

By: Representatives Davis, Fleming

To: Transportation;
AppropriationsCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1252

1 AN ACT TO AMEND SECTION 57-43-15, MISSISSIPPI CODE OF 1972,
2 TO PRESCRIBE CERTAIN ADDITIONAL PURPOSES FOR WHICH MONIES IN THE
3 MISSISSIPPI HIGHWAY-RAILROAD GRADE CROSSING SAFETY ACCOUNT WITHIN
4 THE RAILROAD REVITALIZATION FUND MAY BE EXPENDED; TO REQUIRE
5 RAILROAD CORPORATIONS TO INSTALL AND MAINTAIN STOP OR YIELD SIGNS
6 AT CERTAIN GRADE CROSSINGS; TO AMEND SECTION 65-1-175, MISSISSIPPI
7 CODE OF 1972, TO DELETE THE REQUIREMENT FOR A PUBLIC HEARING BY
8 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION BEFORE ABOLISHMENT OF
9 A ROADWAY/RAILWAY CROSSING WHEN THE PUBLIC ROADWAY AUTHORITY
10 VACATES THE ROADWAY AND TO REQUIRE RAILROAD CORPORATIONS TO
11 INSTALL AND MAINTAIN STOP OR YIELD SIGNS AT CERTAIN GRADE
12 CROSSINGS; TO AMEND SECTIONS 97-25-4, 97-25-5 AND 97-25-35,
13 MISSISSIPPI CODE OF 1972, TO INCREASE PENALTIES AND REQUIRE
14 RESTITUTION FOR CERTAIN CRIMES RELATING TO RAILROAD PROPERTY; AND
15 FOR RELATED PURPOSES.

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

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

19 57-43-15. (1) There is established within the Railroad
20 Revitalization Fund a new account to be entitled the Mississippi
21 Highway-Railroad Grade Crossing Safety Account. The account shall
22 be administered by the Mississippi Department of Transportation
23 and shall consist of (a) such monies as are transferred to it on
24 July 1, 2001, from the Mississippi Grade Crossing Closure Account;
25 and (b) thirty-five percent (35%) of collections from the
26 locomotive fuel tax imposed under Section 27-59-307 for the
27 previous year. Unexpended amounts remaining in the account at the
28 end of a fiscal year shall not lapse into the State General Fund;
29 and any interest earned on amounts in the account shall be
30 deposited to the credit of the account.

31 (2) The Mississippi Department of Transportation, in
32 cooperation with the railroads operating in Mississippi, shall
33 promulgate rules to ensure equitable allocation of the funds

34 described in subsection (1) of this section to projects throughout
35 the state, and shall consider the proportionate number of main
36 line track miles of each railroad and the number of public
37 roadway/railroad grade crossings on each railroad's main line.
38 Expenditure of monies from the Mississippi Highway-Railroad Grade
39 Crossing Safety Account shall be limited to the following
40 purposes:

41 (a) Financial aid for closure of public
42 roadway/railroad grade crossings;

43 (b) Realignment of construction costs of roadways being
44 rerouted to facilitate a closure of a public roadway/railroad
45 grade crossing;

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

49 (d) Installation, maintenance or upgrade of
50 highway-railroad grade crossing signals, at the discretion of the
51 Mississippi Transportation Commission, based upon the Federal
52 Railroad Administration ranking of all Mississippi
53 highway-railroad grade crossings. Not less than ten percent (10%)
54 of the monies necessary to defray the costs of such installations
55 must be federal funds;

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

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

60 (g) Improvement of any grade crossing including the
61 necessary roadway approaches thereto of any railroad across a
62 public road highway;

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

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

67 (3) The Mississippi Department of Transportation shall
68 consider all requests from the state's diagnostic review of public
69 roadway/railroad grade crossings and from individual railroads for
70 expenditure of funds for the purposes described in subsection (2)
71 of this section, and shall establish uniform criteria and
72 guidelines relating to such crossings and the expenditure of
73 funds.

74 (4) No later than July 1, 2008, every railroad corporation
75 shall install and maintain either a stop or yield sign, whichever
76 may be recommended by a diagnostic survey completed by the
77 Mississippi Department of Transportation, at every railroad grade
78 crossing at which a railroad corporation is required to maintain a
79 grade crossing crossbuck sign and where such grade crossing does
80 not have located thereat an automatic warning device such as
81 flashing lights and/or gates. Such a stop or yield sign shall
82 conform with the requirements of the Manual on Uniform Traffic
83 Control Devices. The Mississippi Department of Transportation may
84 purchase the appropriate stop or yield signs using federal funds
85 as provided to the State of Mississippi pursuant to 23 USCS
86 Section 130, and may furnish the signs to the railroad
87 corporations upon request. The railroad corporation shall install
88 and maintain the stop or yield signs at its expense.

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

91 65-1-175. (1) The jurisdiction of the Mississippi
92 Department of Transportation shall be exclusive with respect to
93 public roadway/railroad crossings either at grade or otherwise
94 except to the extent that its jurisdiction is preempted by valid
95 federal statute, regulation or order.

96 (2) The Mississippi Department of Transportation shall have
97 power, upon its own motion or upon complaint filed, after having
98 made proper investigation, and after notice and hearing, if
99 requested, to abolish any public roadway/railroad crossing

100 heretofore or hereafter established, to vacate and close that part
101 of the roadway on such crossing abolished, and to erect barricades
102 across the roadway in such a manner as to prevent the use of such
103 crossing as a roadway, when, in the opinion of the department, the
104 public necessity served by the crossing in question is not such as
105 to justify the further retention thereof. In any event, if a
106 roadway/railway crossing is the subject of closure proceedings,
107 both the local governmental entity and the rail carrier shall be
108 given formal written notice by the department before any hearing
109 is conducted by the department. However, a public hearing by the
110 department to abolish a crossing shall not be required when the
111 public roadway authority in interest vacates the roadway. In such
112 instances, the rail carrier, following notification to the
113 department and roadway authority, shall remove any grade crossing
114 warning devices and the grade crossing surface.

