

By: Representative Scott (80th)

To: Judiciary B;
Transportation

HOUSE BILL NO. 85

1 AN ACT TO PROHIBIT DEFACING PROPERTY WITH GRAFFITI; TO
2 PRESCRIBE PENALTIES FOR VIOLATIONS OF THIS ACT; TO AMEND SECTIONS
3 63-1-9, 63-1-51, 63-1-55, 97-7-9 AND 97-17-39, MISSISSIPPI CODE OF
4 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
5 PURPOSES.

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

7 SECTION 1. (1) Any person who defaces with graffiti or
8 other inscribed material any real or personal property not his or
9 her own, including property owned by the state or any political
10 subdivision, when the amount of the defacement, damage, or
11 destruction is less than Two Hundred Fifty Dollars (\$250.00), is
12 guilty of an infraction, punishable by a fine not to exceed Five
13 Hundred Dollars (\$500.00).

14 In addition to the penalty set forth in this section, the
15 court shall order the defendant to perform a minimum of eight (8)
16 hours a week of community service for a period not to exceed six
17 (6) months during a time other than during his or her hours of
18 school attendance or employment and the court shall suspend such
19 person's driver's license for a period of one (1) year or if such
20 person does not have a driver's license, the court shall issue an
21 order to deny a driver's license to such person for one (1) year
22 after conviction under this section.

23 (2) Upon conviction of any person under subsection (1), the
24 court, in addition to any punishment imposed pursuant to this
25 section, at the victim's option, shall order the defendant to
26 perform the necessary labor and make restitution to clean up,
27 repair, or replace the property damaged by that person.

28 (3) If a minor is personally unable to pay any fine levied
29 for violating this section, the parent or legal guardian of the
30 minor shall be liable for payment of the fine.

31 Any community service which is required pursuant to this
32 section of a person under the age of eighteen (18) years may be
33 performed in the presence, and under the direct supervision, of
34 the person's parent or legal guardian.

35 (4) As used in this section, the term "graffiti or other
36 inscribed material" includes any unauthorized inscription, word,
37 figure, mark, or design that is written, marked, etched,
38 scratched, drawn, or painted on real or personal property.

39 SECTION 2. Section 63-1-9, Mississippi Code of 1972, is
40 amended as follows:

41 63-1-9. (1) No license shall be issued pursuant to this
42 article:

43 (a) To any person under the age of sixteen (16) years
44 except as provided in subsection (2) of this section.

45 (b) To any person whose license to operate a motor
46 vehicle on the highways of Mississippi has been previously revoked
47 or suspended by this state or any other state and/or territory of
48 the United States or the District of Columbia, and such revocation
49 or suspension period has not expired.

50 (c) To any person who is an habitual drunkard or who is
51 addicted to the use of other narcotic drugs.

52 (d) To any person who would not be able by reason of
53 physical or mental disability, in the opinion of the commissioner
54 or other person authorized to grant an operator's license, to
55 operate a motor vehicle on the highways with safety. However,
56 persons who have one (1) arm or leg, or have arms or legs
57 deformed, and have their car provided with mechanical devices
58 whereby they are able to drive in a safe manner over the highways,
59 if otherwise qualified, shall receive an operator's license the
60 same as other persons. Moreover, deafness shall not be a bar to

61 obtaining a license.

62 (e) To any person who is under the age of seventeen
63 (17) years to drive any motor vehicle while in use as a school bus
64 for the transportation of pupils to or from school, or to drive
65 any motor vehicle while in use as a public or common carrier of
66 persons or property.

67 (f) To any person as an operator who has previously
68 been adjudged to be afflicted with and suffering from any mental
69 disability and who has not at time of application been restored to
70 mental competency.

71 (g) To any unmarried person under the age of eighteen
72 (18) years who does not at the time of application present a
73 diploma or other certificate of high school graduation or a
74 general education development certificate issued to the person in
75 this state or any other state, or documentation that the person:

76 (i) Is enrolled and making satisfactory progress
77 in a course leading to a general education development
78 certificate;

79 (ii) Is enrolled in school in this state or any
80 other state;

81 (iii) Is enrolled in a "nonpublic school," as such
82 term is defined in Section 37-13-91(2)(i); or

83 (iv) Is unable to attend any school program due to
84 circumstances deemed acceptable as set out in Section 63-1-10.

