

By: Representative Saucier

To: Transportation

HOUSE BILL NO. 562

1 AN ACT TO AMEND SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT EVERY PERSON UNDER EIGHTEEN YEARS OF AGE WHO IS
3 CONVICTED OF ANY MOVING TRAFFIC VIOLATION SHALL FORFEIT HIS
4 DRIVER'S LICENSE AND DRIVING PRIVILEGES FOR A PERIOD OF ONE YEAR
5 OR UNTIL HE OR SHE REACHES EIGHTEEN YEARS OF AGE, WHICHEVER PERIOD
6 OF TIME IS GREATER; TO PROVIDE THAT SUCH SUSPENSION SHALL BE IN
7 ADDITION TO ANY OTHER FINES, PENALTIES OR DRIVING PRIVILEGE
8 SUSPENSIONS IMPOSED BY LAW; TO AMEND SECTION 63-1-53, MISSISSIPPI
9 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO
10 AMEND SECTION 63-1-55, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
11 THE AUTHORITY OF A TRIAL JUDGE TO SUSPEND THE LICENSE OF A MINOR
12 IN LIEU OF CONVICTION FOR A TRAFFIC VIOLATION SHALL NOT BE
13 APPLICABLE TO A PERSON UNDER EIGHTEEN YEARS OF AGE WHO IS
14 CONVICTED OF A MOVING TRAFFIC VIOLATION; TO AMEND SECTION
15 63-11-30, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON
16 UNDER EIGHTEEN YEARS OF AGE WHO IS CONVICTED FOR A VIOLATION OF
17 THE MISSISSIPPI IMPLIED CONSENT LAW SHALL NOT BE ELIGIBLE FOR ANY
18 REDUCTION IN THE PERIOD OF SUSPENSION OF HIS OR HER DRIVER'S
19 LICENSE OR DRIVING PRIVILEGES AND TO PROVIDE THAT SUCH SUSPENSION
20 SHALL RUN CONSECUTIVELY WITH ANY OTHER SUSPENSION; AND FOR RELATED
21 PURPOSES.

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

23 SECTION 1. Section 63-1-71, Mississippi Code of 1972, is
24 amended as follows:

25 63-1-71. (1) In addition to any penalty authorized by the
26 Uniform Controlled Substances Law or any other statute indicating
27 the dispositions that can be ordered for an adjudication of
28 delinquency, every person convicted of, or entering a plea of nolo
29 contendere to, or adjudicated delinquent in a court of this state
30 for a violation of any offense defined in the Uniform Controlled
31 Substances Law, and every person convicted of, or entering a plea
32 of nolo contendere to, or adjudicated delinquent under the laws of
33 the United States, another state, a territory or possession of the
34 United States, the District of Columbia or the Commonwealth of
35 Puerto Rico of a violation for the use, distribution, possession,
36 manufacture, sale, barter, transfer or dispensing of a "controlled

37 substance," "counterfeit substance," "narcotic drug" or "drug," as
38 such terms are defined under Section 41-29-105, shall forthwith
39 forfeit his right to operate a motor vehicle over the highways of
40 this state for a period of six (6) months. Notwithstanding the
41 provisions of Section 63-11-30(2)(a) and in addition to any
42 penalty authorized by the Uniform Controlled Substances Law or any
43 other statute indicating the dispositions that can be ordered for
44 an adjudication of delinquency, every person eighteen (18) years
45 of age or older convicted of driving under the influence of a
46 controlled substance, or entering a plea of nolo contendere
47 thereto, or adjudicated delinquent therefor, in a court of this
48 state, and every person eighteen (18) years of age or older
49 convicted of driving under the influence of a controlled
50 substance, or entering a plea of nolo contendere thereto, or
51 adjudicated delinquent therefor, under the laws of the United
52 States, another state, a territory or possession of the United
53 States, the District of Columbia or the Commonwealth of Puerto
54 Rico, shall forthwith forfeit his right to operate a motor vehicle
55 over the highways of this state for a period of not less than six
56 (6) months. * * * If the driving privilege of any person is under
57 revocation or suspension at the time of any conviction or
58 adjudication of delinquency * * *, the revocation or suspension
59 period imposed under this subsection shall commence as of the date
60 of termination of the existing revocation or suspension.

