MISSISSIPPI LEGISLATURE REGULAR SESSION 2016

By: Representative Formby To: Transportation

HOUSE BILL NO. 430

AN ACT TO AMEND SECTIONS 27-5-77, 27-19-79, 27-19-93, 27-55-57, 63-5-49 AND 77-7-311, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN OWNER, OPERATOR OR DRIVER OF ANY MOTOR VEHICLE WHO IS UNABLE TO COMPLETELY EXIT A HIGHWAY, ROAD OR STREET DUE TO A VEHICLE OBSTRUCTION WHEN REACHING THE EXIT LANE FOR AN INSPECTION STATION MAY BYPASS THAT INSPECTION STATION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-5-77, Mississippi Code of 1972, is amended as follows:

27-5-77. (1) If any owner, operator or driver of any carrier of property having a gross vehicle weight in excess of ten thousand (10,000) pounds shall willfully fail or refuse to stop at any inspection station and submit to an inspection or if any owner, operator or driver of any other vehicle which is required by any law or by any rule or regulation of the Mississippi Department of Transportation or *** * *** Department of Revenue to stop at any inspection station and submit to an inspection shall willfully fail or refuse so to do, then such person shall be guilty of a misdemeanor and, upon conviction, shall be punished by

a fine of not more than One Thousand Dollars ($1,000.00), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and jail sentence, in addition to any other penalty or assessment as provided by law.

(2) An owner, operator or driver of any motor vehicle required to stop at an inspection station under the provisions of this section, who is unable to completely exit a highway, road or street when reaching the exit lane for an inspection station, may bypass that inspection station without criminal or civil fine, penalty or violation for bypassing that station, as long as he or she stops at the next inspection station on his or her planned route.

SECTION 2. Section 27-19-79, Mississippi Code of 1972, is amended as follows:

27-19-79. (1) Any nonresident owner or operator of any vehicle operated in this state with a gross weight in excess of twenty-six thousand (26,000) pounds is hereby granted the option of registering his vehicle and paying the annual privilege taxes herein provided. Before any owner or operator of a vehicle operated, who has not elected to register his vehicle and pay the annual privilege tax, shall operate such vehicle upon the highways of the State of Mississippi, except as otherwise provided herein, he shall secure a temporary permit for the privilege of so doing, which permit shall be issued on forms prepared, approved and supplied by the Department of Transportation. Such permit shall

be issued by the department and shall be valid for a period of seventy-two (72) hours from the time of issue. In no instance shall the permit be valid for more than seventy-two (72) hours. Such permits shall be obtained or secured by application made by mail, or otherwise, to the department before operating such vehicle upon the public highways of this state, and upon payment of the requisite amount of fee as hereinafter provided. If any person should enter the State of Mississippi, or operate a vehicle upon the public highways thereof, without having first secured such permit from the department, then such person shall be allowed to obtain such permit from a representative of the department at one (1) of the inspection stations provided for in Section 27-5-73, if such person is entering into the state upon a highway where an inspection station is located and a representative of the department is available for such permit to be obtained. The privilege license fee for the permit provided for herein shall be Twenty-five Dollars ($25.00) for all vehicles.

(2) In the same manner as specified above, any owner or operator who has registered his vehicle in Mississippi, and desires to operate with a greater gross weight than the licensed gross weight of such vehicle or who has registered his vehicle in Mississippi and desires to operate such vehicle in a different tax classification, if such proposed change in classification does not constitute an operation for hire which comes under the supervision

of the Public Service Commission, shall purchase a permit in the same manner as specified in subsection (1) of this section.

(3) In lieu of obtaining the permit as specified in subsections (1) and (2), the owner or operator of a vehicle may proceed to the first tax collector next in his line of travel and make application for the proper annual privilege license by depositing with the tax collector the proper amount of privilege tax and registration fee required. The tax collector shall retain and pay into the county general fund One Dollar ($1.00) from each application for license tag received by him and actually forwarded within fifteen (15) days from the date of the application to the Commissioner of Revenue for issuance of the license tag.

(4) Any owner or operator of an unregistered vehicle may, in the same manner as provided in subsection (1) above, obtain a hunter's permit for the purpose of transporting an unladen truck or truck-trailer combination upon the highways of this state on a single or round trip. Such trip must be for the purpose of obtaining a contract or lease for placing the vehicle in use as a carrier of property. Any vehicle operating under authority of this permit must be unladen.

