

By: Montgomery (74th)

To: Judiciary A

HOUSE BILL NO. 657

1 AN ACT TO AMEND SECTION 63-11-23, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE SUSPENSION OF LICENSES IN IMPLIED CONSENT
3 VIOLATIONS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 63-11-23, Mississippi Code of 1972, is
6 amended as follows:

7 63-11-23. (1) The Commissioner of Public Safety, or his
8 authorized agent, shall review the sworn report by a law
9 enforcement officer as provided in Section 63-11-21. If upon such
10 review the Commissioner of Public Safety, or his authorized agent,
11 finds (a) that the law enforcement officer had reasonable grounds
12 and probable cause to believe the person had been driving a motor
13 vehicle upon the public highways, public roads and streets of this
14 state while under the influence of intoxicating liquor or any
15 other substance which may impair a person's mental or physical
16 ability; (b) that he refused to submit to the test upon request of
17 the officer; and (c) that the person was informed that his license
18 and/or driving privileges would be suspended or denied if he
19 refused to submit to the chemical test, then the Commissioner of
20 Public Safety, or his authorized agent, shall give notice to the
21 licensee that his license or permit to drive, or any nonresident
22 operating privilege, shall be suspended thirty (30) days after the
23 date of such notice for a period of ninety (90) days in the event
24 such person has not previously been convicted of a violation of
25 Section 63-11-30, or, for a period of one (1) year in the event of
26 any previous conviction of such person under Section 63-11-30. In

27 the event the commissioner or his authorized agent determines that
28 the license should not be suspended, he shall return the license
29 or permit to the licensee.

30 The notice of suspension shall be in writing and given in the
31 manner provided in Section 63-1-52(2)(a).

32 (2) If the chemical testing of a person's breath indicates
33 the blood alcohol concentration was ten one-hundredths percent
34 (.10%) or more for persons who are above the legal age to purchase
35 alcoholic beverages under state law, or two one-hundredths percent
36 (.02%) or more for persons who are below the legal age to purchase
37 alcoholic beverages under state law, based upon grams of alcohol
38 per one hundred (100) milliliters of blood or grams of alcohol per
39 two hundred ten (210) liters of breath as shown by a chemical
40 analysis of such person's blood, or breath, or urine, the
41 arresting officer shall seize the license and give the driver a
42 receipt for his license on forms prescribed by the Commissioner of
43 Public Safety and shall promptly forward the license together with
44 a sworn report to the Commissioner of Public Safety. The receipt
45 given a person as provided herein shall be valid as a permit to
46 operate a motor vehicle for a period of thirty (30) days in order
47 that the defendant be processed through the court having original
48 jurisdiction and a final disposition had; provided, however, that
49 if the defendant makes a written request directed to the trial
50 judge requesting that a trial be held on the matter within such
51 thirty-day period, such trial shall be held within the thirty-day
52 period. The fact that the defendant has the right to request a
53 trial shall not extend the permit to operate a motor vehicle
54 beyond the thirty (30) days. If a receipt or permit to drive
55 issued pursuant to the provisions of this subsection expires
56 without a trial having been requested as provided for in this
57 subsection, then the Commissioner of Public Safety or his
58 authorized agent shall suspend the license or permit to drive or
59 any nonresident operating privilege for the applicable period of
60 time as provided for in subsection (1) of this section.

61 (3) If the person is a resident without a license or permit
62 to operate a motor vehicle in this state, the Commissioner of
63 Public Safety, or his authorized agent, shall deny to the person

64 the issuance of a license or permit for a period of one (1) year
65 beginning thirty (30) days after the date of notice of such
66 suspension.

67 (4) It shall be the duty of the county prosecuting attorney,
68 an attorney employed under the provisions of Section 19-3-49, or
69 in the event there is no such prosecuting attorney for the county,
70 the duty of the district attorney to represent the state in any
71 hearing held under the provisions of Section 63-11-25, under the
72 provisions of Section 63-11-37(2) or under the provisions of
73 Section 63-11-30(2)(a).

74 SECTION 2. This act shall take effect and be in force from
75 and after July 1, 2000.