61 (2) In addition to any fines or penalties that may be
62 imposed or any suspension or revocation of one's driver's license
63 or driving privileges for violations of any other statute, every
64 person under eighteen (18) years of age who is convicted of, or
65 who enters a plea of guilty or nolo contendere to, any moving
66 traffic violation, including a violation of the Mississippi
67 Implied Consent Law, shall forfeit his driver's license and
68 privilege to operate a motor vehicle over the public roads,
69 streets and highways in this state for a period of one (1) year
70 from the date of conviction or until he or she reaches eighteen
71 (18) years of age, whichever period of time is greater. If the
72 driver's license or driving privilege of any such person is under
73 suspension or revocation at the time of conviction, the suspension
74 or revocation period imposed under this subsection shall begin on

75 the date of termination of the existing suspension or revocation.

76 (3) The court in this state before whom any person is
77 convicted of or adjudicated delinquent for a violation of an
78 offense under subsection (1) or (2) of this section shall collect
79 forthwith the Mississippi driver's license of the person and
80 forward such license to the Department of Public Safety along with
81 a report indicating the first and last day of the suspension or
82 revocation period imposed pursuant to this section. If the court
83 is for any reason unable to collect the license of the person, the
84 court shall cause a report of the conviction or adjudication of
85 delinquency to be filed with the Commissioner of Public Safety.
86 That report shall include the complete name, address, date of
87 birth, eye color and sex of the person and shall indicate the
88 first and last day of the suspension or revocation period imposed
89 by the court pursuant to this section. The court shall inform the
90 person orally and in writing that if the person is convicted of
91 personally operating a motor vehicle during the period of license
92 suspension or revocation imposed pursuant to this section, the
93 person shall, upon conviction, be subject to the penalties set
94 forth in Section 63-11-40. A person shall be required to
95 acknowledge receipt of the written notice in writing. Failure to
96 receive a written notice or failure to acknowledge in writing the
97 receipt of a written notice shall not be a defense to a subsequent
98 charge of a violation of Section 63-11-40. If the person is the
99 holder of a driver's license from another jurisdiction, the court
100 shall not collect the license but shall notify forthwith the
101 Commissioner of Public Safety who shall notify the appropriate
102 officials in the licensing jurisdiction. The court shall,
103 however, in accordance with the provisions of this section, revoke
104 the person's nonresident driving privilege in this state.

105 (4) The county court or circuit court having jurisdiction,
106 on petition, may reduce the suspension of driving privileges under
107 subsection (1) of this section if the denial of which would
108 constitute a hardship on the offender. When the petition is

109 filed, such person shall pay to the circuit clerk of the court
110 where the petition is filed a fee of Twenty Dollars (\$20.00) for
111 each year, or portion thereof, of license revocation or suspension
112 remaining under the original sentence, which shall be deposited
113 into the State General Fund to the credit of a special fund hereby
114 created in the State Treasury to be used for alcohol or drug abuse
115 treatment and education, upon appropriation by the Legislature.
116 This fee shall be in addition to any other court costs or fees
117 required for the filing of petitions.