85 (h) To any person under the age of eighteen (18) years
86 who has been convicted under Section 63-11-30.

87 (i) For one (1) year to any person who does not have a
88 driver's license who has been convicted under Section 1 of this
89 act.

90 (2) Upon meeting all other state requirements for licensure,
91 a minor who is a resident of this state and who is fifteen (15)
92 years of age may apply for and be issued a driver's license if:

93 (a) He presents to the Department of Public Safety, at

94 the time of application, documentation satisfactory to the
95 Commissioner of Public Safety that the minor resides with a
96 physically impaired parent whose physical impairment prevents the
97 parent from securing a driver's license; or

98 (b) He presents to the Department of Public Safety, at
99 the time of application, on a form prepared by and approved by the
100 Commissioner of Public Safety, an affidavit signed by a parent or
101 guardian of the minor and by the employer of the minor, with each
102 signature being witnessed and acknowledged by a notary public or
103 other person authorized under the laws of this state to administer
104 oaths, stating that the minor is gainfully employed and, in order
105 to avoid a severe hardship, needs to be authorized to drive a
106 vehicle in order to retain his employment.

107 (3) A driver's license issued under paragraph (2)(b) of this
108 section shall be restricted for use between the hours of 6:00 a.m.
109 and 10:00 p.m. It shall be unlawful for any minor who is issued a
110 driver's license under paragraph (2)(b) of this section to operate
111 a motor vehicle between the hours of 10:00 p.m. and 6:00 a.m.

112 SECTION 3. Section 63-1-51, Mississippi Code of 1972, is
113 amended as follows:

114 63-1-51. (1) It shall be the duty of the trial judge, upon
115 conviction of any person holding a license issued pursuant to this
116 article where the penalty for a traffic violation is as much as
117 Ten Dollars (\$10.00), to mail a copy of abstract of the court
118 record or provide an electronically or computer generated copy of
119 abstract of the court record immediately to the commissioner at
120 Jackson, Mississippi, showing the date of conviction, penalty,
121 etc., so that a record of same may be made by the Department of
122 Public Safety. The commissioner shall forthwith revoke the
123 license of any person for a period of one (1) year upon receiving
124 a duly certified record of each person's convictions of any of the
125 following offenses when such conviction has become final:

126 (a) Manslaughter or negligent homicide resulting from

127 the operation of a motor vehicle;

128 (b) Any felony in the commission of which a motor
129 vehicle is used;

130 (c) Failure to stop and render aid as required under
131 the laws of this state in event of a motor vehicle accident
132 resulting in the death or personal injury of another;

133 (d) Perjury or the willful making of a false affidavit
134 or statement under oath to the department under this article or
135 under any other law relating to the ownership or operation of
136 motor vehicles;

137 (e) Conviction, or forfeiture of bail not vacated, upon
138 three (3) charges of reckless driving committed within a period of
139 twelve (12) months;

140 (f) Contempt for failure to pay a fine or fee or to
141 respond to a summons or citation pursuant to a charge of a
142 violation of this title.

143 (g) A violation of Section 1 of this act.

144 (2) The commissioner shall revoke the license issued
145 pursuant to this article of any person convicted of negligent
146 homicide, in addition to any penalty now provided by law.

147 (3) In addition to the reasons specified in this section,
148 the commissioner shall be authorized to suspend the license issued
149 to any person pursuant to this article for being out of compliance
150 with an order for support, as defined in Section 93-11-153. The
151 procedure for suspension of a license for being out of compliance
152 with an order for support, and the procedure for the reissuance or
153 reinstatement of a license suspended for that purpose, and the
154 payment of any fees for the reissuance or reinstatement of a
155 license suspended for that purpose, shall be governed by Section
156 93-11-157 or 93-11-163, as the case may be. If there is any
157 conflict between any provision of Section 93-11-157 or 93-11-163
158 and any provision of this article, the provisions of Section
159 93-11-157 or 93-11-163, as the case may be, shall control.

