

By: Representative Janus

To: Judiciary A

HOUSE BILL NO. 242

1 AN ACT TO AMEND SECTION 63-11-5, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE AUTHORITY OF CONSERVATION OFFICERS EMPLOYED BY THE
3 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO ADMINISTER A
4 CHEMICAL TEST OR TESTS OF A PERSON'S BREATH FOR THE PURPOSE OF
5 DETERMINING IF SUCH PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR
6 ANY OTHER SUBSTANCE THAT WOULD IMPAIR THE PERSON'S ABILITY TO
7 OPERATE A MOTOR VEHICLE; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 63-11-5, Mississippi Code of 1972, is
10 amended as follows:

11 63-11-5. (1) Any person who operates a motor vehicle upon
12 the public highways, public roads and streets of this state shall
13 be deemed to have given his consent, subject to the provisions of
14 this chapter, to a chemical test or tests of his breath for the
15 purpose of determining alcohol concentration. A person shall give
16 his consent to a chemical test or tests of his breath, blood or
17 urine for the purpose of determining the presence in his body of
18 any other substance which would impair a person's ability to
19 operate a motor vehicle. The test or tests shall be administered
20 at the direction of any highway patrol officer, any sheriff or his
21 duly commissioned deputies, any police officer in any incorporated
22 municipality, any national park ranger, any officer of a
23 state-supported institution of higher learning campus police force
24 if such officer is exercising this authority in regard to a
25 violation that occurred on campus property, a conservation officer
26 employed by the Department of Wildlife, Fisheries and Parks or any
27 security officer appointed and commissioned pursuant to the Pearl
28 River Valley Water Supply District Security Officer Law of 1978 if

29 such officer is exercising this authority in regard to a violation
30 that occurred within the limits of the Pearl River Valley Water
31 Supply District, when such officer has reasonable grounds and
32 probable cause to believe that the person was driving or had under
33 his actual physical control a motor vehicle upon the public
34 streets or highways of this state while under the influence of
35 intoxicating liquor or any other substance which had impaired such
36 person's ability to operate a motor vehicle. No such test shall
37 be administered by any person who has not met all the educational
38 and training requirements of the appropriate course of study
39 prescribed by the Board on Law Enforcement Officers Standards and
40 Training; provided, however, that sheriffs and elected chiefs of
41 police shall be exempt from such educational and training
42 requirement. No such tests shall be given by any officer or any
43 agency to any person within fifteen (15) minutes of consumption of
44 any substance by mouth.

45 (2) If the officer has reasonable grounds and probable cause
46 to believe such person to have been driving a motor vehicle upon
47 the public highways, public roads, and streets of this state while
48 under the influence of intoxicating liquor, such officer shall
49 inform such person that his failure to submit to such chemical
50 test or tests of his breath shall result in the suspension of his
51 privilege to operate a motor vehicle upon the public streets and
52 highways of this state for a period of ninety (90) days in the
53 event such person has not previously been convicted of a violation
54 of Section 63-11-30, or, for a period of one (1) year in the event
55 of any previous conviction of such person under Section 63-11-30.

56 (3) The traffic ticket, citation or affidavit issued to a
57 person arrested for a violation of this chapter shall conform to
58 the requirements of Section 63-9-21(3)(b).

59 (4) Any person arrested under the provisions of this chapter
60 shall be informed that he has the right to telephone for the
61 purpose of requesting legal or medical assistance immediately
62 after being booked for a violation under this chapter.

63 (5) The Commissioner of Public Safety and the State Crime
64 Laboratory created pursuant to Section 45-1-17 are hereby
65 authorized from and after the passage of this section to adopt

66 procedures, rules and regulations, applicable to the Implied
67 Consent Law.

68 SECTION 2. This act shall take effect and be in force from
69 and after July 1, 1999.