118 SECTION 2. Section 63-1-53, Mississippi Code of 1972, is
119 amended as follows:

120 63-1-53. (1) Upon failure of any person to respond timely
121 and properly to a summons or citation charging such person with
122 any violation of this title, or upon failure of any person to pay
123 timely any fine, fee or assessment levied as a result of any
124 violation of this title, the clerk of the court shall give written
125 notice to such person by United States first class mail at his
126 last known address advising such person that if within ten (10)
127 days after such notice is deposited in the mail the person has not
128 properly responded to the summons or citation or has not paid the
129 entire amount of all fines, fees and assessments levied, then the
130 court will give notice thereof to the Commissioner of Public
131 Safety and the commissioner may suspend the driver's license of
132 such person. The actual cost incurred by the court in the giving
133 of such notice may be added to any other court costs assessed in
134 such case. If within ten (10) days after the notice is given in
135 accordance with this subsection such person has not satisfactorily
136 disposed of the matter pending before the court, then the clerk of
137 the court immediately shall mail a copy of the abstract of the
138 court record, along with a certified copy of the notice given
139 under this subsection, to the Commissioner of Public Safety, and
140 the commissioner may suspend the driver's license of such person
141 as authorized under subsections (2) and (3) of this section.

142 (2) The commissioner is hereby authorized to suspend the

143 license of an operator without preliminary hearing upon a showing
144 by his records or other sufficient evidence that the licensee:

145 (a) Has committed an offense for which mandatory
146 revocation of license is required upon conviction except under the
147 provisions of the Mississippi Implied Consent Law;

148 (b) Has been involved as a driver in any accident
149 resulting in the death or personal injury of another or serious
150 property damage;

151 (c) Is an habitually reckless or negligent driver of a
152 motor vehicle;

153 (d) Has been convicted with such frequency of serious
154 offenses against traffic regulations governing the movement of
155 vehicles as to indicate a disrespect for traffic laws and a
156 disregard for the safety of other persons on the highways;

157 (e) Is incompetent to drive a motor vehicle;

158 (f) Has permitted an unlawful or fraudulent use of such
159 license;

160 (g) Has committed an offense in another state which if
161 committed in this state would be grounds for suspension or
162 revocation;

163 (h) Has failed to pay any fine, fee or other assessment
164 levied as a result of any violation of this title;

165 (i) Has failed to respond to a summons or citation
166 which charged a violation of this title; or

167 (j) Has committed a violation for which mandatory
168 revocation of license is required upon conviction, entering a plea
169 of nolo contendere to, or adjudication of delinquency, pursuant to
170 the provisions of subsection (1) or (2) of Section 63-1-71.

171 (3) Notice that a person's license is suspended or will be
172 suspended under subsection (2) of this section shall be given by
173 the commissioner in the manner and at the time provided for under
174 Section 63-1-52, and upon such person's request, he shall be
175 afforded an opportunity for a hearing as early as practical within
176 not to exceed twenty (20) days after receipt of such request in

177 the county wherein the licensee resides unless the department and
178 the licensee agree that such hearing may be held in some other
179 county. Upon such hearing the commissioner, or his duly
180 authorized agent, may administer oaths and may issue subpoenas for
181 the attendance of witnesses and the production of relevant books
182 and papers and may require a reexamination of the licensee. Upon
183 such hearing the commissioner shall either rescind any order of
184 suspension or, good cause appearing therefor, may extend any
185 suspension of such license or revoke such license.

186 SECTION 3. Section 63-1-55, Mississippi Code of 1972, is
187 amended as follows:

188 63-1-55. (1) A trial judge, in his discretion, if the
189 person so convicted or who has entered a plea of guilty for any
190 traffic violation, except the offenses enumerated in paragraphs
191 (a) through (e) of subsection (1) of Section 63-1-51 and
192 violations of the Implied Consent Law and the Uniform Controlled
193 Substances Law, is a minor and dependent upon and subject to the
194 care, custody and control of his parents or guardian, may, in lieu
195 of the penalties otherwise provided by law and the provision of
196 said section, suspend such minor's driver's license by taking and
197 keeping same in custody of the court for a period of time not to
198 exceed ninety (90) days. The judge so ordering such suspension
199 shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE
200 SUSPENDED FOR _____ DAYS IN LIEU OF CONVICTION" and such action
201 by the trial judge shall not constitute a conviction. The trial
202 judge also may require the minor to successfully complete a
203 defensive driving course approved by the judge as a condition of
204 the suspension. Costs of court and penalty assessment for driver
205 education and training program may be imposed in such actions
206 within the discretion of the court. Should a minor appeal, in the
207 time and manner as by law provided, the decision whereby his
208 license is suspended, the trial judge shall then return said
209 license to the minor and impose the fines and/or penalties that he
210 would have otherwise imposed and same shall constitute a

211 conviction.