160 SECTION 4. Section 63-1-55, Mississippi Code of 1972, is
161 amended as follows:

162 63-1-55. A trial judge, in his discretion, if the person so
163 convicted or who has entered a plea of guilty for any traffic
164 violation, except the offenses enumerated in paragraphs (a)
165 through (e) of subsection (1) of Section 63-1-51 and violations of
166 the Implied Consent Law and the Uniform Controlled Substances Law,
167 is a minor and dependent upon and subject to the care, custody and
168 control of his parents or guardian, may, in lieu of the penalties
169 otherwise provided by law and the provision of said section,
170 suspend such minor's driver's license by taking and keeping same
171 in custody of the court for a period of time not to exceed ninety
172 (90) days. The judge so ordering such suspension shall enter upon
173 his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR _____ DAYS
174 IN LIEU OF CONVICTION" and such action by the trial judge shall
175 not constitute a conviction. The trial judge also may require the
176 minor to successfully complete a defensive driving course approved
177 by the judge as a condition of the suspension. Costs of court and
178 penalty assessment for driver education and training program may
179 be imposed in such actions within the discretion of the court.
180 Should a minor appeal, in the time and manner as by law provided,
181 the decision whereby his license is suspended, the trial judge
182 shall then return said license to the minor and impose the fines
183 and/or penalties that he would have otherwise imposed and same
184 shall constitute a conviction.

185 The judge shall suspend a minor's driver's license for one
186 (1) year for a conviction under Section 1 of this act.

187 SECTION 5. Section 97-7-9, Mississippi Code of 1972, is
188 amended as follows:

189 97-7-9. If any person shall, by any means whatsoever,
190 wilfully injure or destroy any of the works, materials, furniture,
191 or ornaments of the capitol, or any of the buildings or monuments
192 on the grounds belonging thereto, or shall wilfully deface any of

193 the walls thereof, or shall write or make any drawing or
194 characters thereon with pencil-mark, or otherwise, or do any
195 indecent act, either on or to said walls, or within the same, or
196 shall wilfully deface or injure the trees, fences, pavement, or
197 soil on said grounds, such person, on conviction, shall be
198 punished by a fine not exceeding Five Hundred Dollars (\$500.00),
199 or imprisonment in the county jail not more than six (6) months,
200 or both, or punished as provided in Section 1 of this act for
201 graffiti.

202 SECTION 6. Section 97-17-39, Mississippi Code of 1972, is
203 amended as follows:

204 97-17-39. If any person, by any means whatever, shall
205 wilfully or mischievously injure or destroy any of the burial
206 vaults, urns, memorials, vases, foundations, injure or destroy any
207 of the work, materials, or furniture of any courthouse or jail, or
208 other public building, or schoolhouse or church, or deface any of
209 the walls or other parts thereof, or shall write, or make any
210 drawings or character, or do any other act, either on or in said
211 building or the walls thereof, or shall deface or injure the
212 trees, fences, pavements, or soil, on the grounds belonging
213 thereto, or an ornamental or shade tree on any public road or
214 street leading thereto, such person, upon conviction, for such
215 offense, shall be punished as follows:

216 (a) If the damage caused by the destruction or
217 defacement of such property has a value of less than Three Hundred
218 Dollars (\$300.00), any person who is convicted of such offense
219 shall be fined not more than One Thousand Dollars (\$1,000.00) or
220 be imprisoned in the county jail for not more than one (1) year,
221 or both.

222 (b) If the damage caused by the destruction or
223 defacement of such property has a value equal to or exceeding
224 Three Hundred Dollars (\$300.00), any person who is convicted of
225 such offense shall be fined not more than Five Thousand Dollars

226 (\$5,000.00) or be imprisoned in the State Penitentiary for up to
227 five (5) years, or both.

228 (c) If the damage is graffiti, such person shall be
229 punished as provided in Section 1 of this act.

230 SECTION 7. This act shall take effect and be in force from
231 and after July 1, 1999.