officer receive any fee as a witness in any court held in
275 this state, whether a state or federal court.

276 (6) Provided, however, that the general police power vested
277 by virtue of the terms of subsection (2) of this section is solely
278 for the purposes set out in said subsection.

279 **SECTION 3.** It is the intent of the Legislature that the
280 amendments to Sections 77-7-16 and 45-3-21, Mississippi Code of
281 1972, contained in this House Bill No. 838, 2007 Regular Session,
282 shall supercede the amendments to Section 77-7-16 contained in
283 Senate Bill No. 3042, 2007 Regular Session, and to Section
284 45-3-21, contained in Senate Bill No. 2428, 2007 Regular Session.

285 **SECTION 4.** This act shall take effect and be in force from
286 and after July 1, 2007.