212 (2) The provisions of this section shall not be applicable
213 to a person under eighteen (18) years of age who is convicted of
214 any moving traffic violation.

215 SECTION 4. Section 63-11-30, Mississippi Code of 1972, is
216 amended as follows:

217 63-11-30. (1) It is unlawful for any person to drive or
218 otherwise operate a vehicle within this state who (a) is under the
219 influence of intoxicating liquor; (b) is under the influence of
220 any other substance which has impaired such person's ability to
221 operate a motor vehicle; (c) has an alcohol concentration of ten
222 one-hundredths percent (.10%) or more for persons who are above
223 the legal age to purchase alcoholic beverages under state law, or
224 two one-hundredths percent (.02%) or more for persons who are
225 below the legal age to purchase alcoholic beverages under state
226 law, in the person's blood based upon grams of alcohol per one
227 hundred (100) milliliters of blood or grams of alcohol per two
228 hundred ten (210) liters of breath as shown by a chemical analysis
229 of such person's breath, blood or urine administered as authorized
230 by this chapter; (d) is under the influence of any drug or
231 controlled substance, the possession of which is unlawful under
232 the Mississippi Controlled Substances Law; or (e) has an alcohol
233 concentration of four one-hundredths percent (.04%) or more in the
234 person's blood, based upon grams of alcohol per one hundred (100)
235 milliliters of blood or grams of alcohol per two hundred ten (210)
236 liters of breath as shown by a chemical analysis of such person's
237 blood, breath or urine, administered as authorized by this chapter
238 for persons operating a commercial motor vehicle.

239 (2) (a) Except as otherwise provided in subsection (3),
240 upon conviction of any person for the first offense of violating
241 subsection (1) of this section where chemical tests provided for
242 under Section 63-11-5 were given, or where chemical test results
243 are not available, such person shall be fined not less than Two
244 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars

245 (\$1,000.00), or imprisoned for not more than forty-eight (48)
246 hours in jail or both; and the court shall order such person to
247 attend and complete an alcohol safety education program as
248 provided in Section 63-11-32. The court may substitute attendance
249 at a victim impact panel instead of forty-eight (48) hours in
250 jail. In addition, the Department of Public Safety, the
251 Commissioner of Public Safety or his duly authorized agent shall,
252 after conviction and upon receipt of the court abstract, suspend
253 the driver's license and driving privileges of such person for a
254 period of not less than ninety (90) days and until such person
255 attends and successfully completes an alcohol safety education
256 program as herein provided; provided, however, in no event shall
257 such period of suspension exceed one (1) year. Commercial driving
258 privileges shall be suspended as provided in Section 63-1-83.

259 The circuit court having jurisdiction in the county in which
260 the conviction was had or the circuit court of the person's county
261 of residence may reduce the suspension of driving privileges under
262 Section 63-11-30(2)(a) if the denial of which would constitute a
263 hardship on the offender, except that no court may issue such an
264 order reducing the suspension of driving privileges under this
265 subsection until thirty (30) days have elapsed from the effective
266 date of the suspension. Hardships shall only apply to first
267 offenses under Section 63-11-30(1), and shall not apply to second,
268 third or subsequent convictions of any person violating subsection
269 (1) of this section. A reduction of suspension on the basis of
270 hardship shall not be available to any person under eighteen (18)
271 years of age or to any person who refused to submit to a chemical
272 test upon the request of a law enforcement officer as provided in
273 Section 63-11-5. When the petition is filed, such person shall
274 pay to the circuit clerk of the court where the petition is filed
275 a fee of Fifty Dollars (\$50.00), which shall be deposited into the
276 State General Fund to the credit of a special fund hereby created
277 in the State Treasury to be used for alcohol or drug abuse
278 treatment and education, upon appropriation by the Legislature.