(5) The permit fee collected under this section shall be deposited into the State Highway Fund for the construction, maintenance and reconstruction of highways and roads of the State of Mississippi or for the payment of interest and principal on

bonds authorized by the Legislature for the construction and reconstruction of highways.

(6) Any owner or operator who has met the requirements set by the Executive Director of the Department of Transportation may defer payments of fines and/or penalties assessed by the department until the end of the current month. If full payment is not received by the twentieth of the following month, there may be added as damages to the total amount of the delinquency or deficiency the following percentages: ten percent (10%) for the first offense; fifteen percent (15%) for the second offense and twenty-five percent (25%) for the third and any subsequent offense. Upon the third offense, the executive director may suspend the privilege to defer payment. The balance due shall become payable upon notice and demand by the executive director.

(7) The department may waive the permits, taxes and fees set forth in this section whenever a motor vehicle is operated upon the public highways in this state in response to an emergency, a major disaster or the threat of a major disaster.

(8) An owner, operator or driver of any motor vehicle required to stop at an inspection station under the provisions of this section, who is unable to completely exit a highway, road or street when reaching the exit lane for an inspection station, may bypass that inspection station without criminal or civil fine, penalty or violation for bypassing that station, as long as he or

she stops at the next inspection station on his or her planned route.

SECTION 3. Section 27-19-93, Mississippi Code of 1972, is amended as follows:

27-19-93. (*** * ***1) All contract, common, private commercial, and private carriers of property, and all common and contract carriers of passengers, who shall enter or come into the State of Mississippi upon any highway upon which there has been established an inspection station, as provided for in Sections 27-5-71 and 27-5-73, shall stop at such station and submit to inspection in order that the agents or representatives of the Mississippi Department of Transportation on duty at such station may determine whether or not such vehicle is liable for the Mississippi motor vehicle privilege license tax or permit fees, and whether or not such vehicle is properly licensed in this state. Upon demand therefor, the driver or operator of such vehicle shall exhibit, for the inspection of such representatives or agents, the manifest or bill of lading required to be carried by Section 27-19-91 of this article, if the vehicle be one that is required to carry such a manifest or bill of lading. The Mississippi Transportation Commission, however, shall have authority to exempt from the requirement to stop at inspection stations carriers who have been pre-approved based upon criteria established by the state or the appropriate state agency or agencies.

(* * *2) If the vehicle is not licensed in Mississippi and is subject to motor vehicle privilege license taxation or permit fees, or if such vehicle be licensed in an improper license classification or for an insufficient gross weight, then the operator or driver of such vehicle shall obtain and pay the proper fee for the proper trip permit from such representative, as provided in Section 27-19-79, or shall make application for a license tag and pay the proper annual tax therefor; provided, however, that no permit shall be issued for any vehicle or combination of vehicles having a gross weight exceeding the limits prescribed by law; nor shall any application for an annual privilege license be accepted or received upon such vehicles.

(* * *3) The agent or representative of the Mississippi Department of Transportation on duty at any such station shall have the power and authority to weigh such vehicle and the load thereon by means of portable or stationary scales furnished to him by the Mississippi Department of Transportation, in order to determine whether or not the gross weight of such vehicles exceeds the limits provided by law and in order to determine whether or not the gross weight exceeds the licensed gross weight of such vehicle, and for any other purposes connected with and related to the enforcement and administration of this article.

(4) An owner, operator or driver of any motor vehicle required to stop at an inspection station under the provisions of this section, who is unable to completely exit a highway, road or

street when reaching the exit lane for an inspection station, may bypass that inspection station without criminal or civil fine, penalty or violation for bypassing that station, as long as he or she stops at the next inspection station on his or her planned route.

SECTION 4. Section 27-55-57, Mississippi Code of 1972, is amended as follows:

27-55-57. (1) Every person who shall haul, transport, or convey more than fifty (50) gallons of gasoline into this state over any highway, street, or public road thereof upon which the comptroller has established an inspection station as provided in Section 27-5-73, Mississippi Code of 1972, shall stop at such station and shall submit the vehicle transporting such gasoline and the contents thereof to the inspection of the representative of the comptroller on duty at such station and shall also make available for inspection by the representative a copy of the bill of sale, invoice or other written record required by this article. If the tax on such gasoline has not been paid, and such gasoline is not for delivery to a bonded Mississippi distributor, or is not being transported in interstate commerce, then the operator of such vehicle shall forthwith pay the tax on such gasoline to the comptroller's representative at such station. This provision shall not apply to a common or contract carrier.

