

By: Representatives Davis, Fleming

To: Transportation;
Appropriations

HOUSE BILL NO. 1252

1 AN ACT TO AMEND SECTION 57-43-15, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE LEGISLATURE SHALL APPROPRIATE ONE MILLION
3 DOLLARS EACH MONTH TO THE MISSISSIPPI HIGHWAY-RAILROAD GRADE
4 CROSSING SAFETY ACCOUNT WITHIN THE RAILROAD REVITALIZATION FUND
5 AND TO PRESCRIBE CERTAIN ADDITIONAL PURPOSES FOR WHICH MONIES IN
6 THE ACCOUNT MAY BE EXPENDED; TO REQUIRE RAILROAD CORPORATIONS TO
7 INSTALL AND MAINTAIN STOP OR YIELD SIGNS AT CERTAIN GRADE
8 CROSSINGS; TO AMEND SECTION 65-1-175, MISSISSIPPI CODE OF 1972, TO
9 DELETE THE REQUIREMENT FOR A PUBLIC HEARING BY THE MISSISSIPPI
10 DEPARTMENT OF TRANSPORTATION BEFORE ABOLISHMENT OF A
11 ROADWAY/RAILWAY CROSSING WHEN THE PUBLIC ROADWAY AUTHORITY VACATES
12 THE ROADWAY AND TO REQUIRE RAILROAD CORPORATIONS TO INSTALL AND
13 MAINTAIN STOP OR YIELD SIGNS AT CERTAIN GRADE CROSSINGS; TO AMEND
14 SECTIONS 65-1-173 AND 77-9-481, MISSISSIPPI CODE OF 1972, TO
15 AUTHORIZE INSPECTORS EMPLOYED BY THE MISSISSIPPI DEPARTMENT OF
16 TRANSPORTATION TO ENFORCE GRADE CROSSING LAWS, INCLUDING THE
17 DUTIES OF MOTORISTS TO STOP AT GRADE CROSSINGS; TO AMEND SECTIONS
18 77-9-249 AND 63-9-11, MISSISSIPPI CODE OF 1972, TO PRESCRIBE A
19 PROCEDURE FOR A PERSON CONVICTED OF CERTAIN ROADWAY/RAILWAY
20 TRAFFIC REGULATIONS TO HAVE THE RECORDS OF SUCH CONVICTION
21 EXPUNGED UPON COMPLETION OF AN OPERATION LIFESAVER COURSE APPROVED
22 BY THE MISSISSIPPI TRANSPORTATION COMMISSION; TO AMEND SECTIONS
23 97-25-4, 97-25-5 AND 97-25-35, MISSISSIPPI CODE OF 1972, TO
24 INCREASE PENALTIES AND REQUIRE RESTITUTION FOR CERTAIN CRIMES
25 RELATING TO RAILROAD PROPERTY; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** Section 57-43-15, Mississippi Code of 1972, is
28 amended as follows:

29 57-43-15. (1) There is established within the Railroad
30 Revitalization Fund a new account to be entitled the Mississippi
31 Highway-Railroad Grade Crossing Safety Account. The account shall
32 be administered by the Mississippi Department of Transportation
33 and shall consist of (a) One Million Dollars (\$1,000,000.00) each
34 month appropriated by the Legislature from the State General Fund;
35 and (b) thirty-five percent (35%) of collections from the
36 locomotive fuel tax imposed under Section 27-59-307 for the
37 previous year. Unexpended amounts remaining in the account at the
38 end of a fiscal year shall not lapse into the State General Fund;

39 and any interest earned on amounts in the account shall be
40 deposited to the credit of the account.

41 (2) The Mississippi Department of Transportation, in
42 cooperation with the railroads operating in Mississippi, shall
43 promulgate rules to ensure equitable allocation of the funds
44 described in subsection (1) of this section to projects throughout
45 the state, and shall consider the proportionate number of main
46 line track miles of each railroad and the number of public
47 roadway/railroad grade crossings on each railroad's main line.
48 Expenditure of monies from the Mississippi Highway-Railroad Grade
49 Crossing Safety Account shall be limited to the following
50 purposes:

51 (a) Financial aid for closure of public
52 roadway/railroad grade crossings;

53 (b) Realignment of construction costs of roadways being
54 rerouted to facilitate a closure of a public roadway/railroad
55 grade crossing;