279 This fee shall be in addition to any other court costs or fees
280 required for the filing of petitions.

281 The petition filed under the provisions of this subsection
282 shall contain the specific facts which the petitioner alleges to
283 constitute a hardship and the driver's license number of the
284 petitioner. A hearing may be held on any petition filed under
285 this subsection only after ten (10) days' prior written notice to
286 the Commissioner of Public Safety, or his designated agent, or the
287 attorney designated to represent the state. At such hearing, the
288 court may enter an order reducing the period of suspension.

289 The order entered under the provisions of this subsection
290 shall contain the specific grounds upon which hardship was
291 determined, and shall order the petitioner to attend and complete
292 an alcohol safety education program as provided in Section
293 63-11-32. A certified copy of such order shall be delivered to
294 the Commissioner of Public Safety by the clerk of the court within
295 five (5) days of the entry of the order. The certified copy of
296 such order shall contain information which will identify the
297 petitioner, including, but not limited to, the name, mailing
298 address, street address, Social Security number and driver's
299 license number of the petitioner.

300 At any time following at least thirty (30) days of suspension
301 for a first offense violation of this section, the court may grant
302 the person hardship driving privileges upon written petition of
303 the defendant, if it finds reasonable cause to believe that
304 revocation would hinder the person's ability to:

- 305 (i) Continue his employment;
- 306 (ii) Continue attending school or an educational
307 institution; or
- 308 (iii) Obtain necessary medical care.

309 Proof of the hardship shall be established by clear and
310 convincing evidence which shall be supported by independent
311 documentation.

312 (b) Except as otherwise provided in subsection (3),

313 upon any second conviction of any person violating subsection (1)
314 of this section, the offenses being committed within a period of
315 five (5) years, such person shall be fined not less than Six
316 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred
317 Dollars (\$1,500.00) and shall be imprisoned not less than ten (10)
318 days nor more than one (1) year and sentenced to community service
319 work for not less than ten (10) days nor more than one (1) year.
320 Except as may otherwise be provided by paragraph (d) of this
321 subsection, the Commissioner of Public Safety shall suspend the
322 driver's license of such person for two (2) years. Suspension of
323 a commercial driver's license shall be governed by Section
324 63-1-83. Upon any second conviction as described in this
325 paragraph, the court shall ascertain whether the defendant is
326 married, and if the defendant is married shall obtain the name and
327 address of the defendant's spouse; the clerk of the court shall
328 submit this information to the Department of Public Safety.
329 Further, the commissioner shall notify in writing, by certified
330 mail, return receipt requested, the owner of the vehicle and the
331 spouse, if any, of the person convicted of the second violation of
332 the possibility of forfeiture of the vehicle if such person is
333 convicted of a third violation of subsection (1) of this section.

334 The owner of the vehicle and the spouse shall be considered
335 notified under this paragraph if the notice is deposited in the
336 United States mail and any claim that the notice was not in fact
337 received by the addressee shall not affect a subsequent forfeiture
338 proceeding.

339 (c) Except as otherwise provided in subsection (3), for
340 any third or subsequent conviction of any person violating
341 subsection (1) of this section, the offenses being committed
342 within a period of five (5) years, such person shall be guilty of
343 a felony and fined not less than Two Thousand Dollars (\$2,000.00)
344 nor more than Five Thousand Dollars (\$5,000.00) and shall be
345 imprisoned not less than one (1) year nor more than five (5) years
346 in the State Penitentiary. The law enforcement agency shall seize

347 the vehicle operated by any person charged with a third or
348 subsequent violation of subsection (1) of this section, if such
349 convicted person was driving the vehicle at the time the offense
350 was committed. Such vehicle may be forfeited in the manner
351 provided by Sections 63-11-49 through 63-11-53. Except as may
352 otherwise be provided by paragraph (e) of this subsection, the
353 Commissioner of Public Safety shall suspend the driver's license
354 of such person for five (5) years. The suspension of a commercial
355 driver's license shall be governed by Section 63-1-83.