(2) An owner, operator or driver of any motor vehicle required to stop at an inspection station under the provisions of

this section, who is unable to completely exit a highway, road or street when reaching the exit lane for an inspection station, may bypass that inspection station without criminal or civil fine, penalty or violation for bypassing that station, as long as he or she stops at the next inspection station on his or her planned route.

SECTION 5. Section 63-5-49, Mississippi Code of 1972, is amended as follows:

63-5-49. (1) Any police officer, law enforcement officer of the Department of Public Safety or authorized enforcement officer of the Mississippi Department of Transportation may require the driver of any vehicle that is required by law or by any rule or regulation of the Mississippi Department of Transportation or the *** * *** Department of Revenue to stop at inspection stations and submit to an inspection to stop and submit to a weighing of the vehicle, either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales for weighing. To aid the enforcement of this chapter, the Transportation Department may assign up to forty (40) portable scale teams as it deems necessary for efficient enforcement.

(2) Whenever such an officer, upon weighing a vehicle and load as above provided, determines that the weight is unlawful, such officer shall assess a penalty against the owner or operator in accordance with Section 27-19-89, and may require the driver to drive the vehicle to a suitable place and remain standing until

such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

(3) Any police officer, law enforcement officer of the Department of Public Safety, or authorized enforcement officer of the Transportation Department who stops a vehicle pursuant to subsection (1) of this section shall have the authority to inspect such vehicle to determine whether or not such vehicle is engaged in the illegal transportation of any contraband.

(4) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses, when directed by such an officer upon weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this section, shall be guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars ($1,000.00), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and jail sentence and, if operating at a gross weight in excess of the legal limit, such additional penalty or assessment as provided by law.

(5) It is the intent of the Legislature that the Department of Public Safety and all police officers shall cooperate with the Transportation Department in the enforcement of the highway weight laws of this state.

(6) An owner, operator or driver of any motor vehicle required to stop at an inspection station under the provisions of this section, who is unable to completely exit a highway, road or street when reaching the exit lane for an inspection station, may bypass that inspection station without criminal or civil fine, penalty or violation for bypassing that station, as long as he or she stops at the next inspection station on his or her planned route.

SECTION 6. Section 77-7-311, Mississippi Code of 1972, is amended as follows:

77-7-311. (1) Any person violating any provisions of this chapter, or any rule, regulation, requirement or order thereunder, or any term or condition of any certificate or permit, for which a penalty is not otherwise provided in this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than Twenty-five Dollars ($25.00) and not more than Five Hundred Dollars ($500.00) for the first offense and not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00) for each subsequent offense. Each day of violation shall constitute a separate offense.

(2) Any person, whether carrier, shipper, consignee, or any officer, employee, agent or representative thereof, who shall knowingly offer, grant or give, or solicit, accept or receive any rebate, concession or discrimination in violation of any provision of this chapter, or who by means of any false statement or

representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease or bill of sale, or by any other means or device, shall knowingly and willfully assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare or charge, or who shall knowingly and willfully, by any such means or otherwise, fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00) for the first offense and not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00) for any subsequent offense.

(3) Any owner, operator or driver of any vehicle, who is required by any law or by any rule or regulation of the commission to stop at any inspection station or submit to an inspection, who willfully fails or refuses to do so, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00), or more than One Thousand Dollars ($1000.00), or by confinement in the county jail for not more than thirty (30) days, or by both fine and jail sentence. Any owner, operator or driver of any motor vehicle required to stop at an inspection station, who is unable to

completely exit a highway, road or street due to vehicle obstruction when reaching the exit lane for an inspection station, may bypass that inspection station without criminal or civil fine, penalty or violation for bypassing that station, as long as he or she stops at the next inspection station on his or her planned route.

(4) Any individual, corporation or partnership operating a motor vehicle transporting hazardous material that is found to be in violation of any rule, regulation or requirement as provided by Section 77-7-16 shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Two Hundred Dollars ($200.00) or more than Five Hundred Dollars ($500.00) for the first offense, and not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00) for each subsequent offense. Each day of violation shall constitute a separate offense.

(5) Any person operating or attempting to operate a motor vehicle which has been placed out of service by a motor carrier inspector shall be fined One Thousand Dollars ($1,000.00).

SECTION 7. This act shall take effect and be in force from and after July 1, 2016.