56 (c) Monies to match federal or other funds for a grade
57 separation eliminating an at-grade crossing of a public roadway
58 and railroad; * * *

59 (d) Installation, maintenance or upgrade of
60 highway-railroad grade crossing signals, at the discretion of the
61 Mississippi Transportation Commission, based upon the Federal
62 Railroad Administration ranking of all Mississippi
63 highway-railroad grade crossings. Not less than ten percent (10%)
64 of the monies necessary to defray the costs of such installations
65 must be federal funds;

66 (e) Installation of appropriate warning signs. Not
67 less than ten percent (10%) of the monies necessary to defray the
68 costs of such installations must be federal funds;

69 (f) Separation of grades of highway/railroad crossings;

70 (g) Improvement of any grade crossing including the
71 necessary roadway approaches thereto of any railroad across a
72 public road highway;

73 (h) Construction, reconstruction, repair or replacement
74 of the grade crossing surface structure; and

75 (i) Installation of an automatic advance warning signal
76 alerting a motorist that a grade crossing is ahead.

77 (3) The Mississippi Department of Transportation shall
78 consider all requests from the state's diagnostic review of public
79 roadway/railroad grade crossings and from individual railroads for
80 expenditure of funds for the purposes described in subsection (2)
81 of this section, and shall establish uniform criteria and
82 guidelines relating to such crossings and the expenditure of
83 funds.

84 (4) No later than July 1, 2008, every railroad corporation
85 shall install and maintain either a stop or yield sign, whichever
86 may be recommended by a diagnostic survey completed by the
87 Mississippi Department of Transportation, at every railroad grade
88 crossing at which a railroad corporation is required to maintain a
89 grade crossing crossbuck sign and where such grade crossing does
90 not have located thereat an automatic warning device such as
91 flashing lights and/or gates. Such a stop or yield sign shall
92 conform with the requirements of the Manual on Uniform Traffic
93 Control Devices. The Mississippi Department of Transportation
94 shall purchase the appropriate stop or yield signs using federal
95 funds as provided to the State of Mississippi pursuant to 23 USCS
96 Section 130, and shall furnish the signs to the railroad
97 corporations upon request. The railroad corporation shall install
98 and maintain the stop or yield signs at its expense. No railroad
99 corporation may be held liable for damages to any person or
100 property arising from a traffic accident at a railroad grade
101 crossing that occurs on or after July 1, 2007, and that is caused,
102 or asserted to be caused, in whole or in part by the railroad

103 corporation's failure to install such stop or yield signs as
104 provided under this subsection.

105 **SECTION 2.** Section 65-1-175, Mississippi Code of 1972, is
106 amended as follows:

107 65-1-175. (1) The jurisdiction of the Mississippi
108 Department of Transportation shall be exclusive with respect to
109 public roadway/railroad crossings either at grade or otherwise
110 except to the extent that its jurisdiction is preempted by valid
111 federal statute, regulation or order.

112 (2) The Mississippi Department of Transportation shall have
113 power, upon its own motion or upon complaint filed, after having
114 made proper investigation, and after notice and hearing, if
115 requested, to abolish any public roadway/railroad crossing
116 heretofore or hereafter established, to vacate and close that part
117 of the roadway on such crossing abolished, and to erect barricades
118 across the roadway in such a manner as to prevent the use of such
119 crossing as a roadway, when, in the opinion of the department, the
120 public necessity served by the crossing in question is not such as
121 to justify the further retention thereof. In any event, if a
122 roadway/railway crossing is the subject of closure proceedings,
123 both the local governmental entity and the rail carrier shall be
124 given formal written notice by the department before any hearing
125 is conducted by the department. However, a public hearing by the
126 department to abolish a crossing shall not be required when the
127 public roadway authority in interest vacates the roadway. In such
128 instances, the rail carrier, following notification to the
129 department and roadway authority, shall remove any grade crossing
130 warning devices and the grade crossing surface.