356 (d) Except as otherwise provided in subsection (3), any
357 person eighteen (18) years of age or older who is convicted of a
358 second violation of subsection (1) of this section, may have the
359 period that his driver's license is suspended reduced if such
360 person receives an in-depth diagnostic assessment, and as a result
361 of such assessment is determined to be in need of treatment of his
362 alcohol and/or drug abuse problem and successfully completes
363 treatment of his alcohol and/or drug abuse problem at a program
364 site certified by the Department of Mental Health. Such person
365 shall be eligible for reinstatement of his driving privileges upon
366 the successful completion of such treatment after a period of one
367 (1) year after such person's driver's license is suspended. Each
368 person who receives a diagnostic assessment shall pay a fee
369 representing the cost of such assessment. Each person who
370 participates in a treatment program shall pay a fee representing
371 the cost of such treatment.

372 (e) Except as otherwise provided in subsection (3), any
373 person eighteen (18) years of age or older who is convicted of a
374 third or subsequent violation of subsection (1) of this section
375 who enters an alcohol and/or drug abuse program approved by the
376 Department of Mental Health for treatment of such person's alcohol
377 and/or drug abuse problem and who successfully completes such
378 treatment * * * shall be eligible for reinstatement of his driving
379 privileges after a period of three (3) years after such person's
380 driver's license is suspended.

381 (f) Any person under eighteen (18) years of age who is
382 convicted for a violation of subsection (1) of this section shall
383 not be eligible for any reduction in the period of suspension of
384 his or her driver's license or driving privileges and any
385 suspension imposed under subsection (1) or (2) of this section
386 shall be in addition to and run consecutively with a suspension of
387 the driver's license and driving privileges of such person under
388 any other provision of law, including Section 63-1-71(2).

389 (3) (a) This subsection shall be known and may be cited as
390 Zero Tolerance for Minors. The provisions of this subsection
391 shall apply only when a person under the age of twenty-one (21)
392 years has a blood alcohol concentration of two one-hundredths
393 percent (.02%) or more, but lower than eight one-hundredths
394 percent (.08%). If such person's blood alcohol concentration is
395 eight one-hundredths percent (.08%) or more, the provisions of
396 subsection (2) shall apply.

397 (b) Upon conviction of any person under the age of
398 twenty-one (21) years for the first offense of violating
399 subsection (1) of this section where chemical tests provided for
400 under Section 63-11-5 were given, or where chemical test results
401 are not available, such person shall have his driver's license
402 suspended for ninety (90) days and shall be fined Two Hundred
403 Fifty Dollars (\$250.00); and the court shall order such person to
404 attend and complete an alcohol safety education program as
405 provided in Section 63-11-32. The court may also require
406 attendance at a victim impact panel.

407 The circuit court having jurisdiction in the county in which
408 the conviction was had or the circuit court of the person's county
409 of residence may reduce the suspension of driving privileges under
410 Section 63-11-30(2)(a) if the denial of which would constitute a
411 hardship on the offender, except that no court may issue such an
412 order reducing the suspension of driving privileges under this
413 subsection until thirty (30) days have elapsed from the effective
414 date of the suspension. Hardships shall only apply to first

415 offenses under Section 63-11-30(1), and shall not apply to second,
416 third or subsequent convictions of any person violating subsection
417 (1) of this section. A reduction of suspension on the basis of
418 hardship shall not be available to any person who refused to
419 submit to a chemical test upon the request of a law enforcement
420 officer as provided in Section 63-11-5. When the petition is
421 filed, such person shall pay to the circuit clerk of the court
422 where the petition is filed a fee of Fifty Dollars (\$50.00), which
423 shall be deposited into the State General Fund to the credit of a
424 special fund hereby created in the State Treasury to be used for
425 alcohol or drug abuse treatment and education, upon appropriation
426 by the Legislature. This fee shall be in addition to any other
427 court costs or fees required for the filing of petitions.