115 (3) The Mississippi Department of Transportation shall have
116 power, upon its own motion, or upon complaint, and after having
117 made proper investigation and after notice and hearing, if
118 requested, to require the installation of adequate and appropriate
119 luminous reflective warning signs, luminous flashing signals,
120 crossing gates illuminated at night, stop signs, yield signs or
121 other warning devices in order to promote the health and safety of
122 the public. Luminous flashing signals or crossing gate devices
123 heretofore installed at grade crossings and those installations
124 hereafter approved by the department shall be deemed adequate and
125 appropriate. The department shall have authority to determine the
126 number, type and location of such signs, signals, gates or other
127 protective devices which shall conform as near as may be with
128 generally recognized national standards, and the department shall
129 have authority to prescribe the division of the cost of the
130 installation and subsequent maintenance of such signs, signals,
131 gates or other warning devices between the rail carrier or
132 carriers, the public highway authority in interest and the

133 Mississippi Department of Transportation. In no event shall any
134 costs assessed against either the public highway authority in
135 interest or the rail carrier exceed ten percent (10%) of the costs
136 of the materials and installation.

137 (4) If the department has ordered the installation of
138 luminous flashing signals or crossing gate devices at a grade
139 crossing, the department shall order the installation of temporary
140 stop signs or yield signs at the roadway intersection with the
141 grade crossing. Such signs shall remain in place until the
142 luminous flashing signals or crossing gate devices have been
143 installed. The department may purchase the appropriate stop or
144 yield signs using federal funds as provided to the State of
145 Mississippi pursuant to 23 USCS Section 130, and may furnish the
146 signs to the railroad corporations upon request. The railroad
147 corporation shall install and maintain the stop or yield signs at
148 its expense and shall remove the signs after luminous flashing
149 signals or crossing gate devices have been installed.

150 (5) Nothing in this section shall be construed as amending,
151 repealing or modifying any duty or responsibility that railroads
152 had, if any, immediately before the effective date of this act
153 with regard to any applicable state or federal laws, statutes,
154 regulations or orders pertaining to the maintenance of signals,
155 signs and warning devices at roadway/railroad crossings.

156 **SECTION 3.** Section 97-25-4, Mississippi Code of 1972, is
157 amended as follows:

158 97-25-4. (1) Except as otherwise provided in subsection (2)
159 of this section, it shall be unlawful for any person to do any of
160 the following acts without first having obtained written
161 permission from the owner or operator of the railroad line:

162 (a) To attempt to board or disembark from a moving
163 freight train;

164 (b) To damage or deface, or attempt to damage or
165 deface, railroad track, signals, switches, buildings, structures,

166 bridges, right-of-way, wire lines, motive power, rolling stock or
167 other property; or

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

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

173 (a) Railroad employees engaged in the performance of
174 their duties; or

175 (b) Representatives of utilities or other agencies with
176 easements across or along the railroad in the performance of their
177 duties.

178 (3) Any person who violates the provisions of this section
179 shall be guilty of a misdemeanor, and upon conviction thereof, be
180 punished by imprisonment for not more than thirty (30) days or by
181 a fine of not less than One Hundred Dollars (\$100.00) but not more
182 than Four Hundred Dollars (\$400.00), or both, and may be required
183 to pay any clean-up costs. In addition, any person who is
184 convicted for a violation of subsection (1)(b) or subsection
185 (1)(c) of this section shall be ordered by the court to make
186 restitution to the owners or operators of the railroad line or
187 property in an amount determined by the court to compensate for
188 all damages caused by such person and all costs related to cleanup
189 necessitated as a result of such person's unlawful conduct.

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

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

196 **SECTION 4.** Section 97-25-5, Mississippi Code of 1972, is
197 amended as follows:

198 97-25-5. If any person shall willfully obliterate, injure or
199 destroy any railroad-gate, warning-signals, cattle-gap or any
200 board or sign erected or maintained by a railroad company in
201 pursuance of law, he shall be fined not less than One Hundred
202 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or
203 be imprisoned in the county jail not exceeding three (3) months,
204 or both. In addition, any person who is convicted for a violation
205 of this section shall be ordered by the court to make restitution
206 to the owners or operators of the railroad line or property in an
207 amount determined by the court to compensate for all damages
208 caused by such person and all costs related to cleanup
209 necessitated as a result of such person's unlawful conduct.

210 **SECTION 5.** Section 97-25-35, Mississippi Code of 1972, is
211 amended as follows:

212 97-25-35. If any person shall maliciously remove, take,
213 steal, change or in any manner interfere with any railroad
214 transmission line, signaling device, microwave tower or any of the
215 parts or attachments belonging to any communication or signaling
216 device owned, leased or used by any railroad or transportation
217 company, he shall, on conviction, be fined not more than Three
218 Thousand Dollars (\$3,000.00), or shall be imprisoned not more than
219 five (5) years, or both. In addition, any person who is convicted
220 for a violation of this section shall be ordered by the court to
221 make restitution to the owners or operators of the railroad line
222 or property in an amount determined by the court to compensate for
223 all damages caused by such person and all costs related to cleanup
224 necessitated as a result of such person's unlawful conduct.

225 **SECTION 6.** This act shall take effect and be in force from
226 and after July 1, 2007.