131 (3) The Mississippi Department of Transportation shall have
132 power, upon its own motion, or upon complaint, and after having
133 made proper investigation and after notice and hearing, if
134 requested, to require the installation of adequate and appropriate
135 luminous reflective warning signs, luminous flashing signals,

136 crossing gates illuminated at night, stop signs, yield signs or
137 other warning devices in order to promote the health and safety of
138 the public. Luminous flashing signals or crossing gate devices
139 heretofore installed at grade crossings and those installations
140 hereafter approved by the department shall be deemed adequate and
141 appropriate. The department shall have authority to determine the
142 number, type and location of such signs, signals, gates or other
143 protective devices which shall conform as near as may be with
144 generally recognized national standards, and the department shall
145 have authority to prescribe the division of the cost of the
146 installation and subsequent maintenance of such signs, signals,
147 gates or other warning devices between the rail carrier or
148 carriers, the public highway authority in interest and the
149 Mississippi Department of Transportation. In no event shall any
150 costs assessed against either the public highway authority in
151 interest or the rail carrier exceed ten percent (10%) of the costs
152 of the materials and installation.

153 (4) If the department has ordered the installation of
154 luminous flashing signals or crossing gate devices at a grade
155 crossing, the department shall order the installation of temporary
156 stop signs or yield signs at the roadway intersection with the
157 grade crossing. Such signs shall remain in place until the
158 luminous flashing signals or crossing gate devices have been
159 installed. The department shall purchase the appropriate stop or
160 yield signs using federal funds as provided to the State of
161 Mississippi pursuant to 23 USCS Section 130, and shall furnish the
162 signs to the railroad corporations upon request. The railroad
163 corporation shall install and maintain the stop or yield signs at
164 its expense and shall remove the signs after luminous flashing
165 signals or crossing gate devices have been installed.

166 (5) Nothing in this section shall be construed as amending,
167 repealing or modifying any duty or responsibility that railroads
168 had, if any, immediately before the effective date of this act

169 with regard to any applicable state or federal laws, statutes,
170 regulations or orders pertaining to the maintenance of signals,
171 signs and warning devices at roadway/railroad crossings.

172 **SECTION 3.** Section 65-1-173, Mississippi Code of 1972, is
173 amended as follows:

174 65-1-173. For the purpose of enforcing and investigating all
175 violations of the railroad laws, including the duties of motorists
176 to stop at grade crossings, and the rules, regulations and general
177 orders of the Mississippi Transportation Commission promulgated
178 thereunder, the commission is hereby authorized to employ five (5)
179 inspectors and one (1) railway safety coordinator. The salaries
180 of the inspectors and the safety coordinator shall be fixed by the
181 commission, subject to the state personnel system law as provided
182 under Section 25-9-101 et seq. The inspectors shall devote their
183 full time to the performance of their duties and shall take an
184 oath faithfully to perform the duties of their positions. The
185 commission shall require bonds to be carried on such employees as
186 the commission may deem necessary, the cost thereof to be paid by
187 the commission.

188 The inspectors shall be selected after an examination, as
189 prescribed by the commission, as to physical and mental fitness,
190 knowledge of the railroad laws, the rules and regulations of the
191 commission, the laws of this state pertaining to arrest and any
192 other examination as may be prescribed by the commission. An
193 inspector, at the time of appointment, shall be a citizen of the
194 State of Mississippi, of good moral character, and shall not be
195 less than twenty-one (21) years of age.

196 The inspectors of the Mississippi Transportation Commission
197 may enter upon private property upon which a railroad facility is
198 located that is connected to but not a part of the general
199 railroad system of transportation, at reasonable times and in a
200 reasonable manner to perform an inspection, investigation or
201 surveillance of facilities, equipment, records and operations

202 relating to the packaging, loading or transportation of hazardous
203 materials or other materials to determine whether the railroad
204 facility complies with the applicable federal or state safety
205 statutes, rules, regulations or orders. Any inspection,
206 investigation or surveillance performed on the site of a
207 manufacturing facility shall be performed in compliance with the
208 safety rules or regulations of the facility.

209 **SECTION 4.** Section 77-9-481, Mississippi Code of 1972, is
210 amended as follows:

211 77-9-481. The inspectors, employed pursuant to the authority
212 granted in Section 65-1-173, shall be responsible for enforcing
213 and investigating all violations of the railroad laws, including
214 the duties of motorists to stop at grade crossings, and the rules,
215 regulations and general orders of the Mississippi Transportation
216 Commission promulgated thereunder. In the performance of their
217 duties such employees shall give particular attention to the
218 enforcement of the commission's safety rules and regulations;
219 blocking of rights-of-way; enforcement of grade crossing laws; the
220 inspection of all equipment, rights-of-way, roadbed and tracks;
221 and the requirement respecting certificate of public convenience
222 and necessity, permits or other laws affecting the operation of
223 the railroad.