428 The petition filed under the provisions of this subsection
429 shall contain the specific facts which the petitioner alleges to
430 constitute a hardship and the driver's license number of the
431 petitioner. A hearing may be held on any petition filed under
432 this subsection only after ten (10) days' prior written notice to
433 the Commissioner of Public Safety, or his designated agent, or the
434 attorney designated to represent the state. At such hearing, the
435 court may enter an order reducing the period of suspension.

436 The order entered under the provisions of this subsection
437 shall contain the specific grounds upon which hardship was
438 determined, and shall order the petitioner to attend and complete
439 an alcohol safety education program as provided in Section
440 63-11-32. A certified copy of such order shall be delivered to
441 the Commissioner of Public Safety by the clerk of the court within
442 five (5) days of the entry of the order. The certified copy of
443 such order shall contain information which will identify the
444 petitioner, including, but not limited to, the name, mailing
445 address, street address, Social Security number and driver's
446 license number of the petitioner.

447 At any time following at least thirty (30) days of suspension
448 for a first offense violation of this section, the court may grant

449 the person hardship driving privileges upon written petition of
450 the defendant, if it finds reasonable cause to believe that
451 revocation would hinder the person's ability to:

452 (i) Continue his employment;

453 (ii) Continue attending school or an educational
454 institution; or

455 (iii) Obtain necessary medical care.

456 Proof of the hardship shall be established by clear and
457 convincing evidence which shall be supported by independent
458 documentation.

459 (c) Upon any second conviction of any person under the
460 age of twenty-one (21) years violating subsection (1) of this
461 section, the offenses being committed within a period of five (5)
462 years, such person shall be fined not more than Five Hundred
463 Dollars (\$500.00) and shall have his driver's license suspended
464 for one (1) year.

465 (d) For any third or subsequent conviction of any
466 person under the age of twenty-one (21) years violating subsection
467 (1) of this section, the offenses being committed within a period
468 of five (5) years, such person shall be fined not more than One
469 Thousand Dollars (\$1,000.00) and shall have his driver's license
470 suspended until he reaches the age of twenty-one (21) or for two
471 (2) years, whichever is longer.

472 (e) Any person under the age of twenty-one (21) years
473 convicted of a second violation of subsection (1) of this section,
474 may have the period that his driver's license is suspended reduced
475 if such person receives an in-depth diagnostic assessment, and as
476 a result of such assessment is determined to be in need of
477 treatment of his alcohol and/or drug abuse problem and
478 successfully completes treatment of his alcohol and/or drug abuse
479 problem at a program site certified by the Department of Mental
480 Health. Such person shall be eligible for reinstatement of his
481 driving privileges upon the successful completion of such
482 treatment after a period of six (6) months after such person's

483 driver's license is suspended. Each person who receives a
484 diagnostic assessment shall pay a fee representing the cost of
485 such assessment. Each person who participates in a treatment
486 program shall pay a fee representing the cost of such treatment.

487 (f) Any person under the age of twenty-one (21) years
488 convicted of a third or subsequent violation of subsection (1) of
489 this section shall complete treatment of an alcohol and/or drug
490 abuse program at a site certified by the Department of Mental
491 Health.

492 (g) The court shall have the discretion to rule that a
493 first offense of this subsection by a person under the age of
494 twenty-one (21) years shall be nonadjudicated. Such person shall
495 be eligible for nonadjudication only once. The Department of
496 Public Safety shall maintain a confidential registry of all cases
497 which are nonadjudicated as provided in this paragraph. A judge
498 who rules that a case is nonadjudicated shall forward such ruling
499 to the Department of Public Safety. Judges and prosecutors
500 involved in implied consent violations shall have access to the
501 confidential registry for the purpose of determining
502 nonadjudication eligibility. A record of a person who has been
503 nonadjudicated shall be maintained for five (5) years or until
504 such person reaches the age of twenty-one (21) years. Any person
505 whose confidential record has been disclosed in violation of this
506 paragraph shall have a civil cause of action against the person
507 and/or agency responsible for such disclosure.