224 **SECTION 5.** Section 77-9-249, Mississippi Code of 1972, is
225 amended as follows:

226 77-9-249. (1) Whenever any person driving a vehicle
227 approaches a railroad grade crossing under any of the
228 circumstances stated in this subsection, the driver of such
229 vehicle shall stop within fifty (50) feet but not less than
230 fifteen (15) feet from the nearest rail of such railroad, and
231 shall not proceed until he can do so safely. The foregoing
232 requirements shall apply when one or more of the following
233 circumstances exists:

234 (a) A clearly visible electric or mechanical signal
235 device gives warning of the immediate approach of a railroad
236 train; or

237 (b) A crossing gate is lowered or when a human flagman
238 gives or continues to give a signal of the approach or passage of
239 a railroad train; or

240 (c) A railroad train approaching within approximately
241 nine hundred (900) feet of the highway crossing emits a signal in
242 accordance with Section 77-9-225, and such railroad train, by
243 reason of its speed or nearness to such crossing, is an immediate
244 hazard; or

245 (d) An approaching railroad train is plainly visible
246 and is in hazardous proximity to such crossing.

247 (2) No person shall drive any vehicle through, around or
248 under any crossing gate or barrier at a railroad crossing while
249 such gate or barrier is closed or is being opened or closed.

250 (3) In the trial of all actions to recover personal injury
251 or property damages, sustained by any driver of such vehicles for
252 collision of said vehicle and train in which action it may appear
253 that the said driver may have violated any of the provisions
254 hereof, the question of whether or not the said violation was the
255 sole or approximate cause of the accident and injury shall be for
256 the jury to determine. The violation of this section shall not of
257 itself defeat recovery, and the question of negligence or the
258 violation aforesaid shall be left to the jury; and the comparative
259 negligence statutes and prima facie statute of this state shall
260 apply in these cases as in other cases of negligence.

261 (4) At any railroad grade crossing provided with visible
262 railroad crossbuck signs without automatic electric or mechanical
263 signal devices, crossing gates or a human flagman giving a signal
264 of the approach or passage of a train, the driver of a vehicle
265 shall, in obedience to such railroad crossbuck sign, yield the
266 right-of-way and slow to a speed reasonable for the existing

267 conditions, and shall stop if required for safety at a clearly
268 marked stop line, or if no stop line, within fifty (50) feet, but
269 not less than fifteen (15) feet, from the nearest rail of the
270 railroad, and shall not proceed until he can do so safely.

271 (5) Every person, company or corporation violating the
272 provisions of this section shall be guilty of a misdemeanor and,
273 upon conviction, shall be fined not less than Two Hundred Fifty
274 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
275 imprisoned not more than thirty (30) days, or both such fine and
276 imprisonment, in the discretion of the court.

277 (6) A person convicted for a violation of this section may
278 have the records of his conviction expunged upon satisfactory
279 completion of an Operation Lifesaver course as provided under
280 Section 63-9-11.

281 **SECTION 6.** Section 63-9-11, Mississippi Code of 1972, is
282 amended as follows:

283 63-9-11. (1) It is a misdemeanor for any person to violate
284 any of the provisions of Chapter 3, 5 or 7 of this title, unless
285 such violation is by such chapters or other law of this state
286 declared to be a felony.

287 (2) Every person convicted of a misdemeanor for a violation
288 of any of the provisions of such chapters for which another
289 penalty is not provided shall for first conviction thereof be
290 punished by a fine of not more than One Hundred Dollars (\$100.00)
291 or by imprisonment for not more than ten (10) days; for a second
292 such conviction within one (1) year thereafter such person shall
293 be punished by a fine of not more than Two Hundred Dollars
294 (\$200.00) or by imprisonment for not more than twenty (20) days or
295 by both such fine and imprisonment; upon a third or subsequent
296 conviction within one (1) year after the first conviction such
297 person shall be punished by a fine of not more than Five Hundred
298 Dollars (\$500.00) or by imprisonment for not more than six (6)
299 months or by both such fine and imprisonment.

300 (3) (a) Whenever a person not covered under Section 63-1-55
301 is charged with a misdemeanor violation of any of the provisions
302 of Chapter 3, 5 or 7 of this title or of Section 77-9-249, the
303 person shall be eligible to participate in not less than four (4)
304 hours of a traffic safety violator course and thereby have no
305 record of the violation on the person's driving record if the
306 person meets all the following conditions:

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

309 (ii) The defendant has not had a conviction of a
310 violation under Chapter 3, 5 or 7 of this title or of Section
311 77-9-249 within three (3) years before the current offense; any
312 conviction entered before October 1, 2002, for a violation under
313 Chapter 3, 5 or 7 of this title, or before July 1, 2007, for a
314 violation of Section 77-9-249, does not constitute a prior offense
315 for the purposes of this subsection (3).

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

320 (iv) The defendant files an affidavit with the
321 court stating that he is not disqualified under paragraph (a)(ii)
322 of this subsection (3); the defendant is not in the process of
323 taking a course under this section; and the defendant has not
324 completed a course under this section that is not yet reflected on
325 the defendant's public or nonpublic driving record.

326 (v) The offense charged is for a misdemeanor
327 offense under Chapter 3, 5 or 7 of this title or of Section
328 77-9-249.

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

332 (vii) The defendant pays to the court an
333 additional fee of Ten Dollars (\$10.00) to elect to proceed under
334 the provisions of this subsection (3).

335 (b) (i) 1. An eligible defendant may enter a plea of
336 nolo contendere or guilty in person or in writing and present to
337 the court, in person or by mail postmarked on or before the
338 appearance date on the citation, an oral or written request to
339 participate in a course under this subsection (3).

340 2. The court shall withhold acceptance of the
341 plea and defer sentencing in order to allow the eligible defendant
342 ninety (90) days to successfully complete not less than four (4)
343 hours of a court-approved traffic safety violator course at the
344 cost of the defendant. Upon proof of successful completion
345 entered with the court, the court shall dismiss the prosecution
346 and direct that the case be closed. The only record maintained
347 thereafter shall be the nonpublic record required under Section
348 63-9-17 solely for use by the courts in determining eligibility
349 under this subsection (3).

350 (ii) If a person pleads not guilty to a
351 misdemeanor offense under any of the provisions of Chapter 3, 5 or
352 7 of this title or of Section 77-9-249 but is convicted, and the
353 person meets all the requirements under paragraph (a) of this
354 subsection, upon request of the defendant the court shall suspend
355 the sentence for such offense to allow the defendant forty-five
356 (45) days to successfully complete not less than four (4) hours of
357 a court-approved traffic safety violator course at his own cost.
358 Upon successful completion by the defendant of the course, the
359 court shall set the conviction aside, dismiss the prosecution and
360 direct that the case be closed. The court on its own motion shall
361 expunge the record of the conviction, and the only record
362 maintained thereafter shall be the nonpublic record required under
363 Section 63-9-17 solely for use by the courts in determining an
364 offender's eligibility under this subsection (3).

365 (c) An out-of-state resident shall be allowed to
366 complete a substantially similar program in his home state,
367 province or country provided the requirements of this subsection
368 (3) are met, except that the necessary valid driver's license or
369 permit shall be one issued by the home jurisdiction.

370 (d) A court shall not approve a traffic safety violator
371 course under this subsection (3) that does not supply at least
372 four (4) hours of instruction, an instructor's manual setting
373 forth an appropriate curriculum, student workbooks, some
374 scientifically verifiable analysis of the effectiveness of the
375 curriculum and provide minimum qualifications for instructors.
376 However, the curriculum for a traffic violator course for a person
377 convicted of a violation of Section 77-9-249, 63-3-1007,
378 63-3-1009, 63-3-1011 or 63-3-1013 shall be prepared and presented
379 by an Operation Lifesaver instructor approved by the Mississippi
380 Transportation Commission.

381 (e) A court shall inform a defendant making inquiry or
382 entering a personal appearance of the provisions of this
383 subsection (3).

384 (f) The Department of Public Safety shall cause notice
385 of the provisions of this subsection (3) to be available on its
386 official Web site.

387 (g) Failure of a defendant to elect to come under the
388 provisions of this subsection (3) for whatever reason, in and of
389 itself, shall not invalidate a conviction.

390 (h) No employee of the sentencing court shall
391 personally benefit from a defendant's attendance of a traffic
392 safety violator course. Violation of this prohibition shall
393 result in termination of employment.