508 (4) Every person convicted of operating a vehicle while
509 under the influence of intoxicating liquor or any other substance
510 which has impaired such person's ability to operate a motor
511 vehicle where the person (a) refused a law enforcement officer's
512 request to submit to a chemical test of his breath as provided in
513 this chapter, or (b) was unconscious at the time of a chemical
514 test and refused to consent to the introduction of the results of
515 such test in any prosecution, shall be punished consistent with
516 the penalties prescribed herein for persons submitting to the

517 test, except that there shall be an additional suspension of
518 driving privileges as follows:

519 The Commissioner of Public Safety or his authorized agent
520 shall suspend the driver's license or permit to drive or deny the
521 issuance of a license or permit to such person as provided for
522 first, second and third or subsequent offenders in subsection (2)
523 of this section. Such suspension shall be in addition to any
524 suspension imposed pursuant to subsection (1) of Section 63-11-23.

525 (5) Every person who operates any motor vehicle in violation
526 of the provisions of subsection (1) of this section and who in a
527 negligent manner causes the death of another or mutilates,
528 disfigures, permanently disables or destroys the tongue, eye, lip,
529 nose or any other limb, organ or member of another shall, upon
530 conviction, be guilty of a felony and shall be committed to the
531 custody of the State Department of Corrections for a period of
532 time not to exceed twenty-five (25) years.

533 (6) Upon conviction of any violation of subsection (1) of
534 this section, the trial judge shall sign in the place provided on
535 the traffic ticket, citation or affidavit stating that the person
536 arrested either employed an attorney or waived his right to an
537 attorney after having been properly advised. If the person
538 arrested employed an attorney, the name, address and telephone
539 number of the attorney shall be written on the ticket, citation or
540 affidavit. The judge shall cause a copy of the traffic ticket,
541 citation or affidavit, and any other pertinent documents
542 concerning the conviction, to be sent to the Commissioner of
543 Public Safety. A copy of the traffic ticket, citation or
544 affidavit and any other pertinent documents, having been attested
545 as true and correct by the Commissioner of Public Safety, or his
546 designee, shall be sufficient proof of the conviction for purposes
547 of determining the enhanced penalty for any subsequent convictions
548 of violations of subsection (1) of this section.

549 (7) Convictions in other states of violations for driving or
550 operating a vehicle while under the influence of an intoxicating

551 liquor or while under the influence of any other substance that
552 has impaired the person's ability to operate a motor vehicle
553 occurring after July 1, 1992, shall be counted for the purposes of
554 determining if a violation of subsection (1) of this section is a
555 first, second, third or subsequent offense and the penalty that
556 shall be imposed upon conviction for a violation of subsection (1)
557 of this section.

558 (8) For the purposes of determining how to impose the
559 sentence for a second, third or subsequent conviction under this
560 section, the indictment shall not be required to enumerate
561 previous convictions. It shall only be necessary that the
562 indictment state the number of times that the defendant has been
563 convicted and sentenced within the past five (5) years under this
564 section to determine if an enhanced penalty shall be imposed. The
565 amount of fine and imprisonment imposed in previous convictions
566 shall not be considered in calculating offenses to determine a
567 second, third or subsequent offense of this section.

568 (9) Any person under the legal age to obtain a license to
569 operate a motor vehicle convicted under this section shall not be
570 eligible to receive such license until the person reaches the age
571 of eighteen (18) years.

572 (10) Suspension of driving privileges for any person
573 convicted of violations of Section 63-11-30(1) shall run
574 consecutively.

575 SECTION 5. The amendments to the sections of law contained
576 in this act shall apply only to convictions for offenses committed
577 on or after July 1, 1999.

578 SECTION 6. This act shall take effect and be in force from
579 and after July 1, 1999.