394 (i) The additional fee of Ten Dollars (\$10.00) imposed
395 under this subsection (3) shall be forwarded by the court clerk to
396 the State Treasurer for deposit into a special fund created in the
397 State Treasury. Monies in the special fund may be expended by the

398 Department of Public Safety, upon legislative appropriation, to
399 defray the costs incurred by the department in maintaining the
400 nonpublic record of persons who are eligible for participation
401 under the provisions of this subsection (3).

402 (4) The provisions of subsection (3) of this section shall
403 not be applicable to violation of any of the provisions of Chapter
404 3, 5 or 7 of this title committed by the holder of a commercial
405 driver's license issued under the Mississippi Commercial Driver's
406 License Law, regardless of whether the violation occurred while
407 operating a commercial motor vehicle or some other motor vehicle.

408 **SECTION 7.** Section 97-25-4, Mississippi Code of 1972, is
409 amended as follows:

410 97-25-4. (1) Except as otherwise provided in subsection (2)
411 of this section, it shall be unlawful for any person to do any of
412 the following acts without first having obtained written
413 permission from the owner or operator of the railroad line:

414 (a) To attempt to board or disembark from a moving
415 freight train;

416 (b) To damage or deface, or attempt to damage or
417 deface, railroad track, signals, switches, buildings, structures,
418 bridges, right-of-way, wire lines, motive power, rolling stock or
419 other property; or

420 (c) To dump, or cause to be dumped, upon railroad
421 right-of-way any paper, ashes, sweepings, household wastes, glass,
422 metal, tires, mattresses, furniture, dangerous substances or any
423 other refuse or substance of any kind.

424 (2) Subsection (1) of this section shall not apply to:

425 (a) Railroad employees engaged in the performance of
426 their duties; or

427 (b) Representatives of utilities or other agencies with
428 easements across or along the railroad in the performance of their
429 duties.

430 (3) Any person who violates the provisions of this section
431 shall be guilty of a misdemeanor, and upon conviction thereof, be
432 punished by imprisonment for not more than thirty (30) days or by
433 a fine of not less than One Hundred Dollars (\$100.00) but not more
434 than Four Hundred Dollars (\$400.00), or both, and may be required
435 to pay any clean-up costs. In addition, any person who is
436 convicted for a violation of subsection (1)(b) or subsection
437 (1)(c) of this section shall be ordered by the court to make
438 restitution to the owners or operators of the railroad line or
439 property in an amount determined by the court to compensate for
440 all damages caused by such person and all costs related to cleanup
441 necessitated as a result of such person's unlawful conduct.

442 (4) The penalties provided for in this section shall be in
443 addition to any other penalties provided by law for the same or
444 similar acts.

445 (5) As used in this section the term "right-of-way" means
446 track, roadbed and adjacent property which would be readily
447 recognizable to a reasonable person as railroad property.

448 **SECTION 8.** Section 97-25-5, Mississippi Code of 1972, is
449 amended as follows:

450 97-25-5. If any person shall willfully obliterate, injure or
451 destroy any railroad-gate, warning-signals, cattle-gap or any
452 board or sign erected or maintained by a railroad company in
453 pursuance of law, he shall be fined not less than One Hundred
454 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or
455 be imprisoned in the county jail not exceeding three (3) months,
456 or both. In addition, any person who is convicted for a violation
457 of this section shall be ordered by the court to make restitution
458 to the owners or operators of the railroad line or property in an
459 amount determined by the court to compensate for all damages
460 caused by such person and all costs related to cleanup
461 necessitated as a result of such person's unlawful conduct.

462 **SECTION 9.** Section 97-25-35, Mississippi Code of 1972, is
463 amended as follows:

464 97-25-35. If any person shall maliciously remove, take,
465 steal, change or in any manner interfere with any railroad
466 transmission line, signaling device, microwave tower or any of the
467 parts or attachments belonging to any communication or signaling
468 device owned, leased or used by any railroad or transportation
469 company, he shall, on conviction, be fined not more than Three
470 Thousand Dollars (\$3,000.00), or shall be imprisoned not more than
471 five (5) years, or both. In addition, any person who is convicted
472 for a violation of this section shall be ordered by the court to
473 make restitution to the owners or operators of the railroad line
474 or property in an amount determined by the court to compensate for
475 all damages caused by such person and all costs related to cleanup
476 necessitated as a result of such person's unlawful conduct.

477 **SECTION 10.** This act shall take effect and be in force from
478 and after July 1, 2007.